
(2012) 12 KAR CK 0102
In the Karnataka High Court
Case No : Writ Appeal No. 50055 of 2012

Smt. Tarabai

APPELLANT

Vs

Roop Singh and Another

RESPONDENT

Date of Decision : 13-12-2012

Acts Referred:

Citation : (2013) 2 AKR 403

Hon'ble Judges : Ravi Malimath, J; Mohan Shantanagoudar, J

Bench : Division Bench

Advocate : R.S. Sidhapurkar, for the Appellant; Chaitanyakumar Chandriki, Shivakumar Tengli, AGA and Shivakumar Kalloor, for the Respondent

Final Decision : Dismissed

Judgement

Mohan Shantanagoudar, J.—The order of remand passed by the learned Single Judge in W.P. No. 9243/1999 (LR) is called in question in this Writ Appeal. The appellant herein was the applicant before the Land Tribunal. She claims that she is the tenant of the property by virtue of registered lease deed dated 08.12.1969. Respondent No. 1 herein is the landlord.

Learned Single Judge having found that the lease deed dated 08.12.1969 was jointly executed by; the lease of the 1st respondent and the brother of the 1st respondent namely. Khubu S/o Vasaram Rathod, rightly concluded that Khubu is necessary party to the litigation. There is nothing on record to show that the said Khubu was ever heard either before the Land Tribunal or before this Court at an earlier point of time. Khubu being one of the land owner along with respondent No. 1 herein should be notified and should be heard in the matter. In this view of the matter, learned Singh Judge, has remitted the matter to the Land Tribunal with a direction either to hear Khubu or his legal representatives, if Khubu is not alive.

2. We do not find any ground to interface in the impugned order, inasmuch as the same is just and proper under the facts and circumstances of the case. If

Khubu/his legal representatives are not brought on record, then the interest of the appellant will also suffer, inasmuch as she claims to be the tenant of the property in question of which Khubu is a joint owner. Without making Khubu as a party to the proceedings, the matter will not go on. If the matter proceeds without hearing Khubu or his legal representatives, then the order, if any, to be passed will be bad in law. Thus, in order to safeguard the interest of the appellant as well as to satisfy the rules of natural justice, it is just and necessary to implead either Khubu or his legal representatives (if Khubu is not alive) to the proceedings. Accordingly, the Writ Appeal is liable to be dismissed. Hence, the same stands dismissed.

The interim order granted before this Court will continue for a period of three months.

It is open for the appellant to seek appropriate interim orders before the Land Tribunal, if she so chooses in the meanwhile.

In view of dismissal of the appeal, I.A. No. 4/2012 filed for impleading does not survive for consideration. Accordingly, the same is disposed of.