(2011) 01 KAR CK 0220

In the Karnataka High Court

Case No : Writ Petition No. 27903 of 2009, Writ Petition No. 27810 of 2009 and Miscellaneous Writ No. 12468 of 2009 in Writ Petition No. 27810 of 2009

N. Balakrishna Naidu and Another APPELLANT

Vs

The Special Deputy Commissioner and Others RESPONDENT

Date of Decision : 13-01-2011

Acts Referred:
Constitution of India, 1950 — Article 226, 227
Karnataka Land Revenue Act, 1964 — Section 136 (3)

Citation : (2011) ILR (Kar) 2136 : (2011) 2 KarLJ 177 : (2011) 4 KCCR 451 SN : (2011) 8 RCR(Civil) 2019

Hon'ble Judges : D.V. Shylendra Kumar, J

Bench : Single Bench

Advocate : Nagaiah and V. Vishwanath, for the Appellant; Sriyuths R. Omkumar, A.G.A., N.G. Sridhar, V. Vishwanath and M.K. Shivaraju, for the Respondent

Final Decision : Dismissed

Judgement

D.V. Shylendra Kumar, J.

In W.P. No. 27903 of 2009:

1. Writ Petitioners are nobody to question the revenue entries whether as it prevailed prior to the impugned order passed by the Special Deputy

Commissioner exercising his jurisdiction u/s 136(3) of the Karnataka Land Revenue Act, 1964, impugned in this writ petition (copy at Annexure-

G) or pursuant to the order etc., as the subject entries are required to be mutated in the revenue records reflecting the interest of persons in whose

favour the judgment and decree has been rendered by the Civil Court and not in any other manner.

2. Petitioners who claim to have purchased some agricultural lands measuring

totally an extent of 7 acres 25 guntas in as many as fourteen survey

numbers of Vasanthapura Village, Subramanyapura Post, Bangalore South Taluk, are aggrieved by the fluctuation of fortunes one after the other in

the revenue entries and have sought for the following prayers.--

(i) Issue writ or direction in the nature of certiorari quashing the order dated 28-8-2009 passed by the 1st Respondent in Revision Petition No. 16

of 2005-06, vide Annexure-G.

(ii) Issue writ or direction in the nature of certiorari quashing the order dated 2-5-2005 passed by the 2nd Respondent in Revision Petition No.

258 of 2004-05, vide Annexure-F by allowing the above writ petition.

(iii) To grant such other reliefs as this Hon''ble Court deems fit in the circumstances of the case.

3. Mr. Nagaiah, learned Counsel for the Petitioners would urge that while the Petitioners have acquired good title to the subject property as

Respondents 7 to 17 in whose favour the Civil Court has granted judgment and decree, have sold the land conveying right, title and interest to the

Petitioners in terms of the sale transaction dated 22-6-2006, claim to be aggrieved because the Revenue Authorities, particularly, now the first

Respondent-Special Deputy Commissioner in terms of the impugned order directed as under:

In these circumstances, the order of the Assistant Commissioner, Bangalore South Sub-Division, Bangalore in No. RA/S/258/2004-05, dated 2-

5-2005 is upheld.

For the foregoing reasons, the matter is remanded to the Special Tahsildar, Bangalore South Taluk, Bangalore with specific directions to issue

Notices to both the parties, afford them sufficient opportunity to put forth their pleas in the matter along with the documents such as the Decree in

the Civil Court, orders of the Hon''ble High Court and the Hon''ble Supreme Court etc., in support of their respective claims as well as status

position in the matter as on date, verify, examine as well as consider them and then take a decision in the matter as may be warranted in

accordance with law and rules.

With the above observations and directions, the revision petition is disposed of.

4. The Assistant Commissioner, in turn, at the instance of Respondents 4 to 6 in

this writ petition, had set aside the entries in the revenue records

pursuant to the proceedings in No. MR 2 of 2004-05 where under the Tahsildar had mutated the revenue entries from the name of the propositus,

namely, one Munibyrappa, in favour of Respondents 7 to 17 on the premise that they have got share in respect of the subject properties in terms of

the judgment and decree of the Civil Court.

5. It was this proceedings which was questioned by Respondents 4 to 6 in an appeal before the Assistant Commissioner, contending that the final

decree proceedings were still pending before the Civil Court and in the meanwhile, change of entries from the propositus to one or other of the

parties to the suit was not proper. That argument found favour with the Assistant Commissioner who set aside the proceedings in No. MR 2 of

2004-05 and directed the entries to be made once the civil proceedings in No. FDP 4 of 2000 pending before the Civil Court is finalized etc.

6. It is against this order, the present Respondents 7 to 17 it appears had filed revision petition before the Deputy Commissioner, but without much

success as the Deputy Commissioner in the order dated 28-8-2009 affirmed the order passed by the Assistant Commissioner.

7. Petitioners though were not parties to the proceedings before the Revenue Authorities, have made themselves bold to approach this Court to

question such orders.

8. I have heard Sri Nagaiah, learned Counsel for the Petitioners, Sri R. Omkumar, learned Additional Government appearing for Respondents 1 to

3, Sri N.G. Sridhar, learned Counsel for the Respondents 4 to 6, Sri Shivaraj, learned Counsel for the Respondents 7 to 17 and perused the

record, considered the submissions made at the Bar.

9. The present writ petition, to say the least, is most frivolous writ petition, abusing the process of this Court and the Petitioners have approached

this Court without any rhyme or reason or cause of action.

10. Writ proceedings are not one to recognize civil rights, particularly, property rights. If the Petitioners are claiming right, title and interest to the

subject property under the Respondents 7 to 17, it is for them to go to a Civil Court and get their title declared from the Civil Court and not to

seek entries in the revenue records to be tinkered with or somehow manage to get into the revenue records. At any rate, there is no possibility of such result by filing the present writ petition.

11. There is no need to disturb the order passed by the Revenue Authorities in proceedings of this Court under Article 226/227 of the Constitution

of India.

12. Without prejudice to the Petitioners'' right, if any, elsewhere, this writ petition is dismissed with exemplary costs of Rs. 30,000/- levied on the

Petitioners in favour of Respondents 4, 5 and 6 who can share this cost in equal proportion. Cost to be deposited before this Court within four

weeks from today, failing which the registry is directed to issue a certificate in favour of the Respondents 4, 5 and 6 to realise the amount as though

it is a decree passed by the Civil Court.

In W.P. No. 27810 of 2009:

13. This writ petition is by the Respondents 7 to 17 in the aforesaid writ petition and who figured as revision Petitioners before the Special Deputy

Commissioner and who had been arrayed as Respondents before the Assistant Commissioner.

14. There is no merit in this petition either and for the reasons mentioned in the above order passed in W.P. No. 27903 of 2009 filed by the

purchasers, orders follow in this petition also.

15. While result cannot be any different in the present writ petition also which is to be dismissed, with the Petitioners in this writ petition being

parties to the proceedings, no cost is levied on them.

16. Without prejudice to the rights of the Petitioners and with liberty to seek for modification of the entries in the revenue records in terms of the

judgment and decree of the Civil Court once it is finalized, this writ petition is dismissed.

17. In view dismissal of writ petition, Misc. W. No. 12468 of 2009 for vacating the interim order of stay does not survive for consideration as the

interim order gets terminated automatically with the dismissal of the writ petition and it is also accordingly dismissed.

