
(2014) 06 KAR CK 0148

In the Karnataka High Court

Case No : Writ Petition No. 82378/2013 (KLR-RR/SUR)

K. Mallikarjun

APPELLANT

Vs

The Revenue Inspector

RESPONDENT

Date of Decision : 04-06-2014

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2014) 3 AKR 754 : (2014) 4 KCCR 3438

Hon'ble Judges : H. Billappa, J

Bench : Single Bench

Advocate : Pruthvi K.S, Advocate for the Appellant; K.S. Patil, HC GP, Advocate for the Respondent

Final Decision : Allowed

Judgement

H. Billappa, J.—In this Writ Petition under Articles 226 and of the Constitution of India, the petitioner has called in question the order dated 20.09.2011 passed by the first respondent vide Annexure-B.

2. By the impugned order at Annexure-B, the first respondent has rejected the request of the petitioner to effect mutation in respect of the land bearing Sy. No. 273/C3 measuring 02 Acres 10 Cents of Byradevanahalli Village.

3. Aggrieved by that the petitioner has filed this writ petition

4. Briefly stated the facts are: The petitioner claims that he is the owner of the land bearing Sy. No. 273/C3 measuring 02 Acres 10 Cents of Byradevanahalli Village. The petitioner purchased the said land from one Nayakar Maranna through registered sale deed dated 13.07.2011 while purchasing the said land the petitioner made enquiry regarding the source of the title of his vendor. The petitioner was told that the land was granted under the Karnataka Land Reforms Act on 19.10.1982 and it is not a granted land under the provisions of the Karnataka Schedule Castes/Schedule Tribes (Prohibition of Transfer Certain Lands) Act, 1978. It is stated that the period of ten years has been expired.

Thereafter, the petitioner has purchased the said land. The petitioner has sought for certification of the mutation entry. The first respondent has rejected the request stating that the land comes under the provisions of the Karnataka Schedule Castes/Schedule Tribes (Prohibition of Transfer Certain Lands) Act, 1978. Therefore, this writ petition.

5. The learned counsel for the petitioner contended that the impugned order cannot be sustained in law. He also submitted that the land purchased by the petitioner is not covered under the Karnataka Schedule Castes/Schedule Tribes (Prohibition of Transfer Certain Lands) Act, 1978. Therefore, the first respondent was not justified in rejecting the request. He also submitted that without giving any opportunity to the petitioner the impugned order has been passed. Further he submitted that in similar circumstance this Court in W.P. No. 75664/2013 and connected matters has remitted the matter for fresh consideration.

6. As against this, the learned Government Pleader submitted that though the land is granted under Karnataka Land Reforms Act, if the land is granted in favour of a person belonging to the Schedule Caste or Schedule Tribe then the provision of the Karnataka Schedule Castes/Schedule Tribes (Prohibition of Transfer Certain Lands) Act, 1978 are applicable and therefore, the prior permission of the Government was required for alienation. Therefore, the first respondent was justified in passing the impugned order and it does not call for interference.

7. I have carefully considered the submissions made by the learned counsel for the parties.

8. The petitioner claims that he has purchased the land bearing Sy. No. 273/C3 measuring 02 Acres 10 Cents of Byradevanahalli Village. He has requested the first respondent to effect mutation. The first respondent has rejected the request on the ground that the land comes under the provisions of the Karnataka Schedule Castes/Schedule Tribes (Prohibition of Transfer Certain Lands) Act, 1978. The petitioner contends that the land was granted under Karnataka Land Reforms Act and therefore, the provisions of the Karnataka Schedule Castes/Schedule Tribes (Prohibition of Transfer Certain Lands) Act, 1978 are not applicable. One K. Eshwar S/o. K. Ramanna who is presently working as Revenue Inspector, has filed his affidavit stating that the impugned order is based on the Government Circular. However, the fact remains that the impugned order is passed without giving any opportunity to the petitioner. Therefore, the matter requires re-consideration.

9. Accordingly, the writ petition is allowed and the impugned order passed by the first respondent vide Annexure-B is hereby quashed. The matter is remitted to the second respondent, with a direction to consider the same in accordance with law by giving an opportunity to the petitioner within three months from the date of receipt of a copy of this order.