

(1990) 01 KAR CK 0034
In the Karnataka High Court
Case No : Writ Petition No. 558 of 1990

Nazir Ahammed Khan and Others

APPELLANT

Vs

Mehaboob Khan and Others

RESPONDENT

Date of Decision : 17-01-1990

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1991) 4 KarLJ 390

Hon'ble Judges : M. P. Chandrakantaraj Urs, J

Judgement

1. Petitioners are the children of one Sri Rasheed Khan, since deceased. The said Rasheed Khan was granted occupancy rights by an order dated 22-1-1962 by the Special Deputy Commissioner for inams abolition. One Mehaboob Khan-Respondent 1 herein filed a original suit on the file of the Munsiff, Civil Station, Bangalore, claiming partition between himself and his brother the father of the petitioners. That suit was dismissed. One of the schedule properties in the said suit was the land in respect of which occupancy right was granted. An appeal filed before the Civil Judge, Civil Station, Bangalore, by the plaintiff-first respondent also came to be disposed of. Thereafterwards first respondent preferred an application before the Special Deputy Commissioner for inams abolition for registration of occupancy rights jointly along with late Rasheed Khan in respect of Survey Nos. 125/1 and 125/2 of Binnamangala Village (which has now become a layout prepared by the B.D.A. known as Indira Nagar). That application came to be rejected by the Special Deputy Commissioner. An appeal preferred to the Karnataka Appellate Tribunal came to be allowed on 29-10-1974 remanding the matter to the Special Deputy Commissioner for abolition of inams for fresh enquiry and decision thereon. While the matter was pending after remand the jurisdiction to decide the question of occupancy right under the Inams Abolition Act stood transferred to the Land Tribunal having jurisdiction in the area. Therefore the Land Tribunal in its order dated 31-12-1981 in case No. LRF. INA. 935/1979-80 affirmed the earlier decision of the Special Deputy Commissioner rejecting once again the claim of first respondent i.e., the brother

of the father of the writ petitioners. That decision was questioned by first respondent before the Appellate Authority for Bangalore Urban District constituted under the Karnataka Land Reforms Act.

2. When the matter was pending before the Land Tribunal the petitioners' father died and petitioners were brought on record as legal representatives. Therefore, the order of the Land Tribunal has enured to the benefit of the legal representatives. They are already on record as respondents before the Appellate Authority. Whatever the grounds they want to urge in support in order to sustain the order of the Land Tribunal they have right to do so, and transferring the question raised in this writ petition for decision to the Appellate Authority does not arise.

3. This petition is not maintainable, it is rejected as misconceived subject to the observation made above.