

(2007) 03 KAR CK 0010
In the Karnataka High Court
Case No : Writ Petition No. 21093 of 2005

Rama Naik

APPELLANT

Vs

The Deputy Commissioner and Others

RESPONDENT

Date of Decision : 20-03-2007

Acts Referred:

Karnataka Land Revenue Act, 1964 — Section 94 A (4)

Citation : (2007) 3 KarLJ 373 : (2007) 2 KCCR 1346

Hon'ble Judges : K.L. Manjunath, J

Bench : Single Bench

Advocate : Mahale for Chandrashekar P. Patil, for the Appellant; G. Chandrashekaraih, AGA, for the Respondent

Final Decision : Allowed

Judgement

K.L. Manjunath, J.—Heard Sri. Mahale, learned Senior Counsel appearing for the petitioner and the Government Advocate for the respondents.

2. The petitioner herein is questioning Annexure-K dt. 11.8.2005 issued by the Tahsildar, Gangavati, rejecting the representation of the petitioner to grant saguvali chit in respect of 4 acres of land in Sy.53 of Virupapur Village, on the ground that the land in question is situated within 5 KMs. from the Municipal limits of Gangavati Town and that the petitioner is not entitled for regularisation of unauthorised cultivation.

3. After hearing, this court has noticed the following undisputed facts:

The petitioner was in unauthorised cultivation of 4 acres of land in Sy.No. 53 of Virupapur Village. He had filed an application for regularisation of his unauthorised cultivation before the Committee constituted for regularisation of the land. Accordingly, the Committee considered the application of the petitioner and passed an order to regularise the land in favour of the petitioner on 23.5.1994 as per Annexure-A to the Writ Petition. Thereafter, the respondents have failed to issue saguvali chit in favour of the petitioner inspite of repeated

request and remainders. In the circumstances, the petitioner filed a Writ Petition before this Court in W.P.No. 1389/2005. A learned Judge of this Court on 24th March 2005 allowed the Writ Petition and directed the Tahsildar to consider the representation of the petitioner to issue saguvali chit within four months from the said date. Thereafter, the present order is passed.

4. The petitioner has produced the notification dt. 18.10.1995 as per Annexure-L issued by the Govt. of Karnataka, to show the date of considering the Gangavati Town as City Municipality. The learned Counsel appearing for the petitioner has also relied upon the date of notification of Section 94-A(4) and proviso thereto. According to him, the said proviso has come into force with effect from 6.7.1994. Therefore, he contends that declaring Gangavati Town as Municipality and amendment to the K.L.R. Act are subsequent to the order of regularisation passed by the Committee. He contends that the Tahsildar cannot pass the order rejecting the case of the petitioner on an erroneous ground. According to him, the Tahsildar has not considered the date of declaration of Gangavati Town as City Municipality and he has not considered the date of amendment to the proviso to Sub-section (4) of Section 94A of the Karnataka Land Revenue Act, 1964. According to him, if these two dates are considered by the Tahsildar, he would not have passed the impugned order.

5. I do see some force in the arguments of the learned Counsel for the petitioner. If the land has been regularised in favour of the petitioner, prior to declaring Gangavati Town as City Municipality and if an amendment has been brought into the Karnataka Land Revenue Act, 1964, subsequent to the order of regularisation for issuance of saguvali chit, the Tahsildar is not expected to apply the subsequent development. What is required to be considered is whether the Committee had power to regularise it in accordance with the Karnataka Land Revenue Act on the date of consideration of the application of the petitioner.

6. It is not the case of the Tahsildar that on the date of consideration of the application of the Committee, the Committee had no power to regularise. Issuance of saguvali chit is only an incidental one. It is only a procedure to be followed by the office.

7. In the circumstances, this Court is of the opinion that the Tahsildar has issued the endorsement without application of mind and therefore required to be reconsidered by the Tahsildar in accordance with law within a period of three months from today.

8. Accordingly, with the above observation the Writ Petition is allowed.