

(1995) 11 KAR CK 0042

In the Karnataka High Court

Case No : Writ Petition No. 17855 of 1989

Lakshmegowda Alias Dodda Thammegowda

APPELLANT

Vs

The Karnataka Appellate Tribunal and Others

RESPONDENT

Date of Decision : 02-11-1995

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1996) 2 KarLJ 159

Hon'ble Judges : M. M. Mirdhe, J

Judgement

1. This writ petition is filed by the petitioner praying to quash the order passed by the Assistant Commissioner, Pandavapura Sub-Division, Pandavapura, at Annexure-A and the order passed by the Karnataka Appellate Tribunal, Bangalore, at Annexure-B.

2. I have heard the Counsel for the petitioner and perused the records of the case.

3. The undisputed facts in this case are as follows:

Respondents 3 and 4 filed a suit in O.S. No. 30 of 1983 in the Court of the Munsiff at Srirangapatna for setting aside the sale on the ground that the transaction viz., the sale deed between respondent 5 and the petitioner was void ab initio. The petitioner was the fourth defendant in the suit. The Trial Court framed an issue to the effect whether respondent 5 was an agriculturist or not on the date of the transaction. That issue came to be referred to the Assistant Commissioner, Pandavapura, for report, and the Assistant Commissioner, Pandavapura, acting under Section 83 of the Karnataka Land Reforms Act, 1961, gave a report to the effect that the petitioner was not an agriculturist. The petitioner filed an appeal before the Karnataka Appellate Tribunal and the Tribunal has confirmed the finding of the Assistant Commissioner on the ground that the petitioner cannot be said to be a person aggrieved by the finding given by the Assistant Commissioner. It is not disputed in this case that respondent 5 purchased the land in question from one Abdul on 10-3-1971 and after that

purchase she sold the land to the petitioner on 2-11-1972. The relevant point to be considered is whether respondent 5 was an agriculturist or not on the date of the transaction i.e., on 10-3-1971 and the finding is that as on 10-3-1971, respondent 5 was not an agriculturist. Admittedly, on 10-3-1971, the petitioner had not acquired any right, title or interest in the land. It is only by a subsequent sale deed dated 2-11-1972 he claims to have purchased that land from respondent 5. It is relevant to find out whether the petitioner had any interest in the land on 10-3-1971. Admittedly on that day, he had no right, title or interest in the land. Therefore, he cannot be said to be a person who could be aggrieved by the order passed by the authorities concerned. The Counsel for the petitioner relied on a decision in *State of Uttar Pradesh v Smt. Ram Sri and Another*, AIR 1976 All. 121, wherein the Allahabad High Court has referred to a Supreme Court ruling and observed that in order to be entitled to file an appeal, a person must have legal grievance against the decision in case that had gone against him. But, in this case, it cannot be said that the petitioner could have any legal grievance in view of the fact that on the relevant date i.e., on 10-3-1971, the date on which respondent 5 purchased the land from Abdul, he had no right, title or interest in the land and, therefore, he could not be having any legal grievance against the finding of the Assistant Commissioner as well as the Karnataka Appellate Tribunal that respondent 5 was not an agriculturist. Respondent 5 had not challenged that finding in any forum. The Counsel for the petitioner also relied on a decision in the case of *Mani Ram Banwarilal v State Transport Appellate Tribunal and Others*, AIR 1987 Raj. 73, wherein the High Court has held that where the granting of contract carriage was bound to affect the operation of their vehicle, and the persons affected thereby had the subsisting interest in the matter and they were not strangers, they could prefer an appeal. The stress is on the subsisting interest in the matter. If the petitioner had any subsisting interest in the matter, he could have had the locus standi before the Karnataka Appellate Tribunal. But, on 10-3-1971, he had no subsisting interest in himself. He has purchased the land from the person who had no right to purchase the land since she was not an agriculturist. In view of this position of law, I do not think that the authorities have committed any mistake in passing the impugned orders.

4. Hence, I proceed to pass the following order:

The writ petition is dismissed.