

(1993) 10 SC CK 0114
In the Supreme Court Of India
Case No : Civil Appeal No. 1757 Of 1975

Chanabasappa and Another	Vs	APPELLANT
Hanmantha and Others		RESPONDENT

Date of Decision : 13-10-1993

Acts Referred:

Citation : (1994) 2 SCC 719 Supp

Hon'ble Judges : N. P. Singh, J;M. M. Punchhi, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. This appeal by special leave, against the judgment and order dated 11/02/1975, of the High court of Karnataka at Bangalore passed in Civil Revision Petition No. 2580 of 1974, must succeed for the reasons recorded hereafter.

2. The appellants herein have a decree for possession of the disputed land in their favour. They obtained it after two successive rounds of litigation up till the High court. When the decree was sought to be executed in the court of the Munsif, objections were filed by the respondents herein claiming that they had been inducted as tenants over the disputed land by the defendant who later had become the judgment-debtor and, therefore, being tenants on the land the decree against them was inexecutable. The executing court dismissed the objections taking the view that the respondents' motive in objecting was not clear and they had been put up by the judgment-debtor to frustrate execution. Further it was viewed that since the respondents were inducted and put in possession at a time when after the judgment-debtor had suffered a decree, and not in the period prior thereto as claimed by the respondents, the so-called tenancy having been created by a virtual trespasser would not confer any legal rights on the respondents. This seems to be so when one goes through the definitions of the words "tenant" and landlord" respectively as given in the Karnataka Land Reforms Act, 1961. Therein the word landlord" means a person who has leased land to a tenant and includes a person entitled to receive rent

from a tenant. The word "tenant" means an agriculturist who cultivates personally the land he holds on a lease from a landlord and includes some other persons as given therein. Obviously, the jural relationship of tenancy created by a trespasser with another is not within the grip of the two words aforementioned. Since the finding of the executing court was adverse to the respondents regarding the origin of their tenancy, unless and until that finding was upset, the High court had no power to interfere with the order of the executing court in revision, and to have deviated the matter to the tribunal for settlement of the issue as to whether there existed a tenancy or not under Section 133 of the Karnataka Land Reforms Act, 1961. The exercise in our view attempted by the High court was likely to be of no use even if it was assumed that the respondents had been inducted as tenants in possession in the manner found by the executing court over the questioned land. This being a finding of fact not disturbed by the High court in revision, would govern the field meriting dismissal of the revision petition. Accordingly, we allow this appeal, set aside the impugned order of the High court and dismiss the objections of the respondents. Let the execution proceed further without delay. No costs.