

(2013) 07 KAR CK 0164

In the Karnataka High Court

Case No : Writ Petition No. 21199 of 2012 (LR-RES)

Sri C. Mallikarjunaswamy

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 04-07-2013

Acts Referred:

Citation : (2013) 07 KAR CK 0164

Hon'ble Judges : A.N. Venugopala Gowda, J

Bench : Single Bench

Advocate : T.N. Raghupathy, for the Appellant; T.K. Vedamurthy, HCGP for R1 and R3 and Sri. Anil Chiniwal, for R4 and R5, for the Respondent

Final Decision : Disposed Off

Judgement

A.N. Venugopala Gowda, J.—W.P. No. 29086/1994 filed by the petitioner's father and companion writ petitions were allowed on 14.02.1997 and the impugned order passed by the Land Tribunal was quashed and the matter was remitted to the Deputy Commissioner, Mandya District for deciding the matter by making clear that if the State Government intends to appoint any person as Deputy Commissioner, for deciding the dispute under the provisions of the Act No. I of 1955, the State Government shall take steps and appoint such officer as the Deputy Commissioner within four weeks from the date of receipt of the order; in default of which, the Deputy Commissioner of the District may proceed to consider and dispose of the same in accordance of with provisions of the Act No. I of 1955. The 2nd respondent-Deputy Commissioner of Mandya District passed an interim order dated 16.05.1997, vide at Annexure B and restrained the parties from entering into the property in dispute till the case is decided. The 3rd respondent informed the Circle Inspector of Police, K.M. Doddi on 23.05.2012 to take necessary action of maintenance of status quo and take action against the violators. The 3rd respondent issued an official memorandum dated 30.05.2012, as at Annexure-E, directing the Revenue Inspector and the Village Accountant to ensure that the yield from the coconut trees standing on the subject property

being deposited in the Treasury. Assailing the said orders, as at Annexures-B, D and E, this writ petition has been filed.

2. Heard Sri T.N. Raghupathy, learned advocate for the petitioner, Sri T.K. Vedamurthy, learned HGGP for respondent Nos. 1 to 3 and Sri Anil Chiniwal, learned advocate for respondent Nos. 4 and 5 and perused the writ record.

3. Pursuant to the common order dated 14.02.1997 passed in W.P. Nos. 29071-89 of 1994, as at Annexure-C, the 2nd respondent issued a hearing notice and passed an interim order dated 16.05.1997, as at Annexure-B, restraining both the parties from entering the land till the case is decided. Taking into consideration the unauthorized and illegal acts of trespass etc., the 3rd respondent instructed the Circle Inspector of Police, K.M. Doddi, to take lawful action against the trespassers etc. In view of the order passed, as at Annexure-B, the Revenue Inspector and the Village Accountant were directed to ensure that the yield from the coconut trees is harvested and the amount deposited in the Treasury.

4. The 2nd respondent after issue of hearing notice and passing the said interim order, has not proceeded further in the matter after 2004. The order, as at Annexure-B, having been passed in the year 1997, this writ petition filed on 25.06.2012 is hit by inordinate delay and laches. Even otherwise, considering the background of the case, the interim order passed, restraining both the parties from entering the land till the case is decided is neither arbitrary nor illegal. In order to ensure that the order, as at Annexure-B is complied with, the 3rd respondent has instructed the Circle Inspector of Police to prevent the acts of trespass etc., into the subject property. To ensure that the yield from the coconut trees standing on the suit property is taken care of, the Revenue Inspector and Village Accountant have been directed to take necessary action, which becomes clear from the official memorandum dated 30.05.2012 as at Annexure-E. Keeping in view the facts and circumstances of the case, I do not find any justification to quash the Annexures-B, D and E. However, a direction is required to be issued to the 2nd respondent to decide the matter by keeping in view the observations made in the common order dated 14.02.1997 passed in W.P. Nos. 29071-89/1994.

In the result, the writ petition disposed of. The 2nd respondent is directed to decide the case No. Inam 1/1997 expeditiously and within a period of three months from the date a copy of this order becomes available to him.

No costs.

Sri. T.K. Vedamurthy, learned HGGP, is permitted to file memo of appearance within four weeks.