
(1996) 11 KAR CK 0001
In the Karnataka High Court
Case No : L.R.R.P. No. 2496 of 1991

D.M. Ramachandra Rao

APPELLANT

Vs

State of Karnataka and Another

RESPONDENT

Date of Decision : 28-11-1996

Acts Referred:

Karnataka Land Reforms Act, 1961 — Section 121, 2 (14)

Citation : (1997) ILR (Kar) 1555

Hon'ble Judges : B.K. Sangalad, J

Bench : Single Bench

Advocate : P.S. Manjunath, for the Appellant; R.K. Hatti, HCGP, for the Respondent

Final Decision : Dismissed

Judgement

B.K. Sangalad, J.—This L.R.R.P is filed against the order of the Appellate Authority, Mandya District, Mandya, dated 20.1.1990 passed in Appeal No. 61/88 dismissing the appeal and confirming the order of the Land Tribunal, Mandya, dated 6.1.88 in LRF. INA 64/83-84.

2, The petitioner filed Form No. 1 for grant of occupancy rights in respect of Sy. No. 850 measuring 1 acre 2 guntas and Sy. No. 839 measuring 25" x 25". The Appellant No. 2 claimed the tenancy under this petitioner. The Land Tribunal, Mandya, after holding an enquiry rejected the prayer of the petitioner and another. Being aggrieved by the order of the Land Tribunal, an appeal was preferred before the Appellate Authority. The Appellate Authority also dismissed the appeal Now the petitioner who was Appellant No. 1 has filed this petition for not granting the occupancy rights in respect of Sy. No. 850 measuring 1 acre 02 guntas.

3. At the very out-set it should be made clear that it is a non-agricultural land. Mr. P.S. Manjunath, learned Counsel for the petitioner has no second thought over it. According to him Section 6 of the Karnataka (Religious and Charitable)

Inams Abolition Act, 1955 (hereinafter called as the "Act") has to be made applicable. When the petitioner has applied for grant of the occupancy rights, the Land Tribunal ought to have granted occupancy rights although it is a non-agricultural land in view of Section 6 of the Act. On the other hand Mr. R.K. Hatti, learned Government Pleader strenuously submitted that there is concurrent finding and as such, the impugned order does not require interference. He also vehemently contended that since it is a non-agricultural land, the Land Tribunal has no jurisdiction to grant occupancy rights.

In view of these contentions, now it is to be seen whether the Land Tribunal can grant the occupancy rights in case of non-agricultural land when the application is made for grant of occupancy rights of the lands coming under the Act.

Section 6 of the Karnataka (Religious and Charitable) Inams Abolition Act, 1955 reads as follows :

6. OTHER TENANTS TO BE TENANTS UNDER GOVERNMENT:

Every tenant of the inamdar other than a kadim tenant or a permanent tenant with effect on and from the date of vesting an subject to the provision of Chapter IV, be entitled to be continued as tenant under the Government in respect of the land of which he was a tenant under the inamdar immediately before the date of vesting.

According to Mr. Manjunath, learned Counsel for the petitioner, the land is not defined under this Act. As such, for the definition of the land, the land Revenue Code has to be looked into. According to this code, in Section 3(3) the land is defined as follows :

"Land" includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth, and also shares in, or charges on, the revenue or rent of villages, or other defined portions of territory;

4. This definition does not come to the rescue of Sri P.S. Manjunath, learned counsel for the petitioner out and out. According to him, the land means and includes agricultural and non-agricultural land. He also relied upon a decision in the case of DYNA FOODS PRIVATE LTD v. FAKIRAPPA AND OTHERS¹ wherein it is held as follows :

(B) KARNATAKA VILLAGE OFFICES ABOLITION ACT, 1961 - Section 2(14) of Karnataka Land Revenue Act, 1964 - Urban Land (Ceiling and Regulation) Act, 1976 - Definition of "land" not defined by the Act "land" as defined u/s 2(14) of KLR Act does not take any discrimination between agricultural and non-agricultural lands and in all pervasive -Securing conversion under KLR Act or exemption from ceiling under UL(CR) Act will not change original character of regranted land-provisions of one statute ought not to be used to defeat legislative mandate of another statute.

While delivering this Judgment, his Lordship has observed that Section 2(14) of

the K.L.R. Act does not make any discrimination between the agricultural and non-agricultural lands and is all pervasive. Relying upon this portion, the learned Counsel for the petitioner submitted that the same definition should be extended or imparted to the definition of land under Act, 1955. In the body of the judgment, His Lordship has also observed as follows :-

"It is a well settled principle of law that the provision of one statute ought not to be permitted to be used for the purpose of defeating the legislative mandate of another statute."

In my opinion the opinion expressed by His Lordship is only confined to that case.

It is not necessary to deal with it in detail as this case does not have direct bearing.

5. It is pertinent to note that it is well established principle and in a cateena of decisions, it is held that the jurisdiction of the Land Tribunal is only to grant or reject the occupancy rights in respect of agricultural land. This is well supported by definition in Section 2(14) of the K.L.R. Act. Mr. P.S. Manjunath, learned Counsel for the petitioner tried his best to defend and vehemently submitted that in view of the decision in the case of Dyna Foods Pvt. Ltd., Dharwar Vs. Fakirappa and others, , the land includes non-agricultural land. However, his interpretation does not appeal to my mind in view of the powers and functions of the Land Tribunal. I have perused the orders of both Land Tribunal as well as the Appellate Authority. Both the forums have come to the conclusion that in case of non-agricultural land, the occupancy rights cannot be granted. At one stage I was inclined to accept the submission of Mr. Manjunath, learned Counsel for the petitioner but looking to the powers and functions I am not inclined to make exception and hold that the Tribunal has got the jurisdiction to grant the occupancy rights in case of non-agricultural land.

6. Mr. Hatti, learned Government Pleader also relied upon the decisions in the case of C.V. GOURAMMA vs. LAND TRIBUNAL, BANTWAL AND OTHERS 1980 (1) KarLJ54 and in case of CHOWRIMUTHU vs. M.S. KAVERAMMA AND OTHERS 1988 (1) KarLJ 17 wherein it is held as follows :

"Karnataka Land Reforms Act, 1961 - Section 121 A - Concurrent findings recorded based on evidence on record - No interference.

HELD :

Both the Land Tribunal and the Appellate Authority, on evidence recorded respectively before them, have recorded a finding that petitioner was not cultivating the lands on the relevant date having regard to the inconsistency in the oral evidence led by him. In such cases, the Court exercising revisional jurisdiction should not interfere unless the conclusions of the authorities below have been based on conjectures and not evidence."

7. In view of this also, the orders passed by the Land Tribunal and the Appellate

Authority does not require interference. The Appellate Authority has given proper opportunity to the petitioner. Merely the other Appellant has not preferred any petition, does not mean that this petition should be automatically thrown out. Whatever the merits it has, have been considered. It is to be stated that Mr. Manjunath, learned Counsel for the petitioner tried his best to make out a case that even in case of non-agricultural land, the Tribunal has got the jurisdiction. For the reasons stated above, I reject his contention. Hence the following order :

In the result, the petition stands dismissed.