

(1997) 09 KAR CK 0050
In the Karnataka High Court
Case No : Writ Petition No. 21033 of 1992

G. Venkappa Gowda and Others

APPELLANT

Vs

Soorappa Gowda and Others

RESPONDENT

Date of Decision : 10-09-1997

Acts Referred:

Karnataka Land Reforms Act, 1961 — Section 48A
Karnataka Land Reforms Rules, 1974 — Rule 19(1)

Citation : (1997) 4 KarLJ 667

Hon'ble Judges : M. B. Vishwanath, J

Judgement

1. Heard the learned Counsel for the petitioners, the learned Counsel for the contesting respondent 2 and the learned Government Pleader for respondents 3 and 4. Respondent 1 has been served with notice, but he is unrepresented.
2. In this petition the order dated 8/9-1-1988 passed by the Land Tribunal, Sullia, in Case No. LRY. 907 of 1974-75 has been challenged.
3. As per the impugned order Form 7 filed by the father of the petitioners claiming occupancy rights in respect of Survey No. 132/2-B1 measuring 4 acres 76 cents situated in Nalkoor village was rejected. Petitioners' father preferred appeal before the Land Reforms Appellate Authority, Puttur, in L.R.A.A. 31 of 1988. When the matter was pending before the Appellate Authority, the Land Reforms Appellate Authority came to be abolished. Consequently the petitioners filed C.P. No. 2751 of 1991 which has been converted into the present writ petition.
4. The case of the petitioners is that their father Chennappa Gowda was the tenant of R-1 and was in possession as such on 1-3-1974. The Tribunal rejected the contention of the petitioners.
5. It is not disputed that respondent 1-Soorappa Gowda was the owner of the property and he raised loan in respect of the property in question from Guttigaru C.A. Bank. He did not repay the debt. The property in question was brought to

sale by the said bank and respondent 2-J.S.Chinnappa Gowda purchased the property in public auction.

6. Respondent 2-Chinnappa Gowda filed suit O.S. No. 287 of 1966 before the Principal Munsiff, Puttur, against the father of the petitioners for declaration and injunction. The suit came to be decreed in part by judgment dated 20-3-1970. The Civil Court granted permanent injunction restraining the petitioners' father from interfering with the plaintiff's peaceful possession of the property in question.

7. It is very curious to note that in this suit the petitioners' father never set up the plea of tenancy. He set up the plea of adverse possession which was rejected by the Civil Court. The petitioners' father preferred an appeal against the judgment of the Principal Munsiff, Puttur, which was rejected in the year 1971.

8. The Tribunal has rightly taken into consideration the various circumstances to hold against the petitioners' father.

9. In this Court the learned Counsel for the petitioners relied on the rent receipts R-1 and R-3 to show that the petitioners' father had paid rent to the erstwhile landlord respondent 1-Soorappa Gowda and that the petitioners' father had not surrendered the tenancy and the delivery of possession was only paper delivery.

10. The Tribunal rightly did not take into consideration the rent receipts which have sprung into existence in the years 1964 and 1970-71. In view of the decree passed by the Principal Munsiff, Puttur, and the fact that the appeal filed by the petitioners' father was also rejected, these rent receipts do not turn the tables on respondent 2-Chinnappa Gowda. As on 1-3-1974, the petitioners' father could not have been in possession. The impugned order passed by the Tribunal is quite in order.

11. For the aforesaid reasons the petition is rejected. No costs in view of the fair submission of the learned Counsel for the petitioners.