

(1976) 01 KAR CK 0008
In the Karnataka High Court

Raghavendra Swamy Mutt

APPELLANT

Vs

The State of Karnataka

RESPONDENT

Date of Decision : 05-01-1976

Acts Referred:

Constitution of India, 1950 — Article 14, 26, 31A
Karnataka Land Reforms Act, 1961 — Section 48, 48 A

Citation : AIR 1976 Kar 234 : (1976) ILR (Kar) 299 : (1976) 1 KarLJ 82

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

Bench : Single Bench

Advocate : T. Krishna Rao and A.G. Holla, for the Appellant; B.B. Mandappa, Government Pleader, for the Respondent

Judgement

1. The petitioner is a religious institution. It has questioned the validity of the Karnataka Land Reforms (Amendment) Act, 1973 (Act 1 of 1974) by which the State Legislature amended many of the provisions of the Karnataka Land Reforms Act, 1961 (Act 10 of 1962). The constitutional validity of the Karnataka Land Reforms Act, 1961, was upheld by the Supreme Court in I.C. Golak Nath and Others Vs. State of Punjab and Another, . In Bhaskar Krishnaji Vs. The State of Karnataka and Others, I have upheld the validity of the Karnataka Act 1 of 1974 being of the opinion that it is protected by Article 31A of the Constitution. The validity of Sections 48 and 48A relating to the constitution of the Tribunals and the procedure to be followed before the Tribunals under the Karnataka Land Reforms Act has been specifically upheld in Khatija Bi v. State of Karnataka (ILR (1975) Kar 1481).

2. It is however contended by Sri. T. Krishna Rao, learned counsel for the petitioner, that the Amending Act (Act 1 of 1974) which affected the right of the religious institutions to hold property is violative of Article 26 of the Constitution. The provisions of the Act are not open to attack on the above ground for two reasons (i) Act 1 of 1974 has been included in the Ninth Schedule to the Constitution by the Constitution (Thirty fourth Amendment) Act, 1974; and (ii)

the right guaranteed under Article 26 of the Constitution is not an absolute right. In Acharya Maharajshri Narendra Prasadji Anandprasadji Maharaj and Others Vs. The State of Gujarat and Others, dealing with Gujarat Devasthan Inams Abolition Act, the Supreme Court has observed as follows:

"When we look at the object of the Act and of the various provisions enacted in furtherance of agrarian reform, the Act is squarely rely protected under the saving provision of Article 31A. But it is then submitted that Article 31A does not provide against the vice of contravention of Article 26 while Articles 14, 19 and 31 are expressly mentioned in Article 31A. The question, therefore, arises whether the right under Article 26(c) is an absolute and unqualified right to the extent that no agrarian reform can touch upon the lands owned by the religious denominations. No rights in an organised society can be absolute. Enjoyment of one's rights must be consistent with an enjoyment of rights also by others. Where in a free play of social forces it is not possible to bring about a voluntary harmony, the State has to step into set right the imbalance between competing in interests and there the Directive Principles of State Policy, although not enforceable in courts, have a definite and positive role introducing an obligation upon the State under Article 37 in making laws to regulate the conduct of men and their affairs. In doing so a distinction will have to be made between those laws which directly infringe the freedom of religion and others, although indirectly affecting some secular activities of religious institutions or bodies. For example if a religious institution owns large areas of land far exceeding the ceiling under relevant laws and indulges in activities detrimental to the in interests of the agricultural tenants, who are at their mercy, freedom of religion or freedom to manage religions affairs cannot be pleaded as a shield against regulatory remedial measures adopted by the State to put a stop to exploitation and unrest in other quarters in the interest of general social welfare. The core of religion is not interfered with in providing for amenities for sufferers of any kind. We take the view that the Act and its provisions do no violence to the rights guaranteed wider Article 26(c). In the view we have taken it is also not necessary to mention Article 26 in Article 31A and its omission therein is not at all of any consequence"

3. In the instant case it is not shown that owning of agricultural land by a mutt forms art essential tenet of Hindu religion. Since Act 1 of 1974 has been held to be protected by Article 31A of the Constitution, it cannot be said that it is violative of Article 20(c) merely because some lands belonging to the mutt in question is being taken away by that Act.

4. In the result, the petition fails and it is dismissed.

5. Petition dismissed.