
(2007) 08 KAR CK 0026
In the Karnataka High Court
Case No : Writ Petition No. 11384 of 2007

K.G. Basavarajappa and Others

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 10-08-2007

Acts Referred:

Karnataka Land Revenue Act, 1964 — Section 71

Citation : (2008) 2 KarLJ 17

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

Bench : Single Bench

Advocate : G.M. Chandrashekar, for the Appellant; G. Chandrashekaraiah, A.G.A., for the Respondent

Final Decision : Dismissed

Judgement

N.K. Patil, J.—The petitioners, assailing the correctness of the order dated 29-3-2003 passed by the 2nd respondent herein in Proceeding No. LND : CR : 103 : 2001-2002 and the order dated 20-3-2007 passed by the Appellate Tribunal in Appeal No. 1531 of 2003 vide Annexure-G and H respectively, have presented this writ petition. Further, petitioners have sought to direct the respondents to enable for making use of the said land in question for thrashing floor and manure pits in favour of the petitioners.

2. The only grievance of the petitioners in this writ petition is that, land bearing Sy. No. 1 totally measures 6 acres 4 guntas situated at Kalaghatta Village and the same has been granted to the village community and the copy of sketch is produced vide Annexure-A and they are in peaceful possession and enjoyment of the same. When things stood thus, at the request made by respondents 3 and 4 to the Tahsildar and Assistant Commissioner, that said land may be transferred to the Government Higher Primary School for the purpose of construction of school rooms and playground and on the basis of the reports submitted by the Tahsildar and Assistant Commissioner, the Deputy Commissioner has forwarded the same to the first respondent with recommendations to transfer the said land in favour

of the Government Higher Primary School, Kalaghatta Village, Holalkere Hobli, Chitradurga District. The first respondent, with reference to the reports submitted by the Tahsildar, dated 28-12-2001 and by the Assistant Commissioner, Chitradurga dated 21-10-2002 has accorded the permission to transfer the said land for the purpose of construction of school rooms, playground and for formation of road on 11-3-2003. In the light of the permission accorded by the first respondent on 11-3-2003, the Deputy Commissioner, Chitradurga, has passed the impugned order dated 29-3-2003 by assigning cogent reasons. Assailing the correctness of the order passed by the Deputy Commissioner, Chitradurga, dated 29-3-2003, petitioners herein have filed an appeal before the Karnataka Appellate Tribunal, Bangalore in Appeal No. 1531 of 2007. The said appeal had come up for consideration before the Appellate Tribunal on 20th March, 2007. The Appellate Tribunal, after critical evaluation of the relevant materials available on file has dismissed the appeal and confirmed the order passed by the Deputy Commissioner, Chitradurga, vide Annexure-H, dated 20-3-2007. Being aggrieved by the impugned orders passed by both the authorities, petitioners felt necessitated to present this writ petition seeking appropriate relief as stated supra.

3. I have heard learned Counsel appearing for petitioners and learned Additional Government Advocate for respondents. After careful perusal of the impugned orders passed by the Deputy Commissioner, Chitradurga and the Karnataka Appellate Tribunal, Bangalore vide Annexure-G and H, it is manifest on the face of the orders that, both the authorities have not committed any error, illegality or material irregularity in passing the said orders and hence, the interference by this Court is not justifiable. It is significant to note that respondents 3 and 4 have made a request to the Tahsildar, Holalkere to transfer the land in question in favour of Government Higher Primary School, Kalaghatta, for the purpose of construction of school rooms and playground. On the basis of the request made by respondents 3 and 4, Tahsildar, Holalkere has submitted his report on 28-12-2001 bearing No. LND : CR : 184 : 01-02 to the Assistant Commissioner, Chitradurga, who in turn, has submitted his report on 21-10-2002 bearing No. LND : CR : 123 : 02-03. Thereafter, the matter has been forwarded to the first respondent seeking permission to transfer the said land in favour of Government Higher Primary School, Kalaghatta Village for the purpose of construction of school rooms and playgrounds. The first respondent by order dated 11-3-2003 bearing No. RD : 2 : LGC : 02 has accorded permission. Thereafter, the Deputy Commissioner, Chitradurga has passed the impugned order vide Annexure-G, dated 29-3-2003, in the light of the report submitted by the Tahsildar, Holalkere and the Assistant Commissioner, Chitradurga and the order passed by the first respondent on 11-3-2003, according permission to reserve 1 acre 24 guntas of land out of 6 acres 4 guntas in Sy. No. 1, for the public purpose i.e., for formation of road and the remaining 4 acres 20 guntas of land in the said land for the purpose of construction of school rooms and playground in favour of Department of Public Instructions, u/s 71 of the Karnataka Land Revenue Act,

1964. The said reasoning given by the Deputy Commissioner, Chitradurga while passing the impugned order is just and proper and therefore, interference by this Court is not justifiable. Nor I find any good grounds made out by the petitioners to entertain this writ petition. The said order passed by the Deputy Commissioner, Chitradurga, has been assailed by the petitioners before the Karnataka Appellate Tribunal, Bangalore, in Appeal No. 1531 of 2003. The Appellate Tribunal, after affording opportunity to the petitioners and respondents and after going through the order passed by the Deputy Commissioner and by assigning cogent reasons has dismissed the said appeal. In view of concurrent finding of fact recorded against the petitioners by both the authorities after critical evaluation of the relevant materials available on file, interference by this Court is not justifiable. Nor I find any good grounds to entertain this writ petition.

4. Having regard to the facts and circumstance of the case as stated above, the writ petition filed by petitioners is dismissed as devoid of merits. However, liberty is reserved to the petitioners to give representation before the Jurisdictional Officer, if any other Government land is available. The Jurisdictional Officer is directed to receive and consider the same if any other land is available and take decision in accordance with law.

Learned Additional Government Advocate is permitted to file memo of appearance for respondents within three weeks from today.