

(2012) 06 KAR CK 0095

In the Karnataka High Court

Case No : Writ Appeal No. 522 of 2007 (KLR-RES)

M. Rama Bhat

APPELLANT

Vs

K. Keshava Bhat, The Deputy Commissioner, D.K., Mangalore,
The Asst. Commissioner, Mangalore Sub-Division, Mangalore
and The Tahsildar, Bantwal Tq., Dist: D.K.

RESPONDENT

Date of Decision : 04-06-2012

Acts Referred:

Citation : (2012) 06 KAR CK 0095

Hon'ble Judges : V. Suri Appa Rao, J;K.L. Manjunath, J

Bench : Division Bench

Advocate : A. Krishna Bhat, for the Appellant; G. Balakrishna Shastry, Advocate for R-1 and Smt. M.C. Akkamahadevi, AGA for R-2 to 4, for the Respondent

Final Decision : Dismissed

Judgement

Manjunath, J.—Unsuccessful petitioner whose writ petition is dismissed by the learned single Judge in WP No. 5257/2005 dated 2.2.2007 has filed this appeal. It is the case of the appellant/petitioner that he is the owner of Sy. No. 721/7 of Vittal Kasaba village in Bantwal Taluk. Adjoining to his survey number, Government land bearing Sy.No.714 is situated and the same has been in occupation of the appellant and enjoying the same as a kumki land for better cultivation of his land bearing Sy. No. 721/7 to pluck the green leaves for manure and to store seeds and manufacture for better cultivation of his land. Contending that on 17.3.1979 behind his back adjacent Sy. No. 714 has been granted to R-1, initiated proceedings before the Asst. Commissioner in RA No. 30/1999-2000 which appeal came to be rejected on the ground of delay as the appeal has been preferred 20 years after the grant. Aggrieved by the rejection of his appeal by the Asst. Commissioner, he preferred an appeal before the Deputy Commissioner in RAP 203/1999-2000. Deputy Commissioner allowed the appeal on 24.4.2001 remanded the matter to the Tahsildar for fresh consideration. Against which R-1 filed a revision before the Karnataka Appellate Tribunal, Bangalore in RP No.

93/2002 which petition came to be allowed and the order of the Asst. Commissioner was restored. Challenging the legality and correctness of the order of the appellate tribunal, writ petition was filed by R-1. Learned single Judge on the ground of delay and also on the ground that before granting the land in favour of R-1, revenue authorities have drawn mahazar for which appellant is a signatory. Therefore, he came to the conclusion that appellant: cannot be considered as a person who was not aware of the grant. Accordingly, writ petition was rejected. Challenging the same, present appeal is filed.

2. We have heard the counsel for the appellant, Mr. Balakrishna Shastry for R-1 and Govt. Advocate for the remaining respondents.

3. Having heard the counsel for the parties, we do not see any reasons to interfere with the well-reasoned order of the learned single Judge for the following reasons: The appellant does not dispute that he is a signatory to the mahazar drawn by the revenue authorities before considering the application of R-1 for grant of land. If really his kumki rights were to be affected, he would not have signed the mahazar. Even otherwise, it is difficult for any person to hold that he was not aware of the grant for a period of 20 years, because when R-1 has started cultivating the land immediately after the grant, it goes without saying that the appellant was aware of the grant or the moment R-1 started cultivating portion of kumki rights of the appellant, appellant would have challenged the same. In the circumstances, we are of the opinion that no error is committed by the learned single Judge in dismissing the writ petition. Accordingly, this appeal is dismissed.