

(2019) 07 KAR CK 0027

In the Karnataka High Court

Case No : Writ Petition No. 20450 Of 2012(KLR-RR/SUR)

Nagamma And Ors

APPELLANT

Vs

State Of Karnataka

RESPONDENT

Date of Decision : 17-07-2019

Acts Referred:

Citation : (2019) 07 KAR CK 0027

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

Bench : Single Bench

Advocate : Hariprasad. N, T.S. Mahantesh

Final Decision : Dismissed

Judgement

1. The petitioners herein are impugning the Endorsement dated 10.11.2009 issued in proceedings No.R.R.T.CR/167/2008-09 vide Annexure-K. Simultaneously, they are also seeking writ of mandamus to direct respondent No.2 to enter the names of the petitioners in Revenue Records in so far as it relates to Sy.No.24 measuring to an extent of 9 acres 18 guntas (inclusive of 16 guntas of karab) situated at Bandahalli village, Mandikal Hobli, Chikkaballapura Taluk.

2. When this writ petition had come up for consideration at preliminary stage, this Court had directed learned AGA to secure original records to demonstrate as to why the land bearing Sy.No.24 measuring to an extent of 9 acres 18 guntas could not be considered for registering revenue records in the name of the petitioners in spite of there being an order in W.P.Nos.3037-39/2009(KLR).

3. In response to that, learned AGA initially would produce several documents including the village Map to show that the land bearing Sy.No.24 of Bandahalli village, Mandikal Hobli, Chikkaballapura Taluk, is declared as 'Haristhala Forest Block' way back on 12.06.1937 vide Notification G.O.No.9943-6-Ft.252-3G-2, dated 12.06.1937. He would also keep Sri Vikram, Range Forest Officer and as well as Sri Narasimhamurthy, Tahsildar of Chikkaballapur District before this

Court. They would produce the entire original records available with them before this Court. When the original records namely the order sheet in Darakast No.A.D.R.123/46-47 dated 25.04.1947 is looked into a decision was taken for auction of certain lands in Bandahalli village, Mandikal Hobli, Chikkaballapura Taluk where the Darakasthdar name was Muniyappa before which Chika is wrongly inserted and in the said file the particulars of the land which was sought to be auctioned is Sy.No.186 measuring 9 acres 18 guntas wherein Col.No.4 Sy.No.186 was there earlier, is erased and Sy.No.24 is inserted. However, in the bottom of the page when the shara of the Officer who conducted sale is looked into, it would indicate that the proceedings held by Revenue Officer for sale of Sy.No.128 is confirmed. This would clearly indicate that, according to the original records what was the subject matter of darakast right in purchasing the land in auction is land bearing Sy.No.186 and it is not the land bearing Sy.No.24 of Bandahalli village, Mandikal Hobli, Chikkaballapura Taluk as claimed by petitioners.

4. Further, the records would disclose that the Darakastdar was one Munisamy and not Chika Munisamy. In fact, the word 'Chika' is subsequently inserted before the name of Munisamy. The same is done in two places one in Col.No.3 where against the name of Darakastdar Munisamy was entered before which Chika is added. Similarly, in Sl.No.14 the name of the highest bidder is shown as Munisamy. Before this name also Chika is added. While doing so in Col.No.4, Sy.No.24 is inserted by erasing earlier Sy.No.186. When this is seen with other documents which are produced along with Haraju Patra before this Court, the Haraju pathra would clearly indicate that earlier Sy.No.186 is erased and Sy.No.24 is inserted in a different colour ink, with reference to land situated at Bandahalli village, Mandikal Hobli, Chikkaballapura Taluk, where the auction was agreed for the sale of Sy.No.186. The same is the situation with reference to other documents also. When all the aforesaid documents and the village Map is looked into which is produced by the authorities to show that the entire extent of land bearing Sy.No.24 was already declared as 'Haristhal', that the same was not subject matter of Darakast sale cannot be disbelieved. Consequently, the alleged title of 1st petitioner's husband Chikka Munishamappa to the said land on the basis of tampered records cannot be accepted. Consequently, insertion of name of petitioners-1 to 3 as legal representatives of Chikka Munishamappa in the revenue records as they have succeeded to the land in question viz., Sy.No.24 of Bandahalli Village, Mandikal Hobli, Chikkaballapura Taluk, also cannot be accepted.

Accordingly, this writ petition is dismissed.

5. In this proceedings, Mr.Vikram, Range Forest Officer, who is present before this Court would produce the list of encroachers in respect of several villages falling under Haristhala Reserved Forest, in Chikkaballapura District. He would submit that he has taken steps by issuing notice to remove such encroachers. He would further seek instructions whether he is at liberty to pursue the eviction process, which has already initiated by him. This Court would accept his

submission and clarify that he shall continue the said process after issuing notice to each of the encroachers and after giving them opportunity to state their right to said property, he shall proceed to pass order for their eviction, if they are not able to substantiate their right to the property in their occupancy.

6. Copy of the original documents in which tampering of survey number is clearly seen and which are produced before this Court today for perusal is ordered to be filed in this Court along with a memo for the purpose of record.