

(2000) 11 KAR CK 0087

In the Karnataka High Court

Case No : Writ Petition No"s. 15952-57 of 1999

Smt. Chikkamma and Others

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 28-11-2000

Acts Referred:

Citation : (2001) 1 KCCR 200

Hon'ble Judges : R. Gururajan, J

Bench : Single Bench

Advocate : Narasimha Murthy, for the Appellant; H.B. Mahesh, High Court Government Pleader for Respondents 1 to 4 and M.B. Chandrachood, for Respondents 5 to 8 and 10, for the Respondent

Final Decision : Dismissed

Judgement

R. Gururajan, J.—These petitions are filed challenging the order Annexure-C dated 23.12.1998 passed by the Deputy Commissioner. Petitioners are residents of B. Kodihalli, Gubbi Taluk. They are landless labourers. They started cultivating agricultural gomal land. They made an application to the Tahsildar for regularisation of their cultivation in Sy. No. 38 of B. Kodihalli Village. The committee decided to regularise the cultivation of these lands by the Petitioners vide order dated 24.6.1991. Against the said order the Villagers of B. Kodihalli, filed an appeal before the Assistant Commissioner, Tumkur Sub-division. The same came to be dismissed by the Assistant Commissioner by an order dated 31.3.1984. Respondents 5 and 6 preferred a second appeal before the Deputy Commissioner, Tumkur, who by his order dated 23.12.1998 allowed the second appeal and quashed the order passed by the Assistant Commissioner and the Tahsildar. It is this order that is challenged by the Petitioners in this petition.

2. Notices were issued pursuant to which Respondents have entered appearance and they have filed detailed statement of objections. This Court by an order dated 21.7.1999 directed the Tahsildar to inspect the lands in question and submit his report with regard to the present state of affairs. Pursuant to the

orders of this Court, Tahsildar filed a report dated 10.8.1999.

3. I have heard the learned Counsel on either side and have gone through the orders passed by the authorities below. Tahsildar has regularised the cultivation on the ground that the Petitioners are landless labourers. An appeal filed by the villagers before the Assistant Commissioner came to be dismissed. Respondents 5 and 6 preferred an appeal before the Deputy Commissioner who has set aside the order of the Assistant Commissioner and also the grant made by the Tahsildar in favour of the Petitioners. The Deputy Commissioner noticed that if these lands are granted in favour of the Petitioners it would result in the cattle being deprived of grazing in the gomal land. He further noticed that it would result in water shortage. In addition he has also noticed that these Petitioners were not in factual possession in the light of the spot inspection done on 30.7.1987. Taking into consideration all these aspects he has in my opinion rightly rejected the case of the Petitioners. The said finding of the Deputy Commissioner cannot be said to be a finding not based on reasons. Gomal land are to be protected in the larger interest of the cattle. It cannot be granted lightly resulting in violation of the very object of maintaining the gomal land in a village. The quality of rural life can only be maintained by providing free pasture to the cattle in addition to providing drinking water to the cattle. Gomal lands also provide shade for the rural folk and live stock.

Pursuant to the order of this Court, Tahsildar has also filed a report on 10.8.1999. It is seen that Sy. No. 38 as per RTC measures 26.07 acres out of which 20 acres have been disposed of by way of grant to the Petitioner and there remains only six acres. Thus it is clear to me that if these lands are regularised it would certainly result in defeating the very object of maintaining the gomal land. In the light of the finding of the Deputy Commissioner and in the light of the report of the Tahsildar, I am clearly of the view that no interference is called for exercising my discretionary jurisdiction. Learned Counsel for the Petitioner further argued that others who are similarly situated are not disturbed. That cannot be a ground to grant these lands to these Petitioners notwithstanding the suffering of the cattle in terms of the order of the Deputy Commissioner. It is for the authorities ultimately to look into this problem and see that appropriate action is taken in accordance with law against them as well.

In the result, these petitions are dismissed but without any order as to cost.