

(1978) 10 KAR CK 0010
In the Karnataka High Court
Case No : WP 7597/76

Gangadharayya Gurusiddiah Narendramath

APPELLANT

Vs

Land Tribunal, Haliyal and Another

RESPONDENT

Date of Decision : 27-10-1978

Acts Referred:

Karnataka Land Reforms Act, 1961 — Section 48a

Citation : (1979) 2 KarLJ 15

Hon'ble Judges : Kudoor, J

Judgement

1. This is a owner's writ petition. The writ petition is filed under Art. 226 of the Constitution to quash the impugned order Ex. H dated 29-4-1976 passed by the 1st respondent-land tribunal in so far as it relates to Block Nos. 19 and 22 of Kumbarkop village of Haliyal Taluk, North Kanara Dist, by issue of a writ of certiorari on the grounds set out in the writ petition.

2. Shri K.I. Bhatta, learned advocate appearing for the writ petitioner canvassed several grounds in the course of his arguments in support of the prayer of the writ petitioner contending that the petitioner has been cultivating the land comprised in Block Nos. 19 and 22 personally and as such they did not vest in the State Government under sect. 44(1) of the Karnataka Land Reforms Act, 1961 (shortly called the "Act"). One of the main contentions urged by him was that the impugned order cannot be said to be the order of the tribunal in the eye of law, since it was signed only by the Chairman of the tribunal and it does not disclose that the other members of the tribunal had taken part in the deliberations including the passing of the impugned order. It appears to me that Shri K. I. Bhatta is right in his submission.

3. Section 48A stipulates that the tribunal is empowered to determine after holding an enquiry the person entitled to be registered as occupant. Clause (35) of sec. 2(A) defines "tribunal". According to the said provision "tribunal" means the Tribunal constituted under sec. 48. Section 48 lays down the constitution of the tribunals. It stipulates that the Assistant Commissioner of the Revenue Sub-

division having jurisdiction over the taluk of an Assistant Commissioner specially appointed for the purpose by the State Government and four others nominated by the State Government of whom at least one shall be a person belonging to the scheduled caste or scheduled tribes shall constitute the tribunal. Rule 16 of the Karnataka Land Reforms Rules, 1974 (shortly called the "Rule") provides for the quorum for the meetings of the tribunal. It lays down that the quorum for every meeting of the tribunal (including an adjourned meeting) shall be three members including the Chairman. Thus it is clear from the above provision that at least three members including the Chairman shall take part in the deliberations in rendering a decision on an application filed by a claimant for registration of the occupancy right so as to hold that the decision is rendered by the tribunal. The original records of the tribunal in this case is made available to me by the learned High Court Government Pleader, appearing for the 1st respondent-land tribunal-A perusal of the order impugned would disclose that it is signed only by the Chairman. The order does not disclose any other members of the tribunal having taken part either in the deliberations or subscribed to the decision rendered Ex. H. The names of the other members of the tribunal do not find a place in any part of the impugned order nor does it indicate that any other members of the tribunal took a part in the deliberations. The fact that none of the other members of the tribunal has signed the impugned order would go to show that none of them had subscribed to the decision rendered in Ex. H which is signed only by the Chairman. In other words, it is reasonable to hold from a reading of the impugned order Ex. H that it was the decision rendered by the Chairman of the tribunal and not by the Tribunal as such. In that view of the matter, it cannot be said that the impugned order Ex. H is in accordance with the provisions of the Act. This one ground alone is sufficient to dispose of this writ petition. Hence I deem it unnecessary to deal with the other contentions canvassed on behalf of the petitioner.

4. In the result, for the reasons stated above, rule is made absolute, the impugned order Ex. H dated 29-4-1976 in so far as it relates to Block Nos. 19 & 22 of Kumbarkop village is quashed and the matter is remitted to the 1st respondent-land tribunal for fresh disposal in accordance with law after giving notice to the parties including the petitioner herein and giving adequate opportunity for them to adduce evidence and also to take up such of the contentions as are open to them, There is no order as to costs.