
(2019) 03 KAR CK 0023
In the Karnataka High Court
Case No : Writ Petition No. 52600 Of 2018

M.G.Suresh

APPELLANT

Vs

State Of Karnataka

RESPONDENT

Date of Decision : 22-03-2019

Acts Referred:

Citation : (2019) 03 KAR CK 0023

Hon'ble Judges : S.N.Satyanarayana, J

Bench : Single Bench

Advocate : P.N.Harish, Venkatesh Dodder

Final Decision : Disposed Off

Judgement

1. Petitioner herein is the grandson of one Narappa, the Original owner of land bearing Sy.No.126/1 measuring 31 guntas situated at Mallapura Village, Haranahalli Hobli, Shivamogga Taluk. Initially, the aforesaid land was standing in the name of petitioner's grandfather Narappa. Subsequent, to his death, IH proceedings was initiated and the said extent of land along with various other lands got mutated to the name of petitioner's father M.G.Shekarappa vide M.R.No.1/73-74 and an order was passed in registering aforesaid land with various other lands to the name of petitioner's father vide MR No.1/73-74.

2. The grievance of the petitioner is that the said land has fallen pada for non-payment of taxes. Hence, representations were given by him on 21.03.1998, 18.01.2000, 07.02.2000 and 03.01.2012 seeking release of the said land from pada. The records would indicate that the applications are received in the office of the Tahsildar, Shivamogga Taluk who is respondent No.2 herein. The 2nd respondent did not take any steps to consider the said representations, nor any endorsement was given to the petitioner for non-consideration of said representations. Hence, the petitioner is before this Court by filing this petition.

3. When this matter is taken up for consideration, learned AGA who has taken notice for respondent Nos.1 and 2 tried to assert that the application is not filed

by the petitioner within time. When the applications at Annexures B to E is brought to his notice, he would state that the competent authority to receive the application is Deputy Commissioner, therefore the application filed before 2nd respondent is not acted upon. This Court is unable to accept the said excuse. The State administration is expected to be people friendly. When the petitioner who is actual owner of the property bearing Sy.No.126 measuring to an extent of 31 guntas has not paid taxes for various reasons, has approached authorities seeking permission to deposit the same and to get his land released from pada. In the fact situation, respondent No.2 ought to have had basic courtesy to issue an endorsement to the petitioner to approach the Deputy Commissioner to submit the very same applications or in the alternative, the Tahsildar being the subordinate of Deputy Commissioner, could have sent the applications to the Deputy Commissioner for consideration of the same. He has failed to do any of that, instead a lame excuse is given by him to the effect that the said applications are not submitted to the competent authority. Admittedly, when the Tahsildar had no authority to receive said applications, he should not have received the same or in the alternative should have issued an endorsement rejecting the same in the year 1998 itself.

4. The 2nd respondent - Tahsildar cannot expect an illiterate citizen of this country to know all the legal procedures to be followed in such matters and to act upon it. Whenever the common man is ignorant, illiterate, the officials of the Government are expected to assist them in giving proper guidance. In the instant case, what is seen is that instead of assisting the petitioner in getting appropriate reliefs from the Government, they have been making him to run from pillar to post and thereafter raise a technical objection stating that the last date for filing of the application is over, since the application is not filed before the Deputy Commissioner, the same cannot be accepted.

5. This Court is unable to accept the unreasonable stand on the part of the State, when there is sufficient material to show that the subordinate officer of the Deputy Commissioner i.e., Tahsildar has received 4 representations between 1998 to 2012, atleast once he should have had the courtesy to inform the petitioner that he is not the competent authority to receive such application and at the same time should have sent it to the Deputy Commissioner to look into the same and pass appropriate order. Instead of doing either of the two, he has kept the matter pending and when a direction is sought from the Court, the State is trying to take shelter under the guise that the application is not submitted to the Deputy Commissioner. Therefore, the same cannot be entertained. In the instant case, this Court is unable to accept that stand/defence by the State. Hence, same is rejected.

6. Accordingly, the writ petition is allowed. The concerned officers are directed to look into the representations of the petitioner herein seeking removal of pada submitted to the State through Tahsildar. It is also made clear that responsible officer of the State should look into the same and pass appropriate orders within

8 weeks from the date of receipt of copy of this order, failing which the petitioner shall be at liberty to approach the contempt court against respondent No.2 - Tahsildar as well as Deputy Commissioner of Shivamogga.

7. To ensure that this order is implemented in letter and spirit, a copy of this order is required to be sent to the Deputy Commissioner of Shivamogga by the learned AGA, who is representing the State in this matter. Learned counsel for the petitioner orally seek permission of this Court to implead the Deputy Commissioner, Shivamogga District as one of the parties to the proceeding, for the reason that it is the Deputy Commissioner who is competent authority to consider the application submitted by the petitioner through respondent No.2 - Tahsildar. His oral application is not opposed by the learned AGA. Hence, the same is allowed.

8. Petitioner to carry out amendment in the course of the day in impleading the Deputy Commissioner - Shivamogga as respondent No.3 in this proceeding and learned AGA takes notice for respondent No.3 in this proceeding along with respondent Nos.1 and 2 for whom he has already filed memo of appearance.

Accordingly, this writ petition is disposed of.