(2014) 12 KAR CK 0267

In the Karnataka High Court

Case No : Writ Petition No. 41141/2014 (KLR/RR/SUR)

Krishna Reddy — APPELLANT

Vs

Deputy Commissioner — RESPONDENT

Date of Decision : 10-12-2014

Acts Referred:

Citation : (2014) 12 KAR CK 0267

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

Bench : Single Bench

Advocate : Kishor Kumar H.M, Advocate for the Appellant; Kiran Kumar T.L., AGA, Advocate for the Respondent

Judgement

B.V. Nagarathna, J.—Petitioner has assailed order dated 16.7.2014 passed by the Deputy Commissioner, Kolar District, Kolar (Annexure-A), order dated 22.7.2011 passed by the Assistant Commissioner, Kolar Sub-Division, Kolar in R.A. No. 270/2006-07 (Annexure-E) and mutation entries dated 10.11.2006 made as per Annexure-C.

2. Briefly stated the facts of the case are that father of respondent No. 4 is stated to have sold 2 acres of land in survey No. 79 of Karinayakanahalli Village to petitioner''s father under a registered sale deed dated 10.8.1971. Thereafter on 17.2.2009, an extent of 4 acres 36 guntas in the same survey number has been sold by respondent No. 4 in favour of respondent No. 6. According to the petitioner, this 4 acres 36 guntas of land includes 2 acres which was sold by father of respondent No. 4 in the year 1971. Subsequent to purchase of 4 acres 36 guntas of land in survey No. 79, respondent No. 6 sought an entry of his name in the revenue records. The jurisdictional Tahsildar by mutation proceedings No. 13/2006-07 entered the name of respondent No. 6 in the revenue records including the R.T.C. That order was challenged by the petitioner before respondent No. 2-Assistant Commissioner. The Assistant Commissioner held that if the petitioner is claiming his right, title and interest in respect of 2 acres of land in survey No. 79, under a registered sale deed and the very same

extent has been sold along with some other portion of survey No. 79 by respondent No. 4 in favour of respondent No. 6, then the Civil Court has to determine the right, title and interest of the parties and therefore did not interfere with the mutation proceedings conducted by respondent No. 3. That order was assailed by the petitioner before respondent No. 1-Deputy Commissioner, who affirmed the observations and order of the Assistant Commissioner. Being aggrieved by those orders, petitioner has preferred this writ petition.

3. I have heard learned counsel for the petitioner and learned Addl. Government Advocate and perused the material on record.

4. Petitioner''s counsel stated that under a registered sale deed dated 10.8.1971 petitioner had purchased 2 acres of land in survey No. 79 of Karinayakanahalli Village and he was in possession and enjoyment of the same. The said purchase was made by the petitioner''s father from the father of respondent No. 4 and that respondent No. 4 subsequently could not have alienated the said land sold by his father to respondent No. 6. He contended that respondent No. 6 had not acquired any right, title to the land which had been purchased by the petitioner from the father of respondent No. 4. He therefore contended that the impugned orders would have to be quashed and the name of the petitioner has to be entered in the revenue records in respect of 2 acres of land in survey No. 79.

5. I have considered this submission, in light of the material on record. It is noted that respondent No. 6 sought to enter his name in the revenue records on the basis of the registered sale deed dated 17.2.2009, on coming to know the fact that the petitioner had filed O.S. No. 96/2009 before the II Addl. Civil Judge (Jr.Dn) Kolar. It is stated that the said suit is one for declaration and injunction. It is a matter wherein the rights of parties in respect of 2 acres of land said to have been purchased by the petitioner from the father of respondent No. 4 would be adjudicated. In this view of the matter, having regard to the fact that respondent No. 6 also had a registered sale deed in his favour dated 17.2.2009, the Assistant Commissioner as well as the Deputy Commissioner have opined that the entry of the name of respondent No. 6 in the revenue records would be only subject to the result of O.S. No. 96/2009. In my view, both the authorities were right in holding so, as the petitioner himself has sought declaration and injunction in respect of 2 acres of land which is stated to have purchased from the father of respondent No. 4. It is reiterated that the entry of respondent No. 6 in the revenue records including R.T.C. is subject to result of suit filed by petitioner namely O.S. No. 96/2009. In that view of the matter, the impugned orders would not call for any interference. There is no merit in the writ petition.

6. Writ petition stands rejected.

