

(2001) 09 KAR CK 0045
In the Karnataka High Court
Case No : Writ Petition No. 33521 of 2001

Lachchu and Another

APPELLANT

Vs

The Assistant Commissioner, Bijapur District, Bijapur and
Another

RESPONDENT

Date of Decision : 26-09-2001

Acts Referred:

Karnataka Land Reforms Act, 1961 — Section 77 A

Citation : (2001) ILR (Kar) 5648 : (2002) 2 KarLJ 369 : (2002) 1 KCCR 32 SN

Hon'ble Judges : Chidananda Ullal, J

Bench : Single Bench

Advocate : Basavaraj G. Godachi, for the Appellant; M. Ramaiah, Additional Government Advocate, for the Respondent

Judgement

Chidananda Ullal, J.—This matter had been listed yesterday.

2. The learned Counsel for the petitioners had cited during the course of arguments a decision in Shivamurthayya Vs. State of Karnataka and Others, Therefore, I directed the learned Additional Government Advocate to take notice. Accordingly, he had taken notice.

3. Heard Sri Basavaraj Godachi this day further on issue of rule and interim order.

4. It was argued by him that in passing the impugned order by the respondent 1- Assistant Commissioner dated 21-6-2001, copy at Annexure-H to writ petition, he had ordered for vesting of the subject land of 26 acres 15 guntas in Sy. No. 60 belonging to the petitioner on the ground that the respondent 2 whose husband had filed Form 7-A was not entitled for grant of the land in view of the circumstances that she was owning land more than the limit and that the land stands forfeited to Government as the same had vested in State.

5. Sri Godachi found fault with the order, for according to him, on rejection of the Form 7-A filed by the husband of the respondent 2, the respondent 1-Assistant Commissioner would not have passed further order to vest the land in State in

this case. In support of his argument, he had also cited before me a decision rendered by me in the case of Shivamurthayya, *supra*.

6. Therefore, he submitted that the instant writ petition requires a second look in the hands of this Court.

7. The learned Additional Government Advocate Sri Ramaiah appearing for the respondent 1 on the other side supported the impugned order. He had also added that the decision cited by the learned Counsel for the petitioners is not applicable to the instant case in hand.

8. On a simple reading of the impugned order, it is clear that the respondent 1-Assistant Commissioner had rejected the claim of the husband of the respondent 2 for the reason that she was owning agricultural land more than the limit prescribed. But, all the more, when the land had vested in State as the land was tenanted land as on 1-3-1974, the learned Assistant Commissioner in passing the impugned order had reiterated that position in law. That being the position, I do not think the petitioner can complain against the impugned order.

9. I have also examined whether the decision cited by Sri Godachi has got application to the instant case in hand. According to me, that has got no application, for in the reported case, it was the Land Tribunal which had the authority to pass orders u/s 45(3) of the Land Reforms Act and whereas, in the instant case, the Assistant Commissioner had passed such an order also reiterating the legal position as to status of the land as on 1-3-1974. Admittedly in the instant case, what was before the respondent 1-Assistant Commissioner was the Form 7-A filed u/s 77-A of the Land Reforms Act. It is obvious therefore that the jurisdiction to pass orders u/s 77-A was vested in the Assistant Commissioner himself in the matter of grant and not in the matter of registering of the occupancy right of a tenant. Furthermore, Sri Godachi had also argued that the husband of the respondent 2 had filed the Form 7-A u/s 77-A of the Land Reforms Act as against the petitioners herein, despite the fact that they were the owners of the subject land.

10. That being the case, I do not think the case cited has got application to the facts and circumstances of the instant case in hand.

11. Writ petition therefore stands rejected right at the preliminary hearing stage.

12. The learned Additional Government Advocate is permitted to file memo of appearance on behalf of the respondent 1 within 4 weeks.