

(1988) 06 KAR CK 0061
In the Karnataka High Court
Case No : C.R.P. No. 2448/1987

Huchegowda

APPELLANT

Vs

Channamma and Others

RESPONDENT

Date of Decision : 28-06-1988

Acts Referred:

Karnataka Land Reforms Act, 1961 — Section 48a

Citation : (1988) 3 KarLJ 252

Hon'ble Judges : M. P. Chandrakantharaj Urs, J

Judgement

Chandrakantharaj Urs, J.-This is a revision petition by the tenant under Section 121 A of the Karnataka Land Reforms Act, 1961, (hereinafter referred to the Act) directed against the order of the Appellate Authority constituted under the Act for Mandya District, dated 7-5-1987 allowing the appeal of respondent-Channamma.

2. The facts leading to this petition may be stated briefly and they are as follows. The revision petition applied in form No.7 seeking registration of occupancy rights in respect of certain lands in S. Nos. 72/1 in an extent of 16 guntas, 74/9 in an extent of 12 guntas, 72/3 in an extent of 16 guntas, 74/2 in an extent of 18 guntas, 74/4 in an extent of 57 guntas, 142/4 in an extent of 12 guntas, 131/20 in an extent of 13 guntas and 142/5 in an extent of 12 guntas. That application came to be allowed despite opposition, solely on the ground that his tenancy was proved by a registered lease deed executed in favour of the applicant-revision petitioner as far back as in the year 1956 and also by the fact that his name appeared in the RTC extracts for the years 1972-73 1973-74 and 1974-75.

3. The Appellate Authority in the appeal examined the evidence on record and come to the conclusion that the Land Tribunal Nagamangala erred in relying upon the said document. It has given the reasons for it. The first reason is the so-called lease deed was not a lease deed at all much less a registered one. Therefore, reliance could not have been placed on that document for establishing the tenancy. The second reason is that the presumptive value of the entries in

the RTC extracts for the years 1973-74 and 1974-75 could not be given their due weight because at no earlier point of time the tenant's name had been entered in the record of rights. It was only for those two years his name was found entered. That gave room to suspect as to how that name came to be written without any provocation or cause.

4. Mr. W.K. Joshi, learned Counsel appearing for the petitioner, strenuously contended that it was by virtue of the registered lease deed that the entries came to be changed as a matter of course because of registration the Sub-Registrar was duty bound to intimate the transaction to the concerned revenue authorities and the revenue authority having jurisdiction was bound to carry out the mutation. Admittedly, the so called lease deed came into existence in 1956. But the mutation has appeared in the year 1973-74 and that too only for that year and the following year. Therefore, no such assumption can be made on the facts of this case, that mutation was due to the fact of the registration of the lease deed.

5. The records had been summoned and they have been perused in this Court and on a careful consideration of the matter on record, it is seen that the lease deed is no more than a receipt and not a registered lease deed as claimed. It is neither stamped adequately by any general stamp duty leviable under the Mysore Stamp Act (since repealed) nor is it registered as a document required to be registered.

6. In that view of the matter, the conclusions reached by the Appellate Authority on assessing the same evidence cannot be assailed as being unwarranted nor in any way opposed to procedural or substantive law.

7. In the result, there is no merit in this revision petition and it is rejected.