

(2013) 10 KAR CK 0087
In the Karnataka High Court
Case No : R.P. No. 924 of 2012

Kaverappa

APPELLANT

Vs

State of Karnataka and Nazir Sab (Pailwan)

RESPONDENT

Date of Decision : 28-10-2013

Acts Referred:

Karnataka Land Revenue Act, 1964 — Section 61, 61(1), 77

Citation : (2013) 10 KAR CK 0087

Hon'ble Judges : B.V. Nagarathna, J

Bench : Single Bench

Advocate : Gangadhar G.D, for the Appellant; Kiran Kumar T.L., AGA for R1 and R2, for the Respondent

Final Decision : Dismissed

Judgement

B.V. Nagarathna, J.—This review petition assails the order dated 03/08/2011 passed by the learned Single Judge in W.P. No. 10484/2008. In the said writ petition the prayer was to quash the proceedings dated 20/06/1991, which is at Annexure-C to the writ petition. The said order was passed by the Assistant Commissioner, Davangere Sub-Division, Davangere-Respondent No. 2 herein. The relevant facts of the case are that one Channaveerappa, the father of the petitioner had filed an application in Form No. 7 for grant of occupancy rights in respect of two lands i.e., Sy. Nos. 154/1 and 154/5P measuring 1 acre 35 guntas and 1 acre 37 guntas respectively. The Land Tribunal at Harihar, passed an order granting occupancy rights in favour of the said Channaveerappa in respect of both the survey numbers. Thereafter proceedings were initiated by the Assistant Commissioner u/s 61 of the Karnataka Land Reforms Act (hereinafter referred to as "the Act") on the premise that Channaveerappa, without seeking prior permission from the competent authority, had formed sites and had alienated sites in Sy. No. 154/5P measuring 1 acre 37 guntas. The said order was followed by vesting of the said extent of land in the State. The Assistant Commissioner passed an order dated 20/06/1991, which is the order vesting the land in the

State Government to an extent of 1 acre 37 guntas in Sy. No. 154/5P. That order was questioned by the petitioner's father before the KAT in Appeal No. 496/1991. The Tribunal by its order dated 10/01/1994 dismissed the appeal and confirmed the order of the Assistant Commissioner indicating that there was clear violation of Section 61 of the Act. Subsequently, on 25/06/2008 the Assistant Commissioner had passed an order allotting the land which stood vested in the State for the construction of a Government High School. That order was assailed by the petitioner in W.P. No. 12144/1999, which was disposed of by observing that the petitioner cannot have any grievance, if the land in question pursuant to an order of vesting in the State Government by order dated 05/11/1997 is reserved. It is thereafter, that the order dated 25/06/2008 has been questioned in the writ petition.

2. Learned Single Judge on hearing both sides has stated that as there was a violation of Section 61(1) of the Act inasmuch as granted land had been alienated in six years which was within the prescribed period of fifteen years the land stood vested in the State Government free from all encumbrances. Subsequently, the said land has been granted for the purpose of constructing Government High School u/s 77 of the Act. Under the circumstances, the alienation being within the prescribed period of non-alienation, learned single Judge rejected the writ petition.

3. Against the order passed W.P. No. 10484/2008, Writ Appeal No. 17835/2011 was filed by the petitioner and the Division Bench by order dated 07/08/2012 has, on the submission of the counsel for the petitioner herein permitted withdrawal of the writ appeal with liberty to file review. Under the circumstances, this review petition has been filed.

4. I have heard the learned counsel for the petitioner and perused the material on record.

5. It is an admitted fact that land in Sy. No. 154/5P measuring 1 acre 37 guntas was granted to the petitioner's father by the Land Tribunal by an order dated 08/01/1979. u/s 61(1) there is restriction on transfer of the granted land by sale, gift, exchange, mortgage, lease or any other form. In the instant case, it has been admitted that the said land has been formed into sites and alienated to various persons without any prior permission from the concerned authority. In that view of the matter, learned Single Judge is right in holding that Section 61(1) of the Act applies and the Assistant Commissioner had rightly forfeited the said land to the State. Subsequent to the vesting of the land in the State free from all encumbrances, it has been disposed of u/s 77 of the Act for the purpose of construction of a Government High School. There can be no error in that order also. In the result, the review petition is without any merit and hence, dismissed.