
(1998) 04 KAR CK 0014
In the Karnataka High Court
Case No : Writ Petition No. 1612 of 1998

Govindappa (Deceased) By L.R.	Vs	APPELLANT
State of Karnataka and Others		RESPONDENT

Date of Decision : 02-04-1998

Acts Referred:

Karnataka Land Reforms Act, 1961 — Section 48 A
Transfer of Property Act, 1882 — Section 54

Citation : (1998) ILR (Kar) 2215 : (1998) 4 KarLJ 509

Hon'ble Judges : G.C. Bharuka, J

Bench : Single Bench

Advocate : Sri R. Chandrashekar, for the Appellant; Smt. V. Vidya, High Court Government Pleader, Sri Tharesh and Sri A.G. Shivanna, for the Respondent

Judgement

1. Heard Mr. R. Chandrashekar, learned Counsel for the petitioner, Mrs. Vidya, learned High Court Government Pleader for respondents 1 and 2, Mr. A.G. Shivanna, learned Counsel for respondent 7 and Mr. R. Tharesh, learned Counsel for respondents 4 and 6.

2. The question that to be attended herein is as to whether the purchaser, under an agreement for sale of agricultural land in respect of which occupancy rights is claimed u/s 48-A of the Karnataka Land Reforms Act, 1961 (hereinafter the "Act"), has any right of participating in the occupancy proceedings?

3. The facts of the case lie in a short compass. One late Mr. Govindappa, whose estate is being represented by his son in the present writ petition, had filed an application in Form No. 7 (Annexure-A) as prescribed under Rule 19(1) of the Karnataka Land Reforms Rules, 1974 on 5-11-1975 claiming occupancy rights in respect of land measuring about 10 acres in Sy. No. 21 of Yerrappannahalli Village, Bidarahalli Hobli, Bangalore South Taluk. Respondents 3 to 6 are said to be the owners of the said land. The said owners, on being noticed, have appeared in the occupancy proceedings which is still pending disposal.

4. It is the case of the parties that respondent 3 had entered into an agreement for sale dated 17-3-1994 in favour of the 7th respondent agreeing to sell the land in question. On the strength of the said agreement, respondent 7 filed an application on 21-10-1997 before the Land Tribunal for his impleading in the proceedings which has been allowed by the Tribunal under its order dated 18-11-1997 (Annexure-E). The petitioners have come up before this Court for quashing of the said order on the ground that under the provisions of the Act, a purchaser under an agreement for sale does not acquire any interest in the land entitling him to meddle with occupancy proceedings.

5. The persons or class of persons who are entitled to have notice of proceedings u/s 48-A of the Act and right to participate therein is governed by sub-section (2) of Section 48-A of the Act, which reads thus.--

48-A. Enquiry by the Tribunal.--

(1) xxx xxx xxx xxx. (2) On receipt of the application, the Tribunal shall publish or cause to be published a public notice in the village in which the land is situated calling upon the landlord and all other persons having an interest in the land to appear before it on the date specified in the notice. The Tribunal shall also issue individual notices to the persons mentioned in the application and also to such others as may appear to it to be interested in the land".

(emphasis supplied)

6. On reading of the above said provision, it clearly goes to show that the persons who are entitled to notice and participation in the proceedings must only be those who can show that they have interest in the land. Respondent 7, is a holder of agreement for sale of the land in question. Undoubtedly, it is also well-settled that a contract for sale is merely a document creating a right to obtain another document and nothing more.

7. In the case of Kashinath Bhaskar Datar Vs. Bhaskar Vishweshwar Karve, , it has been held by the Supreme Court that.--

"An agreement to sell, or an agreement to transfer at some future date, is to be distinguished because that sort of document does not of itself purport to effect the transfer. It merely embodies a present agreement to execute another document in the future which will, when executed, have that effect".

8. The Supreme Court in the case of Rambaran Prosad Vs. Ram Mohit Hazra and Others, , with reference to Section 54 of Transfer of Property Act has held that "Section 54 of the Transfer of Property Act states that a contract for sale of immovable property "does not, of itself, create any interest in or charge on such property".

9. Therefore, in my considered opinion, law on the subject is quite clear to hold that respondent 7 has acquired no enforceable interest in the land. But nonetheless keeping in view the language employed in sub-section (2) of Section

48-A of the Act, a Division Bench of this Court in the case of Veerabhadrapa v State of Karnataka and Others, has held that.--

"The underlined portion of the above provision, in our view, makes it clear that the Tribunal should issue notices not only to persons, who are, in fact, interested in the land, but also to persons who may appear to be interested in the land. The intention of the Legislature appears to be that even a person who has an inchoate interest in the land and is likely to be affected by the decision of the Tribunal, should be given a notice. Hence, we are unable to agree with the contention of Shri Reddappa that before a sale deed was executed in favour of the petitioner in pursuance of the decree for specific performance, he could not have been treated by the Tribunal as an interested person to whom a notice should be issued by the Tribunal"

10. Keeping in view the above said binding precedent of this Court, it has to be held that even purchaser under an agreement for sale of agricultural land being interested therein has to be taken as a necessary party in the enquiry to be initiated u/s 48-A of the Act. Therefore, the Tribunal cannot be said to have committed any error of jurisdiction in permitting the 7th respondent to be impleaded in the proceedings. As such, there does not appear to be any occasion to interfere with the impugned order. The writ petition is liable to be dismissed.

11. The writ petition is accordingly dismissed. No costs.