

(1975) 11 KAR CK 0005
In the Karnataka High Court
Case No : Writ Petition No. 6331 of 1975

P.N. Subramaniam and Others

APPELLANT

Vs

The State of Karnataka and Others

RESPONDENT

Date of Decision : 26-11-1975

Acts Referred:

Constitution of India, 1950 — Article 14, 19, 31
Karnataka Land Reforms Act, 1961 — Section 4, 48, 48 A

Citation : AIR 1976 Kar 123 : (1976) ILR (Kar) 641 : (1976) 1 KarLJ 17

Hon'ble Judges : E.S. Venkataramiah, J

Bench : Single Bench

Advocate : T. Venkanna, for the Appellant;

Judgement

1. In this petition the petitioners have questioned the constitutional validity of Karnataka Land Reforms (Amendment) Act, 1973 (Karnataka Act No. 1 of 1974) by which the Karnataka Land Reforms Act, 1961 (Karnataka Act 10 of 1962), hereinafter referred to as "the Act" stood substantially amended and the provisions of Section 4 of the Karnataka Tenants (Relief in Payment of Arrears of Rent) Act, 1972 (Karnataka Act No. 2 of 1973).

2. In Bhaskar Krishnaji Vs. The State of Karnataka and Others, it has been held that the Karnataka Act 1 of 1974 is protected by Article 31-A of the Constitution having regard to the object of the Act and that therefore the provisions of the said Act cannot be questioned on the ground that they are inconsistent with Articles 14, 19 and 31 of the, Constitution.

3. In Khatija Bi v. State of Karnataka (1975 (2) Kar LJ 157) the validity of Sections 48 and 48-A of the Act as amended by Karnataka Act No. 1 of 1974 has been upheld rejecting the contention that by enacting the said provisions the State Legislature had altered the basic features of the Constitution.

4. In view of the above two decisions, I am of the view that the petitioners are not entitled to question the validity of the provisions of Karnataka Act No. 1 of

1974.

5. It was, however, argued by Sri T. Venkanna, learned counsel appearing on behalf of the petitioners, relying upon the observations of the Supreme Court in *The State of Bihar Vs. Sir Kameshwar Singh Bahadur*, that it was not open to the State Legislature to make a law which would entitle the State Government to recover arrears of rent in respect of lands which vest in the State Government u/s 44 (1) of the Act for the period prior to the date on which the lands would vest in the State Government without providing for payment of compensation. It was argued that Section 44 (2) (b) of the Act which had the effect of depriving the owners of the lands such arrears of rent was not protected by Article 31-A or by any other provision of the Constitution. Section 44 (2) (b) of the Act reads its follows: -

"44. (1) xx xx (2) Notwithstanding anything in any decree or order of or certificate issued by any Court or authority directing or specifying the lands which may be resumed or in any contract, grant or other instrument or in any other law for the time being in force, with effect on and from the date of vesting and save as otherwise expressly provided in this Act, the following consequences shall ensue, namely: -

(a) xx xx (b) all rents and all other amounts in respect of such lands which become due on or after the date of vesting shall be payable to the State Government and Ltd., to the landowner, landlord or any other person and any payment made in contravention of this clause shall not be valid."

It is not correct to say that the State Government had acquired the right to recover the arrears of rent due for the period prior to the date of vesting of the lands under the above provision of law. What Section 44 (2) (b) means is that all the rents and all other amounts, in respect of lands which would vest in the State Government, due for the period subsequent to the date of vesting alone would be payable to the State Government and not rents in respect of any earlier period even though they may have been payable after 1-3-1974. It becomes therefore clear that clause (b) of Section 44 (2) does not entitle the State Government to recover rents in respect of any period prior to the date of vesting u/s 44 (1) of the Act. The decision in *The State of Bihar Vs. Sir Kameshwar Singh Bahadur*, is therefore inapplicable to the present case.

6. By Section 4 of the Karnataka Tenants (Relief in Payment of Arrears of Rent) Act, 1972, the Court has been conferred with the jurisdiction to allow payment of decrees passed in respect of the arrears of rents to be paid in installments in accordance with the provisions contained therein. The above section has been enacted by the State Legislature notwithstanding anything contained in the Code of Civil Procedure, 1908, to the contrary. The CPC is a subject which falls in List III of the Seventh Schedule of the Constitution and the Act in question has received the assent of the President. By merely enabling the Court to grant installments to a judgment-debtor for repaying decretal amount, it cannot be

said", that any of the rights of the petitioners are so seriously prejudiced as to enable them to invoke any of the Articles in Part III of the Constitution. Therefore there is no substance in this contention also.

7. Writ Petition is rejected.

8. Petition rejected.