
(2011) 11 KAR CK 0360
In the Karnataka High Court
Case No : Writ Petition No. 1496 of 2009 (LR)

Smt. Indira

APPELLANT

Vs

Smt. Rajani Shetty and Others

RESPONDENT

Date of Decision : 09-11-2011

Acts Referred:

Karnataka Land Reforms Act, 1961 — Section 44, 77 A

Citation : (2011) 11 KAR CK 0360

Hon'ble Judges : Ajit J. Gunjal, J

Bench : Single Bench

Advocate : Pundikai Ishwara Bhat, for the Appellant; Hegde Associates, for R2 and R3, Sri. Shashidhar S. Karamadi, HCGP for R4 and 5, for the Respondent

Final Decision : Dismissed

Judgement

Ajit J. Gunjal

1. The petitioner is questioning the order passed by the competent authority rejecting his application filed in Form No. 7-A, confirmed by the Karnataka Appellate Tribunal.

2. Mr. Pundikai Eshwar Bhat, learned Counsel appearing for petitioner vehemently submits that there is a registered Lease Deed in favor of petitioner's ancestors to an extent of 38 cents in Sy.No. 535 of Mangalore Thota. Village. He submits that the land in question was leased in favor of grand father of petitioner's husband and thereafter the petitioner's husband. Hence, the competent authority was not justified in rejecting the said application

3. Mr. Abdulla, learned Counsel appearing for the contesting respondents submits that lease is in respect of a house in question on an yearly rent of Rs. 30/-. The Lease Deed also does not disclose that it is an agricultural land. He further submits that the corporation tax has been paid in respect of the property in question.

4. I have perused the impugned order passed by the competent authority as well as the Tribunal

5. It is no doubt true that there was a lease in favor of the petitioner's ancestors way back in the year 1918 and it was for a period of 15 years. Indeed, there is nothing on record to show that after the expiry of 15 years, the petitioner's ancestors have continued to be in possession of the property in question- It is also to be noticed that there was a partition inter-se between the respondents and each of the parties have been allotted their respective shares, Indeed, something more was required to be shown by the petitioner to establish the fact that notwithstanding the expiry of the Lease Deed, they continued to be in possession. Indeed, Section 77-A of the Karnataka land Reforms Act envisages that there must be a vesting of the land as on 1.3.1974 u/s 44 of the Act and further as on the date of making an application they continued to be in possession. Indeed, both the authorities have found that the petitioner has failed to prove that she continues to be in possession as on the date when she makes an application u/s 77-A of the Act.

6. I am of the view that the petitioner has failed to satisfy the twin conditions, Hence, the question of interfering with the impugned orders does not arise. Petition stands rejected.

Sri Shashidhar S. Karamadi, learned HCGP is permitted to file memo of appearance within four weeks from today.