

(1988) 06 KAR CK 0045
In the Karnataka High Court
Case No : C.R.P. No. 5649 of 1987

Sri Gadigeyya Siddlingayya Hiremath and Others	APPELLANT
Vs	
Veerayya Savalageyya Savalagimath and Another	RESPONDENT

Date of Decision : 21-06-1988

Acts Referred:

Karnataka Land Reforms Act, 1961 — Section 121A

Citation : (1989) 3 KarLJ 194

Hon'ble Judges : M. P. Chandrakantaraj Urs, J

Judgement

M.P. Chandrakantaraj Urs, J.-This revision under Section 121-A of the Karnataka Land Reforms Act 1961 (for short the Act"), is preferred by the respondents before the Appellate Authority, Bagalkot, in Appeal No. LRA(TR)597/1987. They are aggrieved by the order passed by the said authority on I.A.II which was filed by the appellant seeking that there should be an order restraining respondents-2, 3 and 4 from interfering with his peaceful possession and enjoyment of the land in S.No. 204/1 in Joladagudda, Badami Taluk, Bijapur District.

Briefly stated the facts leading to the appeal and the impugned order are these:

Respondent-1 in this revision petition filed an application in Form No.7 seeking occupancy rights in respect of 2/3 portion of Sy.No.204/1 aforementioned. That application came to be rejected by the Land Tribunal. He questioned the same in this Court under Art. 226 of the Constitution successfully. The order of the Land Tribunal was set aside and the matter was remanded for fresh disposal in accordance with the directions issued by this Court. When the matter was called on remand, as evidenced by the order of the Land Tribunal, Badami, it is clear that Eraiah was not present. In the result, ex-parte decision was taken refusing him occupancy rights for the reasons recorded. Aggrieved by the same, he filed an appeal and also sought in I.A.II to restrain Respondent-1, the present revision petitioner from interfering with his peaceful possession and cultivation. That application came to be allowed for the reasons recorded by the Appellate

Authority.

The Appellate Authority has proceeded on the basis that the Record of Rights found in the records produced before the Land Tribunal clearly supported the case of the appellant that he was in possession and cultivation of portion of the land in dispute. The revision petitioners did not lead any evidence or produce any material to rebut the presumption arising under Section 133 of the Land Revenue Act to disprove the correctness of the entry in the Record of Rights or the R.T.C register. Therefore, as a temporary measure, injunction has been issued in favour of the appellant pending disposal of the appeal.

This Court, normally, will not interfere with an interlocutory order made in exercise of the discretionary jurisdiction vested in the Sub-ordinate Courts or Tribunals, whether it be while exercising extraordinary jurisdiction under Arts. 226 and 227 or under Section 115 CPC. or under any other enactment, as the case may be. Though another view is possible on the same set of circumstances or material, it is not a ground to interfere with a discretionary order. If the Appellate Authority after examining the records came to the conclusion that the appellant is entitled to protect his possession on account of the entries in R.T.C. Register, then that finding must be respected by this Court even though it may be possible to come to a different conclusion.

Therefore, this Court must point out that a revision will lie only when serious injustice is done, but will not interfere with a finding of fact. I am inclined to support the view taken by the Appellate Authority as an interim measure by the admission made by the petitioners themselves that the appellant-respondent was indeed cultivating the land, but as member of the joint family and not as a tenant. In other words, that he was in actual possession and cultivation of the disputed land or portion thereof is not in dispute but is actually admitted. Therefore, the order does not call for interference under Section 121-A of the Act.

In the interest of the parties it must be observed that though the petitioners have not succeeded in this petition, they are entitled to have their case heard and disposed of at the earliest by the Appellate Authority. The Appellate Authority shall give priority and dispose of the appeal within two months from the date of receipt of this order.

Revision petition is dismissed.