

(2022) 06 KAR CK 0026

In the Karnataka High Court

Case No : Writ Petition No. 205028 Of 2018 (SC/ST)

Raju S/o Late Govindappa

APPELLANT

Vs

Chandappa S/o Nagappa & Others

RESPONDENT

Date of Decision : 13-06-2022

Acts Referred:

Karnataka Scheduled Castes And Scheduled Tribes (Prohibition Of Transfer Of Certain Lands) Act, 1978 — Section 3(1)(b), 4, 5A

Citation : (2022) 06 KAR CK 0026

Hon'ble Judges : S. Vishwajith Shetty, J

Bench : Single Bench

Advocate : Ramchandra.K, Gurubasava Nayak, Amresh S.Roja

Final Decision : Disposed Of

Judgement

S. Vishwajith Shetty, J

1. The petitioner, who claims to be the legal heir of the original grantee of the land bearing Survey No.176 totally measuring 30 acres 17 guntas situated at Gobbur-B village, Afzalpur taluka, Kalaburagi district, has preferred this writ petition with a prayer to quash the order dated 09.12.2015 passed by the Assistant Commissioner, Kalaburagi and the order dated 14.11.2016 passed by the Deputy Commissioner confirming the order passed by the Assistant Commissioner.

2. Heard the learned counsel for the petitioner as well as the learned counsel appearing for the contesting respondents.

3. It is the case of the petitioner that he had filed an application before the Assistant Commissioner stating that the aforesaid land bearing Survey No.176 was granted to his father Govindappa, who belonged to Scheduled Caste community and he also contended that the sale transactions in respect of the aforesaid land were in violation of Section 4 of the Karnataka Scheduled Castes and Scheduled Tribes (Prohibition of Transfer of Certain Lands) Act, 1978 (for

short 'the Act, 1978'). The Assistant Commissioner pursuant to the said application filed by the petitioner, had initiated enquiry and contesting respondent had appeared before the Assistant Commissioner. During the enquiry, the petitioner had failed to produce any documents to show that the land in question was granted to his father Govindappa at any point of time. The petitioner had neither produced the documents relating to grant nor had produced any revenue records to show that at any point of time the land in question stood in his father's name. The Assistant Commissioner therefore dismissed his application filed for restoration of the land in question stating that absolutely there were no documents to show that the land in question was granted to the petitioner's father at any point of time. The said order was questioned by the petitioner in an appeal before the Deputy Commissioner, who had confirmed the order passed by the Assistant Commissioner and dismissed the appeal filed by the petitioner under Section 5A of the Act, 1978. Being aggrieved by the same, the petitioner has preferred this writ petition.

4. Learned counsel for the petitioner has argued that the orders passed by the Assistant Commissioner and Deputy Commissioner are illegal and cannot be sustained in law. However, he does not dispute that the petitioner had not produced any document before the said authorities either to show that the land in question was granted to his father - Govindappa at any point of time or to show that the revenue entries in respect of the lands in question stood in his father's name at any point of time.

5. Per contra, learned counsel appearing for the contesting private respondents submits that the authorities were justified in dismissing the restoration application filed by the petitioner since he had failed to produce any documents to show that the lands in question were granted lands within the meaning of the provisions of Sections 3(1)(b) of the Act, 1978. He submits that though this Court in Writ Petition No.207173/2014 had reserved liberty to the petitioner to file necessary application for the purpose of obtaining the documents relating to the grant, alienation etc., till date petitioner has not made any such attempt. He further submits that the material on record would go to show that first sale of land in question is of the year 1966 and the application under the provisions of the Act of 1978 was filed in the year 2015 and therefore there is an inordinate delay in filing the application even after the Act came into force in the year 1979. He submits that in view of the judgment of the Hon'ble Supreme Court in the case of Vivek M.Hinduja and others vs. M. Ashwatha and Others reported in (2020) 14 Supreme Court Cases 228 and in the case of Nekkanti Rama Lakshmi vs. State of Karnataka reported in (2020) 14 SCC 232, the authorities were justified in dismissing the restoration application.

6. I have carefully appreciated the arguments advanced by learned counsel for both the parties and also perused the materials on record.

7. It is not in dispute that the petitioner has failed to produce any material before the competent authorities to show that the land in question was granted land

within the meaning of Section 3(1)(b) of the Act, 1978. The petitioner has not produced neither documents relating to the grant nor any documents to show that the revenue records of the land in question stood in the name of his father at any point of time on the strength of the grant order.

8. Further, the material on record would go to show that the first sale in respect of the land in question was in the year 1966. The Act of 1978 has come into effect on 01.01.1979, the application was filed by the petitioner for restoration of the land in question in the year 2015, which was after a lapse of nearly 36 years. The Hon'ble Supreme Court in the case Vivek M.Hinduja (Supra) reported in (2020) 14 Supreme Court Cases 228 and in the case of Nekkanti Rama Lakshmi (Supra) reported in (2020) 14 SCC 232, has held that the competent authority cannot entertain applications filed for restoration of the lands under the PTCL Act which was beyond a reasonable period. In the case on hand, undisputedly the application has been filed after 36 years from the date of the Act coming into force. Therefore, considering the facts and circumstances of this case, I do not find any merit in this case. Accordingly, the writ petition is dismissed.

In view of the disposal of writ petition, IA 1/2022 does not survive for consideration.