

(1996) 06 KAR CK 0035
In the Karnataka High Court
Case No : Writ Petition No. 17388 of 1990

Satyanarayana

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 05-06-1996

Acts Referred:

Karnataka Land Reforms Act, 1961 — Section 63, 66

Citation : (1997) 1 KarLJ 710

Hon'ble Judges : B. Padmara, J

Judgement

1. Heard the learned Counsel for the petitioner and the learned Government Pleader for respondents 1 to 3.

2. By this writ petition, the petitioner is calling in question the impugned order made by the Land Tribunal, Gangavathi dated 14-5-1986 at Annexure-A whereby the Land Tribunal held that the petitioner holds 11 units of "A" class land and that he is entitled to hold only 10 units of "A" class land and as such his holding in excess by one unit of "A" class land. Learned Counsel for the petitioner has contended before me that while considering the family members of the petitioner, the Tribunal has not taken into account the existence of the father of the petitioner, who was also a member of the family of the petitioner at the relevant time. He also contended that the classification of land made by the Tribunal is highly improper. While elaborating his submissions, the learned Counsel for the petitioner contended that the family of the petitioner consists of himself, his father, his wife and three unmarried daughters and all the lands belonging to the family of the petitioner are "B" class lands as they are situated at the tail-end of the canal and as such only one crop is raised per year. He therefore contended that the holding of the petitioner is far less than the ceiling limit.

3. As against this, the learned Counsel appearing for respondent No. 4 has contended that the authorities have rightly classified the lands belonging to the petitioner as "A" class lands and that further in the declaration filed by the

petitioner it is not stated that the family of the petitioner consists of his father. He also contended that the copies of phanis in respect of the lands owned by the petitioner produced as per Annexures-R2 and R3 clearly indicate that these lands are having facilities for assured irrigation from Tungabhadra project which is capable of supplying water for growing two crops. He therefore contended that the impugned order of the Land Tribunal does not suffer from any infirmity.

4. Having given my anxious consideration to the submissions made on both sides, I am of the view that there is no merit in the writ petition filed by the petitioner. The impugned order made by the Land Tribunal would clearly indicate that in the declaration filed before the Land Tribunal by the petitioner, he did not mention about the existence of his father. The impugned order of the Land Tribunal would also indicate that no such contention was taken by the petitioner in the writ petition filed by him earlier before this Court. It is not in dispute that the petitioner has not mentioned in his declaration that his father was one of the members of the family at the relevant time. That being so, the Tribunal cannot be found fault with in holding that the family of the petitioner consists of himself, his wife and two unmarried daughters. The Tribunal, which is a fact finding authority has come to the conclusion that the existence of the father in the family is far from truth. The said conclusion is supported by valid reasons. That being so, I am unable to accept the contention of the learned Counsel for the petitioner that the family of the petitioner consists of his father also and that the same has not been considered by the Tribunal. Therefore, there is no merit in this contention. Coming to the classification of land made by the Land Tribunal, it is required to be stated that even the petitioner did not dispute that his lands are fed by Tungabhadra project. It is however the case of the petitioner that since the lands are situated at the tail-end of the canal, only one crop is raised per year. I am unable to accept this contention. Because the criteria to be adopted for classification of the land is not what the petitioner is actually growing on the land, but whether the lands are having facilities for assured irrigation from Government canals and are capable of supplying water for growing two crops. Admittedly in this case, the lands belonging to the petitioner are having facilities for assured irrigation from Tungabhadra project. They are capable of supplying water for growing two crops. In fact the RTC extract produced by the respondent would clearly indicate that they are capable of growing two crops of paddy or one crop of sugarcane per year. That being so, the Tribunal cannot be found fault with for classifying the lands of the petitioner as "A" class.

5. Therefore, for the foregoing reasons, I do not find any such legal infirmity in the impugned order made by the Land Tribunal at Annexure-A so as to call for interference by this Court. There is no merit in the writ petition filed by the petitioner.

6. In the result, therefore, the writ petition filed by the petitioner is dismissed. In the circumstances of the case, there is no order as to costs.

The learned Government Pleader to file her memo of appearance within two

weeks.