

(2012) 04 KAR CK 0038

In the Karnataka High Court

Case No : Writ Petition No. 12990 of 2012 (KLR-RR/SUR)

Munireddy since deceased By LRs Smt. Nagavenamma

APPELLANT

Vs

State of Karnataka

RESPONDENT

Date of Decision : 20-04-2012

Acts Referred:

Karnataka Land Revenue Act, 1964 — Section 136 (3)

Citation : (2012) 04 KAR CK 0038

Hon'ble Judges : Aravind Kumar, J

Bench : Single Bench

Advocate : V. Sreenivasa, for the Appellant; Jagadeesh Mundaragi, AGA, for the Respondent

Final Decision : Allowed

Judgement

Aravind Kumar

1. Petitioner is seeking for quashing of order dated 18.10.2011 passed by second respondent in RRT/(2)N (A)/C.R./72/2010-11, whereunder second respondent exercising suo moto powers under Sub Section (3) of Section 136 of Karnataka Land Revenue Act, 1964, (hereinafter referred to as "Act" for short) has ordered for deleting the name of petitioner from the revenue records. Heard Sri. V. Sreenivasa, learned counsel appearing for petitioner and Sri. Jagadeesh Mundaragi, learned Additional Government Advocate appearing for respondents. Perused the records.

2. On a report submitted by the Tahsildar (Bangalore North (Additional) Taluk), on 12.12.2008 that land bearing Survey No. 50/26 measuring 4 acres is originally Government land and doubting correctness of the revenue entries requested second respondent to enquire into the matter. As such suo moto proceedings was initiated against petitioner since name of the petitioner was found in revenue records and notice came to be issued. Petitioner though appeared through his learned Advocate before second respondent failed to file

Statement of Objections and failed to produce records as called for by second respondent.

3. As seen from the impugned order Deputy Commissioner has granted several adjournments to enable the learned Advocate to file Statement of Objections and to produce records and demonstrate that land in question belongs to petitioner in order to ensure that principles of natural justice is not violated. Thus, perusal of impugned order would clearly go to show that second respondent has afforded full opportunity to petitioner. In spite of taking several adjournments and sufficient time having been granted by second respondent, Statement of Objections was not filed and records called for by second respondent was not produced by petitioner and as such impugned order came to be passed by ordering to delete name of the petitioner from revenue records.

4. It is the contention of learned counsel for petitioner that on account of ill-health of petitioner records could not be furnished to the counsel appearing on behalf of petitioner before second respondent and as such records were not produced. He submits that records produced along with the writ petition at Annexure-A to E would clearly establish that petitioner is the owner of the land in question and he is in possession and enjoyment of the same. It is contended that in view of the same impugned order be quashed or in the alternative an opportunity be afforded to the petitioner to place these documents before second respondent by setting aside the same and remanding the matter to second respondent for adjudication afresh. This Court in exercise of writ jurisdiction would not be able to examine the correctness or otherwise of the records produced as also the authenticity of the document of title. As such this Court is of the view that ends of justice would be met if petitioner is permitted to produce these records and any other records available with them before the second respondent in order to establish that petitioner is having title to the property in question and they are in possession and enjoyment of the same. Second respondent shall examine the same and pass orders on merits and in accordance with law after examining the records that may be produced by the petitioner. Since petitioner did not have an opportunity to place all these materials before the second respondent, matter deserves to be remitted to second respondent for adjudication on merits and afresh. It is also required to be noticed that petitioner has not been diligent in prosecuting the claim before second respondent inspite of notice having been issued by the second respondent and having engaged a learned Advocate to appear on his behalf petitioner has not been diligent in conducting the matter as expected of a vigilant litigant. In view of the said fact petitioner deserves to be mulctated with costs so that respondents would be compensated for expending time and money and also on the ground that petitioner should be diligent henceforth in prosecuting the claim before second respondent.

In that view of above discussion, I pass the following:

ORDER

- i. Writ petition is allowed.
 - ii. Impugned order dated 13.10,201 Annexure-H is hereby quashed.
 - iii. Matter is remitted back to second respondent-Deputy Commissioner for disposal of the matter / proceedings on merits and in accordance with law.
 - iv. Petitioner is at liberty to produce all such records before second respondent as called for without fail and on production of such records second respondent shall examine the same and pass orders on merits in accordance with law.
 - v. In view of parties being represented before this Court petitioner is directed to appear before second respondent on 21.05.2012 without waiting for any further notice from second respondent.
 - vi. Petitioner shall deposit a sum of Rs. 3,000/- towards Chief Minister's Relief Fund as costs and produce the receipt before second respondent-Deputy Commissioner on the first day of hearing. Deposit of costs shall be condition precedent for matter being taken up by second respondent for consideration.
- Sri Jagadeesh Mundaragi learned Additional Government Advocate is permitted to file memo of appearance within 4 weeks from today.