

(2008) 07 KAR CK 0003

In the Karnataka High Court

Case No : Writ Petition No. 17395 of 2004 (LR)

Honnappa since dead by L.R.

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 17-07-2008

Acts Referred:

Karnataka Land Reforms Rules, 1974 — Rule 17

Citation : (2011) 1 KCCR 397

Hon'ble Judges : N.K. Patil, J

Bench : Single Bench

Advocate : S.S. Sajjan Shetty, for the Appellant; N.S. Deshapande, High Court Government Pleader for Respondents-1 and Hanumanthappa H., for Respondent-3, for the Respondent

Final Decision : Dismissed

Judgement

N.K. Patil, J.—Deceased Petitioner - tenant, now represented by his legal representative-son Nagappa has questioned the correctness of the order dated 23rd February, 2004 passed in proceedings No. LRA/1976-77/ 1253 on the file of the Land Tribunal, Gulbarga, rejecting the application filed by deceased Petitioner - Sri. Honnappa for registration of occupancy rights in respect of land bearing Sy. No. 29/1 measuring 04 acres 23 guntas situate at Nagoor Village, Gulbarga District, vide Annexure-A. Further, Petitioner has sought for a direction, directing the second Respondent -- Land Tribunal, Gulbarga to register the occupancy rights in respect of the land in question in favour of Petitioner.

2. Late Sri. Honnappa, claiming to be tenant had filed Form No. 7 for registration of occupancy rights in respect of land bearing Sy. No. 29/1 measuring 04 acres 23 guntas situate at Nagoor Village, Gulbarga Taluk and District. The said application was considered by the Land Tribunal and occupancy rights was registered by the Land Tribunal, Gulbarga on 17th January, 1980. Being aggrieved by the said order, the third Respondent herein filed Writ Petition No. 8077/1980 before this Court, and this set aside the order passed by Land

Tribunal and remitted the matter back to the Land Tribunal. Thereafter, there have been two rounds of litigation, questioning the correctness of the order passed by Land Tribunal, and on both the occasions, the writ petitions filed before this Court have been allowed and the orders passed by the Land Tribunal are set aside and the matter was remitted back to the land Tribunal to pass appropriate orders. Thereafter, the Land Tribunal, after conducting thorough enquiry as envisaged under the relevant provisions of the Karnataka Land Reforms Act and Rules, has rejected the claim of the Petitioner holding that, neither the deceased Petitioner - Honnappa nor the son Nagappa have ever cultivated the said land in question as tenant as on 1st March, 1974. However, the Chairman of the Land Tribunal has recorded the finding that, the name of the Petitioner is found in the record of rights and therefore he is entitled for registration of occupancy rights. However, the members of the Land Tribunal have given their independent opinion for rejection of the claim of the Petitioner holding that, at no point of time, the land in question has been cultivated as tenant either by the Petitioner or by his son on half share basis. Further, it is observed that, Petitioner himself has stated that, the land has been pledged as security by the deceased Petitioner - Honnappa with deceased husband of the third Respondent. The third Respondent has specifically stated that, at no point of time, the land has been given to the deceased Honnappa by her husband for cultivation under half share basis. Majority members of the Land Tribunal have given their opinion by giving valid reasons for rejection of the claim of Petitioner. Being aggrieved by the impugned order passed by second Respondent-Land Tribunal, as stated supra, Petitioner herein felt necessitated to present the instant writ petition, seeking appropriate reliefs, as stated supra.

3. I have heard learned Counsel appearing for Petitioner and learned Counsel appearing for Respondents.

4. After careful evaluation of the entire material available on file, including the order passed by Land Tribunal, Gulbarga, what emerges is that, the Land Tribunal, after critical evaluation of the oral and documentary evidence and other relevant material available on file, following due procedure as envisaged under Rule 17 of the Land Reforms Rules, by majority decision, has given valid reasons and recorded the finding after critical evaluation of the oral and documentary evidence, holding that, the deceased Honnappa, the late father of Petitioner was never cultivating the said land on half share basis and the said land was pledged with the late husband of third Respondent and that, the Petitioner has staying in Gulbarga working in a private Educational institution since 15 to 20 years and further, deceased Petitioner himself has categorically stated that, he is not having any infrastructure for cultivation of the land in question. However, the Special Power of Attorney holder of third Respondent has appeared before the Tribunal and given a statement that, the third Respondent is a widow, and aged about 85 to 90 years and she has specifically stated that, her husband had never given the land on half share basis and that, it has been given only by pledging the land as security and at no point of time, the said land has been given for cultivation on

half share basis and that the land in question is not a tenanted land. Majority members of the Land Tribunal have recorded a finding by giving valid reasons by not believing the evidence adduced by present Petitioner and two other independent witnesses, but the Chairman of the Land Tribunal has opined that, after hearing the respective Counsel appearing for the parties and after perusal of the record of rights for the relevant year, the name of deceased Honnappa is shown as cultivating the land as tenant as 1st March, 1974 and the mode of cultivation is shown as "4" and hence, he becomes a tenant and is entitled for registration of occupancy rights. The said finding recorded by the Chairman of the Land Tribunal is contrary to the relevant records available on file. Petitioner has produced the record of rights for the agricultural years 1974-75 to 1977-78 wherein it has been recorded that, for the agricultural year 1973-74, mode of cultivation is shown as "4"; for the agricultural year 1974-75, the mode of cultivation is shown as "6"; for the year 1975-76, the mode of cultivation is again shown as "4" and thereafter for the agricultural years 1976-77 and 1977-78, the mode of cultivation is shown as "6" which indicates that, the land has been pledged as security by the deceased Honnappa with the deceased husband of third Respondent - Sri. Nagapa. This fact has been rightly considered and appreciated by majority members of the Land Tribunal and recorded the specific finding, after taking into consideration the categorical admission made by the Petitioner and after critical evaluation of the oral and documentary evidence available on file. The Land Tribunal has recorded valid reasons for rejecting the claim of Petitioner. The said reasoning recorded by Land Tribunal is just and proper and I do not find any error or unreasonableness as such committed by the Land Tribunal in rejecting the claim of Petitioner. Therefore, interference by this Court is not justifiable. When the Competent Authority after critical evaluation of the oral and documentary evidence has recorded a finding after discussing the evidence of the parties, it is not justifiable to interfere in the impugned order nor Petitioner has made out any good grounds as such to interfere in the instant writ petition. Therefore, the writ petition filed by Petitioner is liable to be dismissed as devoid of merits. Accordingly, it is dismissed.