

(2011) 12 KAR CK 0337

In the Karnataka High Court

Case No : Writ Petition No. 14918 of 1998 (LR)

Shri. K. Ramegowda Dead by his LRs Sri. K.R. Ramesh
Gowda, Sri. K.R. Shivashankare Gowda and Sri. K.R.
Jayachandre Gowda

APPELLANT

Vs

The State of Karnataka, The Land Tribunal and Sri. A.R.
Somashekar

RESPONDENT

Date of Decision : 05-12-2011

Acts Referred:

Citation : (2011) 12 KAR CK 0337

Hon'ble Judges : Ajit J. Gunjal, J

Bench : Single Bench

Advocate : K.N. Nitish, for Sri. K.V. Narasimhan, for the Appellant; Shashidhar S. Karmadi HCGP for R1 and R2, Sri. N. Shantka Kumar Advocate Sri. Anand Shetty and Sri. N. Rajashekar Advs. for R4 and Sri. S.A. Partners Advocate for R3C(i)), for the Respondent

Final Decision : Allowed

Judgement

Ajit J. Gunjal

1. The petitioner as well as the respondents are the rival claimants.
2. One K. Ramegowda claims to be the tenant in possession of the land bearing Sy. Nos. 16, 17, 18 measuring 6 acres 24 guntas, 7 acres 26 guntas and 6 acres 20 guntas of Ajjenahalli Village, Alur Taluk. The respondent No. 4 also claims to be a tenant of the land in question.
3. It is not in dispute that the subject matter of this writ petition is an Inam land, which would necessarily mean that the land Tribunal is seized of the matter. Pursuant to the impugned order the Land Tribunal has granted occupancy rights in favor of respondent No. 4. The Legal representatives of original Keshavachar are added as respondents 3 A(b) and 3 (c) 1 to 3(c) 5.
4. I have heard the Learned Counsel appearing for the petitioner as well as the

contesting respondent No. 4 as well as the landlord.

5. The Learned Counsel appearing for the petitioner submits that extensive evidence was let in by the petitioner in support of his contention inasmuch as the petitioner had examined himself and three more witnesses and they would in no uncertain terms state that it is the petitioner who is cultivating the land in question. The petitioner relies on two documents one of them is marked as Ex. R10 indicating that a statement is made by the Keshavachar admitting that it is the petitioner who was cultivating the land in question. The other document, which the petitioner presses into service, is Exs.K8 and K9. The Learned Counsel appearing for the petitioner further submits that the oral evidence as well as the documents have not been taken into consideration by the Tribunal.

6. The Learned Counsel appearing for the respondent supports the impugned order. He submits that on an earlier occasion an application was made by the respondent for grant of occupancy rights. But however, the lands in question were left out. He further submits that if one were to take into consideration the attending circumstances it is clear that respondent No. 4 was cultivating the land as a tenant.

7. I have perused the papers as well as the records of the Land Tribunal.

8. Undoubtedly both the petitioners as well as respondent No. 4 have let in extensive oral evidence in support of their respective claims. The Tribunal has chosen to disbelieve the statement of the witnesses of the petitioner inasmuch as they are not consistent and they are ignorant as to who is in possession.

9. Insofar as the documents are concerned, the Tribunal has observed that it is not forthcoming as to in which proceedings the original landlord Keshavachar had made a statement stating that it is the petitioner who is cultivating the land. Thus, on assessing the material on record the Tribunal was of the view that it is respondent No. 4 who is cultivating the land as a tenant.

10. Apparently, the records would disclose that it is Keshavachar who had made a statement before the Revenue authorities indicating that it is petitioner i.e., the original applicant was cultivating the land.; What is produced is a copy of the statement made by Keshavachar. Indeed, there should have been a better reason for the Tribunal to discard that piece of evidence.

11. Insofar as the material, on which reliance is placed for conferring occupancy rights on respondent No. 4 is concerned, I am of the view that those documents are not at all forthcoming. It appears the Tribunal has gathered the surrounding circumstances and has come to the conclusion that these lands were left out and the fact that there was conferment of rights in favor of the respondent that by itself pre-supposes that he is in possession of the remaining three lands. I am of the view that such a finding is not based on any material. In which case what remains is only the oral evidence, which as observed is disbelieved by the Tribunal. Notwithstanding the fact that the order of the Tribunal runs into several

pages no reasons are forthcoming as to why the application of respondent No. 4 is sought to be accepted and that of the petitioner is rejected. To my mind the impugned order is not supported by any cogent valid reasons. More so, having regard to the fact that the Tribunal is a quasi-judicial authority. Having said so, I am of the view that the matter requires remittance. A contention of maintainability was also urged, but however, in view of the fact that no documents are forthcoming to show that a claim was made by the petitioner and an order is passed, it is rather difficult for this Court to give a finding on the question of maintainability. Hence, the following order is passed:

(i) Petition is allowed.

(ii) The impugned order is set aside.

(iii) The matter is remitted to the Land Tribunal for fresh disposal in accordance with law.

(iv) All contentions are left open.

(v) It is noticed that the proceedings are lingering from last few decades. The Tribunal shall make an endeavor to conclude the proceedings itself within six months from the date of receipt of copy of this order.

Mr. Shashidhar S Karmadi, learned High Court Government Pleader appearing for respondents 1 & 2 is permitted to file memo of appearance within four weeks.