

(2013) 08 KAR CK 0146

In the Karnataka High Court

Case No : Writ Petition No. 12522 of 2007 (LR.)

G. Hanumappa

APPELLANT

Vs

The Assistant Commissioner and Sri. Gangadharan

RESPONDENT

Date of Decision : 30-08-2013

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2013) 08 KAR CK 0146

Hon'ble Judges : H. Billappa, J

Bench : Single Bench

Advocate : Mari Gowda, for the Appellant; Srinivasa, AGA for R1, for the Respondent

Final Decision : Allowed

Judgement

H. Billappa, J.—In this writ petition under Articles 226 & 227 of the Constitution of India, the petitioner has called in question, the order dated 7.6.2005, passed by the first respondent vide Annexure-"D" and the order dated 19.6.2006 passed by the Appellate Tribunal, Bangalore, in Appeal No. 969/2005 vide Annexure-"E". By the impugned order at Annexure-"D", the first respondent has rejected Form No. 7A filed by the petitioner in respect of Sy. No. 100 of Koramangala village measuring 3 acres. Aggrieved by that, the petitioner has preferred an appeal in Appeal No. 969/2005 before the Karnataka Appellate Tribunal, Bangalore. The Appellate Tribunal, by its order 19.6.2006, has dismissed the appeal.

2. Aggrieved by that, the petitioner has filed this writ petition.

3. Briefly stated the facts are;

The petitioner claims that he was a tenant in respect of the land bearing Sy. No. 100 measuring 3 acres situated at Koramangala village. The petitioner has been cultivating the land personally since about 20 years. Due to illiteracy, the petitioner did not file Form No. 7 and filed Form No. 7A on 1.2.1999.

4. It is stated, the family of the petitioner consists of himself and his two sons H. Rajanna and H. Janardhan. The family possessed 5 acres of land. It was divided on 15.6.1995. In the said partition, the petitioner got only 28 guntas of land. The first respondent without holding any enquiry and without considering that the petitioner owns only 28 guntas has rejected Form No. 7A. The Appellate Tribunal by its order dated 19.6.2006 has dismissed the appeal. Therefore, this writ petition.

5. The learned counsel for the petitioner contended that the impugned orders cannot be sustained in law. He also submitted that the petitioner was the tenant in respect of Sy. No. 100, measuring 3 acres situated at Koramangala village. The petitioner has been cultivating the land since more than 20 years. The RTC entries stand in the name of the petitioner. The petitioner owns only 28 guntas of land. The first respondent and the Appellate Tribunal without properly considering the material on record have rejected Form No. 7A. Therefore, the impugned orders cannot be sustained in law.

6. The learned AGA supported the impugned orders and submitted that the petitioner has stated that he owned 5 acres of land and therefore, the first respondent and also the Appellate Tribunal have rejected Form No. 7A. Therefore, the impugned orders do not call for interference.

7. I have carefully considered the submissions made by the learned counsel for the parties.

8. The point that arises for my consideration is, Whether the impugned orders call for interference? The petitioner claims that he was a tenant in respect of Sy. No. 100 measuring 3 acres, situated at Koramangala village. He has been cultivating the land since more than 20 years. The petitioner has produced RTC extracts. The entries in column No. 12(2) show the name of the petitioner from 1973-74 till 2005-06. The petitioner has produced Panchayath Parikath at Annexure-"C". It shows that 28 guntas of land has been allotted to the share of the petitioner. The first respondent has rejected the claim of the petitioner on the ground that the petitioner owns 5 acres of land. The Tribunal has held though in column 12(2) the name of the petitioner appears, the cultivation is shown to have been done by the owner. In fact, the name of the petitioner is entered in column No. 12(2) right from 1973-74 onwards. Annexure "C" has not been considered. Therefore, the matter requires reconsideration.

Accordingly, the writ petition is allowed the impugned orders at Annexures-D" and "E" passed by the first respondent in LRF. No. (DH).710/1998-99 and the Appellate Tribunal in Appeal No. 969/2005 are hereby quashed. The matter is remitted to the first respondent with a direction to reconsider the same, in accordance with law, by giving opportunity to the parties, after issuing notice.