
(2015) 01 KAR CK 0240
In the Karnataka High Court
Case No : Writ Appeal No. 5814/2012 (LR)

S. Kaveri

APPELLANT

Vs

The Land Tribunal

RESPONDENT

Date of Decision : 02-01-2015

Acts Referred:

Citation : (2015) 01 KAR CK 0240

Hon'ble Judges : S. Sujatha, J.;K.L. Manjunath, J.

Bench : Division Bench

Advocate : Prasanna V.R., for the Appellant; D. Nagaraj, AGA, Advocates for the Respondent

Final Decision : Dismissed

Judgement

K.L. Manjunath, J.—Aggrieved by the findings of the learned Single Judge dated 17.8.2012 passed in W.P. No. 12369/2007 the appellant is before us.

2. Heard the learned counsel appearing for the appellant and the learned Government Advocate appearing for respondent No. 1.

3. The facts leading to this appeal are as hereunder:--

Respondent No. 2 filed Form No. 7 under the Karnataka Land Reforms Act, 1961, seeking occupancy rights in respect of Sy. No. 119/3B situated at Bantwal Mooda Village, in Bantwal, D.K. District. On 12.12.1980 the Land Tribunal had granted occupancy rights in respect of Sy. Nos. 115/1A2, 115/1A3 and 315/1A1B measuring 12 cents, 34 cents and 30 cents respectively, which order was questioned by the appellant herein by filing a writ petition in W.P. No. 2210/1981. This Hon'ble Court by its order dated 6.7.1981 quashed the order of the Land Tribunal and remanded the matter for fresh consideration.

4. After remand again the tenancy right has been granted in favour of the 2nd respondent by challenging the order of the Land Tribunal dated 29.3.2007 the appellant filed the instant writ petition. The learned Single Judge having

examined the matter remanded the matter again for fresh consideration to the Land Tribunal. Challenging the order of remand the present appeal is filed.

5. According to the learned counsel for the appellant the order of remand is incorrect. According to him when the land has not been leased to the tenant, the question of granting occupancy rights by the Land Tribunal on the application filed in Form No. 7 does not arise for consideration. According to him Form No. 7 was filed in respect of residential premises by the Land Tribunal in favour of the 2nd respondent under a rent bond. Therefore, he contends that the learned Single Judge ought to have allowed the writ petition in toto and the order of remand is unjustified.

6. Having heard the learned counsel appearing for the appellant and the learned Government Advocate, we are of the view, that no error is committed by the learned Single Judge in remanding the matter for the following reasons. Admittedly the Land Tribunal has not given a finding on rent bond. If the Land Tribunal had given a finding that what was leased to the 2nd respondent was only a residential house and not an agricultural land, we could have agreed with the argument advanced by Sri Prasanna, learned counsel appearing for the appellant. But unfortunately such a finding has not been given by the Tribunal. Even the learned Single Judge has not given a finding on the said question. Therefore, we are of the view, that if the matter is remanded it will be open for the Land Tribunal to consider the rent bond produced by the appellant. It is necessary for the Tribunal to give a finding whether the property leased by the appellant to the 2nd respondent is a residential premises or an agricultural land. If the appellant has leased out only the residential premises naturally as contended by the appellant Form No. 7 filed by the 2nd respondent has to be rejected on the said ground. Therefore, we do not find any reason to interfere with the order of remand passed by the learned Single Judge. Accordingly the appeal is dismissed.