
(1996) 08 KAR CK 0073
In the Karnataka High Court
Case No : Writ Petition no. 1237 of 1989

Mallavva

APPELLANT

Vs

The State of Karnataka and Others

RESPONDENT

Date of Decision : 28-08-1996

Acts Referred:

Karnataka Land Revenue Act, 1964 — Section 94 A

Citation : (1996) 08 KAR CK 0073

Hon'ble Judges : P. Vishwanatha Shetty, J

Bench : Single Bench

Advocate : Papanna, for N.M. Swamy, for the Appellant; Ashok N. Nayak, HCGP for R-1 and 2 and Praveen Kumar Raikote, R-3, for the Respondent

Judgement

P. Vishwanatha Shetty, J.—In this petition, the petitioner has prayed for quashing of the order dated 25th November, 1988, the copy of which has been produced as Annexure-D, passed by the second respondent directing that the possession of the land measuring 33 guntas out of 2 acres 27 guntas in Survey No. 34 of Haldal village, Shorapur Taluk, Gulbarga District should be taken from the petitioner and handed over to the third respondent. The petitioner has further prayed for a direction to the respondents 1 and 2 to consider the application of the petitioner for regularisation of her unauthorised occupation of the land referred to above.

2. Sri Papanna, Learned Counsel appearing for the petitioner, submitted that even according to respondents 1 and 2, the petitioner has been in unauthorised occupation on the land in question. He submitted that in the order/communication dated 30th June, 1988, the Assistant Commissioner had directed the Revenue Inspector not to evict the petitioner from the land in question as the Government issued orders during 1970, 1977, 1982 to regularise the unauthorised occupation on the Government land. He also further submitted, that the Panchanama dated 15th June, 1988 prepared by the Revenue Officer, shows that the petitioner has been in unauthorised occupation of the land in

question. Copies of the order/communication and the panchanama have been produced as Annexure-A and B, respectively.

3. The Learned Counsel also submitted that the petitioner also has filed an application as provided u/s 94-A of the Karnataka Land Revenue Act, (hereinafter referred to as "the Act") in form No. 50 during the pendency of this petition seeking regularisation of unauthorised occupation of the land in question by the petitioner and the said application is also pending consideration before the Committee constituted in consider the said application u/s 94-A of the Act.

4. Sri Ashok N. Nayak, the Learned Government Pleader, submitted that the land in question has been granted to the third respondent and therefore, the petitioner is not entitled for any relief in this petition. He further submitted that the petitioner has not placed any material before this Court to show that the petitioner has filed form No. 50 as provided u/s 94-A of the Act.

5. The mahazar, Annexure-B dated 15th June, 1988 prepared by the Revenue Inspector and order dated 30th June, 1988 -Annexure "A", passed by the Assistant Commissioner, Yadgir, clearly supports the claim of the petitioner that the petitioner has been in unauthorised occupation of the land in question. As pointed out by the Learned Counsel for the petitioner, in the communication, Annexure-A, the Assistant Commissioner has stated that the Government had issued orders during the year 1970, 1977, 1982 to regularise the unauthorised occupants, and in that view of the matter, he had directed the Range Forest Officer not to interfere with the possession and enjoyment of the land in question by the petitioner Further, Section 94-A of the Act confers power on the Committee constituted by the State to regularize the occupation of unauthorised occupants. The applications filed by the petitioner seeking regularisation of her unauthorised occupation in respect of land in question was pending consideration before the Authorities. The Writ Petition was filed in the year 1989 and this Court granted on interim order of Annexure-D on 19th January, 1989. Therefore, it cannot be disputed that the petitioner continues to be in possession of the land in question. No-doubt, the petitioner has not produced the copy of the form No. 50 stated to have been filed by the petitioner u/s 94-A as contended by the Learned Government Pleader. On that ground alone the petitioner cannot be denied the relief sought for by the petitioner in the petition. However, assuming that the petitioner has not filed form No. 50, as provided u/s 94-A of the Act, in view of the pendency of the Writ Petition before this Court ever since the year 1989 and during the pendency of this Writ Petition, Section 94-A of the Act, came to be incorporated into Land Revenue Act, I am of the view that the claim of the petitioner to seek regularisation of her unauthorised occupation should not be denied to her on the technical ground she has not made an application in form No. 50 as provided u/s 94-A of the Act. The object of Section 94-A of the Act, is to regularise unauthorised occupation provided the conditions laid down in the said section are complied with. Therefore, if the application filed by the petitioner seeking regularization of her unauthorised occupation of the land in question

have been pending consideration and dispute concerning the same is also pending consideration before this Court on the date of coming into force of Section 94-A of the Act, having regard to be object of Section 94-A of the Act, the applications earlier filed by the petitioner should be treated as an application filed u/s 94-A of the Act, for the purpose of relief u/s 94-A of the Act. Whenever an interpretation has to be placed on a provision of an Act, the interpretation to be placed must make the provisions of law and the object of the legislation workable; and not deny the relief to the people for whose benefit the State makes the legislation. If that is kept in view, I am of the view that it is in the interest of the justice to direct the Authorities to forward the applications filed by the petitioner prior to coming into force of Section 94-A of the Act, seeking regularisation of the land in question, before the Committee constituted u/s 94-A of the Act, and consider the said applications on merits keeping in view the provisions of Section 94-A of the Act.

6. It is also relevant to point out that it was not permissible for the second respondent to have granted the land in question, which was admittedly in unauthorised occupation of the petitioner before evicting the petitioner from the said land and considering her claim for regularization in view of the Government Circular referred to in the communication/order, Annexure "A", dated 30th June, 1988 issued by the Assistant Commissioner.

7. Therefore, I make the following order:-

i) Rule issued is made absolute;

ii) The order, Annexure-D, dated 25th November, 1988 is hereby quashed;

iii) The second respondent is directed to forward the application/ s filed by the petitioner seeking regularisation of the land measuring 33 guntas in Survey No. 34 situated at Haldal village, Shorapur Taluk, Gulbarga District to the Committee (i.e. Fourth respondent) Constituted u/s 94-A of the Land Revenue Act;

iv) The 4th respondents-Committee is directed to consider and dispose of the said application/s alongwith the application stated to have been filed by the petitioner in form No. 50 if any, as expeditiously as possible and at any event of the matter and not later than six months from the date of receipt of this order, in accordance with law; and

v) The respondents are directed not to dispossess the petitioner from the land referred to above, till the disposal of the application filed by the petitioner as stated above.

8. In terms stated above, this Writ Petition stands disposed of.

9. Sri Ashok N. Nayak, Learned High Court Government Pleader, is given four weeks" time to file his memo of appearance.