
(2015) 02 KAR CK 0397

In the Karnataka High Court

Case No : Writ Petition Nos. 101115/2013 (LR) and 206486/2014

Manappa and Others

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 24-02-2015

Acts Referred:

Karnataka Land Reforms Act, 1961 — Section 44, 44(1), 48-A, 5

Citation : (2015) 02 KAR CK 0397

Hon'ble Judges : L. Narayana Swamy, J.

Bench : Single Bench

Advocate : Chaitanyakumar C.M., for the Appellant; Shivakumar Tengli, A.G.A.,
Advocates for the Respondent

Final Decision : Dismissed

Judgement

L. Narayana Swamy, J.—Writ petition No. 101115/2013 is filed by the wives and children of late Manappa, the purchaser of the property from the 10th respondent who was landlord in respect of suit schedule property. The petitioners have made a prayer to set aside the order passed by the land Tribunal dated 14.03.2013.

2. The grounds urged by the petitioners are that they are the owners of land in question and respondent Nos. 5 to 9 were the members of the joint family and they were cultivating lands in question as tenants and respondent No. 9—Manappa being the karta of the family, his name was entered in the record of right. The respondent-tenants filed Form No. 7 under Section 48-A of the Land Reforms Act and made prayer before the Land Tribunal to declare them as tenants. Without following the provisions of the Land Reforms Act, the Tribunal has declared the respondents as tenants in respect of land in question. On earlier two occasions the order of the Tribunal was challenged before this Court and writ petitions were allowed and matter was remanded for fresh consideration. Even thereafter the Tribunal did not comply the provisions of law. Hence, the order dated 14.03.2013 is liable to be set aside. The order of the land Tribunal is bad in

law for non joinder of parties. Late Manappa who is purchaser of the property from the landlord in question had two wives and after his death his legal representatives should have been brought on record. Without bringing them on record the orders have been passed. Hence, on this ground also the order has to be set aside. The other ground urged by the petitioners is that as per the order sheet it discloses the matter was reserved on 14.03.2013. The order sheet discloses that the order was pronounced on the same day. But in fact the order was pronounced on 25.3.2013 by wrongly showing the date as 14.3.2013. This gives scope for challenging the order. On this ground, learned counsel for the petitioners submitted to set aside the order passed by the land Tribunal. On 20.03.2013 election has been declared and code of conduct was pressed into service. Accordingly, the Tribunal should have restrained from passing the said order.

3. Respondent No. 10 in the first petition the original landlord of the land in question. Manappa S/o. Hayalappa Harijan had surrendered the tenancy rights in favour of the 10th respondent and the 10th respondent had come into actual and physical possession of the lands as owner. The Tribunal has not given specific finding as to tenancy as on 1.3.1974 and it is also submitted that land is not sold to the deceased Manappa who is the petitioner in earlier matter. On this ground there is no finding given by the Tribunal. Revenue records are however silent about as to whether the tenants were cultivating the land in question or not.

4. Learned Government Advocate submits that on the three occasions the land Tribunal passed order in favour of tenants but the petitioner on one or the other grounds challenged the said order. The Tribunal has declared the tenants are the cultivators for the purpose of Section 48-A of the Land Reforms Act. Under the circumstances no grounds to interfere by this Court.

5. I have heard both parties.

6. The petitioners who claim that their predecessor purchased the property originally from the 10th respondent by name Raja Rukmanna Naik. But they have not produced any material before this Court as to when it was purchased. There is no averments in the petition also in this regard. Unless the sale is proved with reference to date, case is not maintainable before the land Tribunal as well as before this Court.

7. The grounds urged by the petitioners that the legal representatives of Manappa were not brought on record since he had two wives. Petitions were silent when Manappa died. Further he had two wives is also a disputed fact. Manappa himself had approached the Tribunal on two occasions but at no point of time he has taken the ground that he had purchased the property from the 10th respondent. On filing the Form No. 7 under Section 44(1) lands vest in the State Government. Section, 44 of the Act reads as under:

"44(1) Vesting of lands in the State Government: All lands held by or in the possession of tenants (including tenants against whom a decree or order for

eviction or a certificate for resumption is made or issued) immediately prior to the date of commencement of the Amendment Act, other than lands held by them under leases permitted under Section 5, shall, with effect on and from the said date, stand transferred to and vest in the State Government." 8. When such being the case unless the petitioners establish, on what date the 10th respondent has sold the property to Manappa, the vested land cannot be sold. The Government was the custodian and owner. When such being the case, interest over the land at any stretch of imagination, cannot be said to be with the 10th respondent. By looking at any angle legal representatives of Manappa have not made out their case for the purpose of interference. Both Manappa and the landlord they have filed writ petition in W.P. No. 25444/1993 it was disposed of on 28.01.2005. Even in the said petition the petitioner Raja Rukmanna Naik had not taken the contention or ground that the land was transferred to Manappa. If at all landlord and Manappa entered into sale transaction, it cannot be countenanced in this writ petition unless the date of sale is spelt out.

9. Sri Chaitanya Kumar Chandriki, learned counsel for the petitioners submits that in the year 1979 the 10th respondent Raja Rukmanna Naik filed the affidavit before the Tribunal that he had entered into agreement with the Manappa for the disposal of the land. Once the applications in Form No. 7 has been made by the tenants, automatically under Section 44 of the Act, land vested with the Government and subsequently all agreements sale, transferring of interest by any means, are null and void and contrary to the Act. The petitioner and Raja Rukmanna Naik cannot take two stands firstly he had not sold the property to Manappa and secondly that he had entered into agreement with Manappa as per the affidavit. A person who approaches the Court has to approach with clean hands and the sworn the affidavit filed before the Land Tribunal, is final for the person who has sworn to the affidavit. The said affidavit has not been placed before the Court. However, the submission of the petitioner for Manappa has been taken on record. Raja Rukmanna Naik sold the property to Manappa cannot be accepted because he only along with Manappa have filed two writ petitions.

10. The purpose and object of the Act is to strengthen the agricultural reforms and to confer ownership and title to the tenants. The Act came into force in 1961 and section 48-A enabled the tenants to file application in Form No. 7. The order of the Land Tribunal is self explanatory, which discloses that the respondents filed writ petition No. 3183/1981 which was disposed on 15.07.1983 again another writ petition No. 25444/1993 which was disposed of on 26.08.2002. Thereafter, almost ten adjournments were provided. The date of death of Manappa was not disclosed to consider the case of the petitioners as legal representatives. If Manappa died during pendency of the writ petition they should have even filed impleading application, which writ petitions came to be disposed in on 15.07.1983 and 26.08.2002. The petitioners should produce all the necessary materials and evidence. Under the circumstances petitioners have failed to make out their pleaded case.

11. Accordingly the petition filed by the legal representatives of Manappa is rejected on the ground of locus standi and also insufficient materials.

12. Petitions filed by Raja Rukmanna Naik who claims he is the owner of property, as per submission made by the learned counsel Sri Chaitnyakumar C.M., for the petitioners that he had filed affidavit in support of Manappa that he had executed an agreement of sale. Such a sale cannot be recognized in view section 44 of the Act. Both alleged sale agreements or sale deed if it is made they are null and void and non est in the eye of law. Since the dispute and the prayer made are similar in the connected writ petition and private respondents who are parties in the first writ petition as R5 and R6, R5 is served unrepresented and R6 is represented, this court is not inclined to issue notice in the said writ petition. Under the circumstances the ground urged by the petitioner's counsel Sri Chaitanyakumar C.M., that improper order is passed by the Land Tribunal, i.e., the case was reserved for orders on 14.03.2013 but the order itself saying pronounced on the same day, which gives scope for ambiguity. The said submission cannot be accepted for two reasons, firstly petitioners do not have locus standi to challenge. Since they do not disclose when Manappa died, they say he had purchased the property before filing the Form No. 7, which is not substantiated. Secondly there is technical error, the case was posted on 14.03.2013 probably same date must have been mentioned in the operative portion of the order. Mentioning the date 14.03.2013 is insignificant since the order in its entirety is to be looked into. I have gone through the order and found that there is no illegalities found in the order. It is also not a case for remand at this length of time, which is also not in the ends of justice. Accordingly, the connected petition also stands dismissed.