

(1976) 12 KAR CK 0002
In the Karnataka High Court

Gulabchand

APPELLANT

Vs

The Land Tribunal, Bhalki and Others

RESPONDENT

Date of Decision : 10-12-1976

Acts Referred:

Citation : AIR 1977 Kar 153 : (1977) ILR (Kar) 234 : (1977) 1 KarLJ 55

Hon'ble Judges : K.Bhimiah, J

Bench : Single Bench

Advocate : J.S. Gunjal, for the Appellant; H.R. Narayanan, Government Pleader, for the Respondent

Judgement

1. In this writ petition the only grievance of the petitioner, is that one Sri Manikrao Janpurkar, a member of the Land Tribunal, Bhalki who had bias against the petitioner had participated in the proceedings for determination as to who was the tenant in Sy. No. 10 measuring 7 acres 10 guntas of Ganeshpur village in Bhalki taluk.

2. The submission made by Sri Gunjal, learned Advocate for the petitioner is that Sri Manikrao Janpurkar is a practicing advocate at Bhalki and that he had appeared on behalf of the father of respondent 2 in O.S No. 80 of 1959-60 on the file of the Munsiff Bhalki, in respect of the same land.

3. The petitioner has produced Ext. "C" a vacillate accepted and filed by Sri Munirka Janpurkar. The petitioner has stated in the course of his petition that he brought to the notice of the Tribunal the fact that Sri Manikrao Janpurkar had appeared for the father of the tenant in the civil proceedings and objected to the participation of Sri Manikrao Janpurkar in the proceedings before the Tribunal. In spite of the objection, Sri Manikrao Janpurkar did participate in the proceedings and the rights of occupancy have been registered in the same of respondent 2.

4. The land tribunal is a quasi-judicial body which is constituted to decide disputes relating to tenancy under the Land Reforms Act. It should act fairly and impartially without bias. The Supreme Court in G. Sarana Vs. University of

Lucknow and Others, , while dealing with the applicability of the principles of natural justice to the domestic enquiries or administrative proceedings has observed in para. 10 of judgment thus:

" It would be advantageous at the stage to refer to the following observations made by this court in Manak Lal Vs. Dr. Prem Chand,

"Every member of a tribunal that sits to try issues in judicial or quasi-judicial proceedings must be able to act judicially; and the essence of judicial decisions and judicial administration is that Judges should be able to act impartially, objectively and without any bias. In such cases the test is not whether in fact a bias has affected the judgment; the test always is and must be whether a litigant could reasonably apprehend that a bias attributable to a member of the tribunal might have operated against him in the final decision of the tribunal. It is in this sense that it is often said that justice must not only be done but must also appear to be done..."

5. In this case petitioner has reasonably apprehended that a bias attributable to Sri Manikrao Janpurkar, a member of the Tribunal might have operated against him in the final decision of the tribunal. When the petitioner brought to the notice of the Tribunal about the fact that Sri Manikrao Janpurkar had appeared for father of respondent 2 in the civil proceedings in respect of the same land and attributed bias, the member ought to have voluntarily refrained from participating in the proceeding or the Chairman should have asked him not to participate in the proceedings. None of it was done. Thus, there is failure of the proceedings. None of it was done. Thus, there is failure of the principles of natural justice.

6. Therefore the impugned order is set aside and the matter is remanded to the Land Tribunal, Bhalki, for fresh disposal in accordance with law after giving parties opportunity to produce evidence and of being heard. Further, the Chairman of the Tribunal is directed not to allow Sri Manikrao janpurkar to participate in the proceedings in respect of this case to inspire in the mind of the petitioner the sense that justice must not only be done but must also appear to be done.

7. The writ petition is allowed. No costs.

8. Petition allowed.