
(2011) 07 KAR CK 0157

In the Karnataka High Court

Case No : Writ Petition No's. 9355 of 2010 and 30883 of 2010 (LR)

Sri Durgadas Hegde

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 22-07-2011

Acts Referred:

Citation : (2011) 07 KAR CK 0157

Hon'ble Judges : Ajit J. Gunjal, J

Bench : Single Bench

Advocate : S.K. Acharya, for Sri. Pavana Chandrashetty H, for the Appellant; R. Kumar HCGP for R1 and R2, for the Respondent

Final Decision : Dismissed

Judgement

Ajit J. Gunjal, J.—The petitioner's father one Karunakara Hegde claims to be a legatee under a Will stated to have been executed by his sister in his favour on 06.03.1982. Meenakshi Shedthi died at Mangalore, leaving behind Karunakara Hegde as her legal heir. According to the petitioner Karunakar Hegde acquired title and was in possession of the properties as per the Will and subsequently died on 15.04.1988. The petitioner being a son of Karunakara Hegde has succeed to the property and enjoying the same without any interference. Respondents 3 to 6 made an application for grant of occupancy rights. Suffice it to say that the Tribunal granted occupancy rights in respect of the property in question. The main grievance of the petitioner is that the testator i.e., Smt. Padmavathi @ Meenakshi Shedthi was not made party to the proceedings. Indeed, it is to be noticed that the rights of the petitioner or his father would stem only after the death of Meenakshi Shedthi in the year 1985.

2. Apparently, after the order was passed in the year 1981, Meenakshi Shedthi was alive for a period of four years. She did not choose to question the order passed by the Tribunal. It is only after her death and that too in the year 2010, the order dated 18.08.1981 is sought to be questioned on the ground that the petitioner was not made party to the proceedings. I am of the view that what

was not done by Padmavathi @ Meenakshi Shedthi during her lifetime till her death in the year 1985, the question of the son of a legatee under the Will questioning the order passed by the Tribunal does not arise.

3. Indeed, an explanation is sought to be given on the ground that they were not made parties. But however, it is rather too late in a day saying that they were not made parties. Obviously any person, who is interested in the property, would not certainly keep quiet, for a period of 30 years. The claim of the petitioner that he continues to be in possession appears to be farfetched.

4. Indeed, a Division Bench of this Court in the case of G. Jayaram Reddy Vs. State of Karnataka and Others, has observed that the Courts would come to the aid of a litigant, who is vigilant and not who is indolent. In identical matter in case of Anil M. Puthran and Others Vs. The Land Tribunal and Another, this Court has not entertained the writ petition on the ground of delay and laches, when third party rights were created. Having said so, the question of interference does not arise.

Petitions stand rejected.

5. Mr. R. Kumar, learned High Court Government Pleader appearing for respondents 1 and 2 is permitted to file memo of appearance within four weeks.