

(2006) 03 KAR CK 0044
In the Karnataka High Court
Case No : Writ Petition No. 27397 of 2002

Hanamappa Ramappa Khajagal

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 23-03-2006

Acts Referred:

Karnataka Land Reforms Act, 1961 — Section 2 (a) (34), 44

Citation : (2006) 03 KAR CK 0044

Hon'ble Judges : R. Gururajan, J

Bench : Single Bench

Advocate : S.B. Hebballi, for the Appellant; Ramesh B. Aneppanavar, High Court Government Advocate for Respondents-1 and 2 and B.R. Srinivasa Gowda, for Respondent-3 and 4, for the Respondent

Final Decision : Allowed

Judgement

R. Gururajan, J.—Petitioner-Hanamappa Ramappa Khajagal is before me challenging the Land Tribunal, Hungund denying occupancy rights in terms of its order dated 9-7-2002 (Annexure-H).

2. Petitioner and his family members are tenants and are in actual possession of agricultural lands in Survey Nos. 6 and 74 situated at Waragodadinni, Hungund Taluk, Bagalkot District, measuring 1 acre 5 guntas and 13 acres 25 guntas respectively. Their family holds these lands as tenants since the time of their father. After the death of their father during 1973, petitioner being the eldest son along with his two brothers, constituting Joint Hindu Family, continued to cultivate as members of the joint family. Respondent 4 is the rival claimant in respect of the land in question. Respondent 4 filed Form 7 claiming grant of occupancy rights only to the extent of 4 acres 5 guntas in Sy. No. 74 and 1 acre 4 guntas in Survey No. 6. Both the claims were clubbed in the light of the order passed in L.R.R.P. No. 5637 of 1998. After clubbing, evidence was recorded. Matter was heard. After hearing, Tribunal has chosen to pass an order on 9-7-2002. In the said order, Tribunal has chosen to reject both the claims of the

petitioner and respondent 4. Respondent 4 has not chosen to challenge the said order passed by the Tribunal. Only the present petitioner has chosen to challenge the said order of the Tribunal dated 9-7-2002 in this petition,

3. On receipt of notice, statement of objections was filed. In the statement of objections respondents would support the order. A rejoinder is also filed by the petitioner. State Government has also chosen to file an affidavit supporting the order of the Land Tribunal.

4. Heard the learned Counsels for the parties and perused the material placed on record.

5. It is seen from the material on record that the petitioner and the fourth respondent are rival claimants. Both of them filed Form 7 seeking occupancy rights before the Land Tribunal, Hungund. Both the petitions were clubbed and a common order was passed.

6. To appreciate the argument of the learned Counsel for the petitioner, one has to see the material placed before this Court i.e., Annexure-A, Form 7 filed by the petitioner. Petitioner has provided details in the said Form 7. It is also seen from the revenue records that for the relevant year the petitioner's name appears in the records for the purpose of cultivation. Evidence was recorded before the Tribunal. In evidence, landlord would admit tenancy. He has categorically stated that the petitioner is a tenant in the case on hand.

7. Let me see as to whether the Tribunal is justified in rejecting the case of the petitioner. Land Tribunal after referring to the evidence has chosen to reject the case of the petitioner on the ground of no tenancy in the case on hand. Tribunal has ruled that the petitioner is not a tenant in the light of crop-share arrangement between the petitioner and the landlord, Tribunal has chosen to rely on a judgment in Hemadevappa v. Land Tribunal, Maddur 1980(1) Kar. L.J. 15.

8. Preamble to the Karnataka Land Reforms Act would show that the said Act has been enacted to have uniform law relating to agrarian. Confirmation of ownership on tenant, ceiling of land holding and for certain other matters. Interpretation has to be in favour of the weaker sections of the society which would achieve the object in terms of the intentment of the legislation. "Agriculture" has been defined so also "agricultural labourer" in the Act. "Tenant" has been defined to mean an agriculturist who cultivates personally the land he holds on lease from a landlord, and "Agriculturist" has defined to mean a person who cultivates land personally.

9. From a reading of the definitions agriculture, agriculturist and tenant, what is clear to this Court is that the land has to be given to its actual cultivator in terms of the Act. In the light of the evidence of the landlord and in the light of revenue records, it cannot be said on the facts of this case that the "tenant" is not an agriculturist in terms of the definition in the case on hand. Tribunal has unfortunately, without looking into this aspect of the matter, has chosen to reject

the case of the petitioner on the ground of no-tenancy in the light of crop-share. Crop-share is one mode of tenancy in agricultural operation. Even otherwise, when the landlord has chosen to admit tenancy, Tribunal is not justified in rejecting the same on the ground no-tenancy in the light of the crop-share as has been done in the case on hand. Judgment of this Court in Hemadevappa, on which reliance is placed, if carefully read, would show that it was rendered in a totally different circumstances. That was a case in which this Court was considering the "grove" consisting of mango and tamarind trees, yielding coconut trees and young coconut plants. Respondent 2 in the said case has entered into ,a lease agreement, in which he was only given a right to collect coconuts from yielding trees and not the land as such. It was in the said factual circumstances, this Court ruled on the facts of that case that respondent 2 therein cannot be called a tenant in terms of Section 2(a)(34) and that the lands were not tenanted within the meaning of Section 44 of the Act. The said case is factually distinguishable and it would not apply to the facts of this case. The Tribunal has misdirected itself in rejecting the application of a tenant in the case on hand on the basis of the said judgment. Sri Hebballi, learned Counsel for the petitioner is therefore justified in questioning the order of the Land Tribunal in the light of the evidence of the landlord and in the light of revenue records available on record. He has made out a case for my interference in the case on hand. It is seen by this Court at this stage that the contesting rival tenant has not chosen to challenge the said order. On the facts of this case and in the given circumstances, I have no hesitation in holding that the order of the Land Tribunal suffers from illegality in terms of the land reform laws.

10. In the given circumstances, this petition is accepted. Order of the Land Tribunal is set aside. Petitioner is entitled for occupancy rights in terms of Form 7 filed by him. Tribunal is directed to grant him Form 10 in the light of this order within three months.

11. Sri Ramesh Aneppanavar, learned High Court Government Advocate is permitted to file his memo of appearance within four weeks.