

**(2012) 11 KAR CK 0084**

**In the Karnataka High Court**

**Case No :** Writ Petition No's. 29700-29708 of 2002 and Writ Petition No. 35868 of 2002 (LR)

Sanganagouda B. Malpatil and Others

APPELLANT

Vs

Bhaghavan Chand Since Deceased by His LRs., (Oak Chand, Mohan Chand, The Land Tribunal Shahapur and Sri. Hebballi S.B. Advocate and Receiver Appointed by The Civil Judge Court Bijapur in Insolvency Case No. 1/1961 <BR> Sri Basavanagowda Vs The State of Karnataka, The Land Tribunal Shahapur and Sri. Bhagwanchand Since Deceased by His LRs., (Oak Chand)

RESPONDENT

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**Date of Decision :** 26-11-2012

**Acts Referred:**

Karnataka Land Reforms Act, 1961 — Section 108

**Citation :** (2012) 11 KAR CK 0084

**Hon'ble Judges :** S. Abdul Nazeer, J

**Bench :** Single Bench

**Advocate :** R.S. Siddapurkar, in W.P. Nos. 29700-29708/2002 and W.P. No. 35868/2002, for the Appellant; Deepak V. Barad, for R1(A) and (B) and Sri. Shivakumar R. Tengli, AGA for R1 and R2, Notice to R3 in W.P. Nos. 29700-29708/2002 and W.P. No. 35868/2002 and Sri. Veeresh B. Patil, For R3(A) and (B) in W.P. No. 35868/2002, for the Respondent

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## **Judgement**

S. Abdul Nazeer

1. These writ petitions are directed against the order passed by the Land Tribunal, "Shahapur dated 10.07.2002, whereby it has granted occupancy rights in respect of the land in question in favour of Bhaghavan Chand since deceased by his legal representatives [respondent Nos. 1(a) and 1(b) in W.P. Nos. 29700-29708/2002 and respondent Nos 3(a) and 3(b) in W.P. No. 35868/2002]. I have heard the learned counsel for the parties.

2. The contention of the learned counsel for the petitioners is that the lands in question were under the management of the Court Receiver and that the Court

Receiver had auctioned the cultivation rights in favour of Bhagavan Chand from time to time. That is how his name was entered in Column No. 12 of the record of rights. He further submits that Column No. 6 of the record of rights would clearly indicate that the lands were under the management of the Court Receiver. Having regard to Section 108 of the Karnataka Land Reforms Act 1961 ("Act" for short), the other provisions of the Land Reforms Act are not applicable. Therefore, question of granting occupancy rights in favour of Bhagawan Chand does not arise. In this connection, he has relied upon the decisions of this Court in Basavanneppa Shivappa Haveri Vs. State of Karnataka and Another, and Ashokrao Janardhanarao Shirgurkar Vs. The Land Tribunal and Others, . It is further argued that these questions have not been considered by the Land Tribunal. Learned counsel further submits that even the sale deeds in respect of the lands in question have been executed in favour of the petitioners by the Court Receiver in the year 1982.

3. A perusal of the record of rights (Annexure "E" in W.P.Nos. 29700-29708/2002) would clearly indicate that the lands in question were under the management of the Court Receiver. The contention of the petitioners is that Bhagavan Chand was permitted to cultivate the land by the Court Receiver. That is how his name found in column No. 12 of the record of rights. Perusal of the order would indicate that the Land Tribunal has not"-considered any of these aspects. It has not even considered the effect of Section 108 of the Act. In my opinion, the Land Tribunal has to reconsider the matter keeping in mind Section 108 of the Act and the principles laid down in the aforesaid two decisions. Therefore, the order of the Land Tribunal dated 10.07.2002 in No. REV/LRF/12-46/75-76 is hereby quashed. The case is remitted back to the Land Tribunal for fresh disposal in accordance with law. The Land Tribunal is directed to dispose of the case within a period of six months from the date of receipt of a copy of this order. The parties are directed to appear before the Land Tribunal at Shahapur on 2.1.2013 without any notice from the Land Tribunal. No costs.