

(2016) 01 KAR CK 0316

In the Karnataka High Court

Case No : Writ Appeal Nos. 3266 to 3268 of 2010 (KLR)

H. Venkatesh Reddy And Others

APPELLANT

Vs

State of Karnataka And Another

RESPONDENT

Date of Decision : 27-01-2016

Acts Referred:

Mysore (Personal and Miscellaneous) Inams Abolition Act, 1954 — Section 10

Citation : (2016) 3 KantLJ 75

Hon'ble Judges : Mohan M. Shantanagoudar;K.N. Phaneendra, JJ.

Bench : Division Bench

Advocate : D. Aswathappa, AGA, for the Respondent

Final Decision : Allowed

Judgement

Mohan M. Shantanagoudar, J. - The order dated 20-8-2010 passed by the learned Single Judge in W.P. No. 3069 of 2008 confirming the order dated 28-1-2008 passed by the Special Deputy Commissioner, Bangalore District in Case No. RRT(2) Commissioner 29/2006-07, is called in question in these writ appeals.

2. Case of the appellants is that Sy. Nos. 1 to 37 of Chinnappanahalli Village, Krishnarajapuram Hobli, are their ancestral properties; those lands are retained by the entire family for common use and benefit of the family members; Sy. Nos. 1 to 37 of Chinnappanahalli Village were allotted to the share of Chikkamuniswamy Reddy by virtue of the registered partition deed dated 13-4-1923; said Chikkamuniswamy Reddy is the ancestor of the appellants herein; subsequently, further divisions have taken place between the family members; Sy. No. 20 was allotted to H.M. Hanuma Reddy, H.M. Krishnareddy, H.M. Veerappa Reddy, H.M. Narayana Reddy and Kodandarama Reddy; in further partition that took place between the family members on 2-11-1955; further case of the appellants is that though they were enjoying ancestral properties, the impugned order came to be passed on 28-1-2008 by the Special Deputy Commissioner, Bangalore resuming the lands to the State Government free from

all encumbrances by evicting the persons who are in possession of the said property; the entries are ordered to be changed in favour of the State Government. The order of the Special Deputy Commissioner, dated 28-1-2008 was questioned by the appellants herein before this Court in W.P. No. 3069 of 2008, which came to be dismissed by the impugned order dated 20-8-2010.

3. An application in I.A. No. 2 of 2015 is filed by the appellants seeking permission to produce documents in support their case. The said application is listed along with the main matter for hearing. Along with certain documents so produced, the certified copy of the order dated 19-12-1966 passed by the Special Deputy Commissioner for Inam Abolition, Bangalore is also produced. The said order reveals that the appellants herein were registered as occupants in respect of the land, measuring 4 acres 39 guntas along with kharab land of 10 acres 20 guntas in Sy. No. 20 of Giinnappanahalli Village, Krishnarajapuram Hobli, Bangalore South Taluk under Section 10 of Mysore (Personal and Miscellaneous) Imams Abolition Act, 1954. The certified copy of the said order dated 19-12-1966 passed by the Special Deputy Commissioner for Inam Abolition was not taken into consideration though the same was in the official records maintained by the office of the Deputy Commissioner, while passing the order dated 28-1-2008 which is impugned in the writ petition. The Deputy Commissioner while passing the order dated 28-1-2008, ought to have taken into consideration all the records produced by the parties and he ought to have verified all the original records maintained by the office. He being the Officer of the State shall act impartially and has to pass orders on merits and in accordance with law" on going through the original file. Unfortunately, the said order dated 19-12-1966 was also not brought to the notice of the learned Single Judge.

4. In view of the same, we deem it proper to set aside the impugned orders passed by the Special Deputy Commissioner as well as the learned Single judge in W.P. No. 3069 of 2008, dated 20-8-2010 and remand the matter to the Special Deputy Commissioner for fresh disposal in accordance with law. By the said process, no prejudice or injustice will be caused to either of the parties. Accordingly, the following order is made:

(i) The order dated 28-1-2008 passed by the Special Deputy Commissioner, Bangalore District in No. RRT(2)CR.29/2006-07 and the order dated 20-8-2010 passed in W.P. No. 3069 of 2008 stand quashed.

(ii) Matter is remitted to the Special Deputy Commissioner, Bangalore East for fresh disposal of the matter. It is needless to observe that the Special Deputy Commissioner shall verify the original records and thereafter pass orders after hearing both the parties.

(iii) It is open for the appellants herein to produce the records before the Special Deputy Commissioner, if they so choose. All questions are kept open to be decided by the Special Deputy Commissioner. The Special Deputy Commissioner

shall decide the matter afresh on merits and in accordance with law as early as possible, but not later than the outer limit of six months from the date of receipt of this order.

(iv) The impleading applicants who have made the applications in Misc. W. No. 8634 of 2011, I.A. Nos. 1 to 4 of 2012; 1 and 2 of 2013, for impleading themselves before this Court are also entitled to appear before the Special Deputy Commissioner and submit their arguments in accordance with law. Misc. W. No. 8634 of 2011, I.A. Nos. 1 to 4 of 2012; 1 and 2 of 2013 are disposed of accordingly.

(v) Both the parties shall maintain status quo with regard to the property in question. It is not open for the parties to encumber the property in question in whatsoever manner till the disposal of the matter before the Special Deputy Commissioner.

5. Writ appeals are allowed to the aforesaid extent.