(1995) 01 KAR CK 0013

In the Karnataka High Court

Case No : Writ Petition No. 1927 of 1995

Monnappa APPELLANT

Vs

Secretary, Government of Karnataka RESPONDENT

Date of Decision : 25-01-1995

Acts Referred:

Karnataka Land Revenue Act, 1964 — Section 56, 56 (3)

Citation : (1995) ILR (Kar) 1206 : (1995) 2 KarLJ 188

Hon'ble Judges : Hari Nath Tilhari, J

Bench : Single Bench

Advocate : P.A. Monnappa, for the Appellant; H.H. Kaladgi, HCGP, for the Respondent

Final Decision : Dismissed

Judgement

Hari Nath Tilhari, J.—Heard the learned Counsel for the petitioner.

2. This petition is directed against the order dated 26.2.1994 passed by the Assistant Commissioner allowing the revision petition of respondent-3 and setting aside the order dated 4.1.92 passed by the Tahasildar, Somawarpet, in No. JAGA:2011:82-83. Learned Counsel for the petitioner pointed out that he has first filed a revision u/s 56 of the Karnataka Land Revenue Act before the Karnataka Appellate Tribunal, which application was dismissed as not maintainable. Therefore, he has filed the present Writ Petition challenging the order of the Assistant Commissioner, Annexure-A dated 26.2.94 and that of the Karnataka Appellate Tribunal dated 28.12.94 Annexure-C.

3. Learned Counsel for the petitioner contended before me that the Commissioner had no jurisdiction to entertain the revision and the order contained in Annexure-A is without jurisdiction. Elaborating his arguments the learned Counsel submitted that the proper remedy against- the order of Tahasildar was an appeal and the revision was barred in view of Sub-section (3) of Section 56 of the Karnataka Land Revenue Act.

4. I have examined the contention of the learned Counsel for the petitioner. Section 56 provides for and confers power of revision on the authorities mentioned in that Section to call for the records of any enquiry or proceedings for the purpose of satisfying itself or himself as to the legality or propriety of the proceedings before the subordinate Courts or Officer. Sub-section (3) of Section 56 reads as under:

"No application for revision under this section and no power of revision on such application shall be exercised against any order in respect of which an appeal under this Chapter has been preferred and no application for revision shall be entertained unless such application is presented within a period of four months from the date of such order:

Provided that any Revenue Officer or Survey Officer referred to in Sub-section (1) may exercise power under this section in respect of any order against which no appeal has been preferred under this Chapter, at any time within three years from the date of the order sought to be revised."

5. A perusal of Sub-section (3) of Section 56 per se says that it provides that in case of an order against which an appeal has been preferred and is filed by a person aggrieved from the order, no revision shall be entertained. In cases where against an order, an appeal is already filed and thereafter the party prefers the revision either during pendency of the appeal or after decision of the appeal, in view of Section 56(3) the revision will not be maintainable. But in case where from the original order no appeal has been filed, Sub-section (3) would not apply. If an appeal has been filed against an order then revisional power will not be exercised. If no appeal has been preferred under this Chapter, the revisional powers can be exercised. Any Revenue Officer or Survey Officer referred to under Sub-section (1) may exercise powers of revision in respect of any order passed by an authority subordinate to him against which no appeal has been preferred under this Chapter.

According to the learned Counsel for the petitioner, no appeal had been filed. But the revision has been preferred from the order of the Tahasildar. As such there is no force in the contention of the learned Counsel for the petitioner that revision was not maintainable. The revisional authority has full jurisdiction to entertain the revision petition in exercise of its revisional jurisdiction. The learned Counsel for the petitioner argued that the revision was filed beyond the period of limitation. However, he could not indicate the date of the order and the date on which the revision was filed before the Assistant Commissioner to substantiate his contentions that the revision was filed before the Assistant Commissioner beyond limitation.

6. In this view of the matter, I am of the opinion that there is no force in this Writ Petition and it is hereby dismissed.

