

(2008) 05 KAR CK 0016
In the Karnataka High Court
Case No : Writ Petition No. 6722 of 2008

Shri V. Nagaraj and Smt. Muddamma	APPELLANT
Vs	
The State of Karnataka and Others	RESPONDENT

Date of Decision : 28-05-2008

Acts Referred:

Karnataka Land Revenue Act, 1964 — Section 133

Citation : (2009) 1 KarLJ 126 : (2008) 3 KCCR 2076

Hon'ble Judges : N.K. Patil, J

Bench : Single Bench

Advocate : Prakash T. Hebbar, for the Appellant; Nadiga Shivanandappa, HCGP for R1 and R2, for the Respondent

Final Decision : Dismissed

Judgement

N.K. Patil, J.—The petitioners, assailing the correctness of the order dated 23.02.1979 passed by the 2nd respondent - Land Tribunal in case No. LRF(THA)113/1975-76 in respect of the land measuring 03 acres 20 guntas in Survey No. 163 of Yalachaguppe Village, Tavarekere Hobli Bangalore South Taluk vide Annexure-C and consequently to hold that the alienation made in favour of the respondents-9 to 11 by respondents-4 to 8 are inconsequential, have presented this writ petition.

2. Petitioners are claiming that they are lineal descendents of the family of Late Shri. Rangaiah. The father of the second petitioner and grandfather of the first petitioner purchased the agricultural land measuring 06 acres 10 guntas including 0.09 guntas phut kharab in Sy.No. 163 of Yaiachaguppe village, Tavarekere Hobli, Bangalore South Taluk and during his life time he was in peaceful possession and enjoyment of the said land. Be that as it may. Shri Rangiah died on 20.2.1987 leaving behind the petitioners and other family members as his legal heirs. After the death of Shri Rangaiah and Smt. Gowramma, petitioners and other members of the family continued to be in lawful possession and enjoyment of the said land to the extent of 06 acres 10

guntas inherited through the said Late Sri Rangaiah. Be that as it may. One Sri. Galappa now represented by respondents-4 to 8 has filed an application in Form No. 7 in respect of 03 acres 20 guntas of land in Sy.No. 163 of Yaiachaguppe village before the 2nd respondent in proceeding No. LRF:113:1975-76. The 2nd respondent-Land Tribunal after issuing notice to the parties and after hearing, has registered the occupancy rights in favour of late Sri Galappa by its order dated 23.2.1979 in respect of land in question to the extent of 3 acres 20 guntas, without conducting proper enquiry and without notifying the deceased Sri Rangappa. In view of not issuing any notice and not affording opportunity to Sri Rangappa, and granting occupancy rights in favour of one Sri Gaiappa, now represented by respondents-4 to 8 and who have sold the property in favour of respondents-9 to 11, petitioners felt necessitated to present the instant writ petition seeking appropriate relief as stated supra.

3. I have heard learned Counsel appearing for petitioners and learned Government Pleader appearing for respondents-1 and 2.

4. After careful perusal of the materials available on file, including the order passed by the Land Tribunal, Magadi Taluk, I do not find any error of law or material irregularity, as such committed by the Land Tribunal in registering the occupancy rights in favour of one Sri. Late Galappa, to the extent of 3 acres 20 guntas in Sy.No. 163 situated at Yalachaguppe village, Tavarakere Hobli, Bangalore South Taluk. It is significant to note that, petitioners themselves have produced the order-sheet maintained by the Land Tribunal in proceeding No. LRF(THA)113:1975-76. After careful perusal of the same, it can be seen that late Sri. Rangappa himself has appeared before the Land Tribunal and put his signature on 27.9.1979. The Land Tribunal, after perusal of the survey report and the other relevant materials available on file, has registered the occupancy rights in favour of one Sri. Galappa. It is pertinent to note here itself, after careful perusal of Annexure-F1 -Record of Rights produced by the petitioners along with this petition that, for the agricultural years 71-72 to 74-75 the name of Late Sri. Galappa has been recorded in Col. No. 12(2) and it shown that he was cultivating the said land to the extent of 3.01 guntas. For the agricultural years 71-72 and 72-73 in Col. No. 12(9) the name of the crops grown by him has been shown. The entries found in the records of rights have got presumptive value as per Section 133 of the Land Revenue Act. Therefore, the Land Tribunal has rightly considered the same and registered the occupancy rights in favour of one Sri. Galappa. The total extent of land in question is 6 acres 10 guntas and the Land Tribunal has not disturbed and granted the occupancy rights in favour of one Sri. Galappa, in respect of the land held by Late Sri. Rangappa. Therefore, I am of the considered view that, the Land Tribunal has not committed any error in registering the occupancy rights in favour of one Sri. Galappa. Nor the petitioners have produced any authenticated documents to establish that, Sri. Rangappa was cultivating the land in question to an extent of 6 acres 10 guntas or produced any other documents, such as, land revenue paid receipts and documents regarding the nature of the crops grown by him. Therefore, I do not

find any justification or good grounds to interfere in the order passed by the Land Tribunal on merits. Hence, the writ petition filed by petitioners is liable to be dismissed as devoid of merits.

5. For yet another reason, the writ petition filed by petitioners is liable to be dismissed at threshold is on the ground of delay and laches. There is an inordinate delay of nearly three decades in filing this writ petition. The petitioners have not shown sufficient cause for the said delay and they have not satisfactorily explained the same by assigning cogent and valid reasons. During the interregnum period, the legal representatives of the deceased Sri. Galappa i.e. respondents-4 to 8 have sold the land in question in favour of respondents-9 to 11. Therefore, interference by this Court, at this stage, is not justifiable. Hence, the writ petition filed by petitioners is liable to be dismissed on the ground of delay and laches also.

6. Having regard to the facts and circumstances of the case as stated above, the writ petition filed by petitioners is dismissed on the ground of delay and laches as also on merits.