

(2011) 12 KAR CK 0263
In the Karnataka High Court
Case No : Writ Petition No. 26715 of 2011 (LR)

Smt. Gangamma Since Dead by L.R. H. Ningappa	APPELLANT
Vs	
The Assistant Commissioner Davanagere Sub Division Davanagere and Smt. Girjamma	RESPONDENT

Date of Decision : 05-12-2011

Acts Referred:

Karnataka Land Reforms Act, 1961 — Section 61 (3)

Citation : (2011) 12 KAR CK 0263

Hon'ble Judges : Ajit J. Gunjal, J

Bench : Single Bench

Advocate : S.N. Halu, for the Appellant; Shashidhar S. Karmadi HCGP for R1, for the Respondent

Final Decision : Dismissed

Judgement

Ajit J. Gunjal

1. The petitioner is before this Court questioning the order passed by the Karnataka Appellate Tribunal remanding the proceedings to the Assistant Commissioner.

2. The matter arises in the following manner:

The respondent herein is a purchaser of the land to an extent of 8 acres 21 guntas in Sy.No.128 of Devarabelekere Village, Harihar Taluk.

3. It is not in dispute that the petitioner was a tenant of Sy.No. 128 measuring 22 acres 39 guntas. She makes an application in Form No.7 for grant of occupancy rights, which has been granted and a certificate has also been issued on 17.10.1981. The respondent purchased an extent of 8 acres 21 guntas on 13.4.1989 for a valuable consideration of Rs. . 34.000/-

4. Suffice it to say that the proceedings were initiated by the Assistant Commissioner in view of the fact that there is violation of the terms of the

certificate issued. Hence, the proceedings were initiated u/s 61(3) of the Act. The Assistant Commissioner was of the view that the sale is hit by the provisions of the Act. Aggrieved by the same, the respondent was before this Court in W.P.No.33297/2001. This Court disposed of the writ petition directing the respondent No.1 to file an appeal inasmuch as the impugned order for restoration is passed u/s 61(3) of the Karnataka Land Reforms Act. In these circumstances, the respondent was before the Tribunal. The Tribunal pursuant to the impugned order has allowed the appeal and remitted the matter to the Assistant Commissioner to consider the claim of the respondent after providing an opportunity to both the parties and pass an appropriate order in accordance with law. I am of the view that the impugned order does not warrant interference inasmuch as the matter is remitted to the Assistant Commissioner for fresh disposal in accordance with law. Indeed, all the contentions are kept open and opportunity is given to both the parties. Petition stands rejected.

5. Mr. Shashidhar S. Karmadi, learned High Court Government Pleader appearing for respondent No. 1 is permitted to file memo of appearance within four weeks.