(2011) 12 KAR CK 0196

In the Karnataka High Court

Case No : Writ Petition No. 42502 of 2011 (LR)

Sri. A. Ramesh Naidu APPELLANT

Vs

The Secretary Karnataka Appellate Tribunal, The Assistant Commissioner Ramanagaram Sub Division Ramanagaram and The Tahsildar, Ramanagaram RESPONDENT

Date of Decision : 01-12-2011

Acts Referred:

Karnataka Land Reforms Act, 1961 — Section 79 A, 79 B, 79 C
Karnataka Land Revenue Act, 1964 — Section 34

Citation : (2011) 12 KAR CK 0196

Hon'ble Judges : Ajit J. Gunjal, J

Bench : Single Bench

Advocate : K.N. Jagadish, for the Appellant; Shashidhar S. Karmadi, HCGP for R1 and R3, for the Respondent

Final Decision : Allowed

Judgement

Ajit J. Gunjal

1. The petitioner has called in question the order passed by the Competent Authority as well as the Appellate Tribunal. Proceedings were initiated against the petitioner for violation of Sections 79-A, 79-B & 79-C of the Karnataka Land Reforms Act.

2. On notice, the petitioner enters appearance and files his objections. The Competent Authority however, having regard to the income tax returns was of the view that there is clear violation of the provisions of the Act. The said order was questioned by the petitioner before the Tribunal. The Tribunal has confirmed the order, but nevertheless, has recorded a finding that a summary enquiry as contemplated under the Act has not been done.

3. The learned counsel appearing for the petitioner submits that the petitioner had made an application to the Competent Authority on 23.10.2606 to purchase

the land. But however, the said application seeking permission was not at all considered and is still pending adjudication.

4. The learned High Court Government Pleader supports the impugned order.

5. Apparently the finding recorded by the Tribunal is that there must be a summary enquiry. Indeed, a perusal of Sub-Section 5 of Section 79-A contemplates that an enquiry is required to be held as may be prescribe.

6. Indeed, enquiry would par take the character of the enquiry, which is contemplated u/s 34 of the Karnataka Land Revenue Act. Having said so, I am of the view that the impugned orders passed by the Competent Authority as well as the Tribunal are liable to set aside.

7. It is no doubt true the income tax returns which are filed before the Competent Authority might disclose that the income is more than Rs. 2.00.000/-. But however, it was always open for the petitioner to explain as to the income, which is reflected in the income tax returns with reference to income of individual or joint family. That exercise having not been done, the matter requires remittance. Hence, the following order:

(i) Petition is allowed.

(ii) The impugned order passed by the Tribunal and Competent Authority is set aside.

(iii) The matter stands remitted to the competent Authority-respondent No. 2 for fresh disposal in accordance with law.

(iv) Rule is issued and made absolute to the extent indicated above.

Mr. Shashidhar S Karmadi, learned High Court Government Pleader appearing for respondents 1 to 3 is permitted to file memo of appearance within four weeks.

