
(2006) 07 KAR CK 0021
In the Karnataka High Court
Case No : Writ Petition No. 25191 of 1998

N. Jagathpal Poovani

APPELLANT

Vs

Susheela and Others

RESPONDENT

Date of Decision : 21-07-2006

Acts Referred:

Citation : (2006) 07 KAR CK 0021

Hon'ble Judges : V. Jagannathan, J

Bench : Single Bench

Advocate : O. Shivarama Bhat, for the Appellant; M.N. Jayadeva, for Respondent No. 3, K. Chandranath Ariga and R.K. Hatti for Respondent Nos. 5 and 6, for the Respondent

Final Decision : Allowed

Judgement

V. Jagannathan, J.—The order of the Land Tribunal, Karkala, dated 28-7-1981 (Annexure-A) has been questioned in this writ petition mainly on two short grounds. The first one is that, respondent 4 herein is a family member of the petitioner's family and he was not a tenant and, therefore, when the petitioner's father raised objections in regard to the claim made by respondent 4 as a tenant, the Tribunal did not go into the said objection statement, which was filed on 28-7-1981, but on the very same day, the Tribunal proceeded to pass the impugned order without giving the petitioner opportunity to adduce evidence in respect of the stand taken in the objection statement. The second ground is that, though the claim was in respect of 1.05 acres of land in Sy. No. 7/2 of Nooralabettu Village of Karkala, by the impugned order, the Land Tribunal has granted occupancy rights to respondent 4 to the extent of 1.20 acres, which is in excess of the claim made and, therefore, the impugned order is not sustainable in law.

2. In view of the grounds urged in this writ petition and the stand taken by the petitioner that respondent 4 was not a tenant, the Tribunal, in my opinion, ought to have considered the objection statement that was filed as per Annexure-D

before the Tribunal, before proceeding to pass the impugned order and, as such, there is denial of opportunity to the petitioner to place his case and substantiate the stand taken by him before the Land Tribunal. In addition to the above infirmity, the Tribunal has also granted 1.20 acres of land, when the very claim made by respondent 4 was for 1.05 acres of land. Hence, the order under challenge cannot be sustained in law and remand becomes necessary.

3. In the result, the writ petition is allowed and the impugned order is set aside. The matter is remanded to the Land Tribunal, Karkala, for considering the case of the parties afresh and after affording both sides opportunity to place material in support of the stand taken by them, the Tribunal shall dispose of the matter in accordance with law.