

(2008) 03 KAR CK 0067
In the Karnataka High Court
Case No : Writ Petition No. 13443 of 2006

Sri Gurupadayya Hiremath

APPELLANT

Vs

The Land Tribunal, The Tahsildar and Sri Sugurayya Hiremath

RESPONDENT

Date of Decision : 31-03-2008

Acts Referred:

Karnataka Certain Inam Abolition Act, 1977 — Section 5 (3)

Citation : (2009) 1 KarLJ 95 : (2008) 3 KCCR 224 SN

Hon'ble Judges : N.K. Patil, J

Bench : Single Bench

Advocate : Hanumanthareddy Sahukar, for the Appellant; Asha M. Kumbaragerimath, HCGP for R1 and 2 and Veeresh B. Patil, for R3, for the Respondent

Final Decision : Dismissed

Judgement

N.K. Patil, J.—Petitioner, being aggrieved by the order dated 1st August 1992 bearing No. KLRM/INM/166/90-91 passed by first respondent vide Annexure B, has presented the instant writ petition.

2. The grievance of petitioner in the instant writ petition is that, petitioner is the absolute owner and is in possession and cultivation of the land bearing Sy. No. 60/4 measuring 02 acres 04 guntas situate at Virapur Village, Lingasugur Taluk and his name has been recorded in the record of rights as referred vide Annexure A. When things stood thus, the father of third respondent has filed the application for grant of occupancy rights in Sy.Nos.60/3 and 60/4 measuring 01 acre and 02 acres 04 guntas respectively situate at Virapur Village, Lingasugur Taluk. Accordingly, occupancy rights have been registered in favour of the father of the third respondent, late Sri. Channayya Hiremath, by the Land Tribunal, Lingasugur, by its order dated 1st August 1992 u/s 5(3) of the Karnataka Certain Inams Abolition Act, 1977. Petitioner came to know of the said order passed by the Land Tribunal, Lingasugur only when the third respondent filed the application before the Deputy Tahsildar, Nada Kacheri, Gurugunta for transferring

the land in his name, who in turn, has passed the order on 3rd December 2004 to transfer the land in question in the name of the third respondent by assigning valid reasons. The case of petitioner was that, his name is found in column Nos. 12 and 9 for the agricultural years 1988-89 to 1992-93, and that, he came to know of the order passed by the Deputy Tahsildar only in the month of December 2004 and immediately thereafter, he has filed the application before the second respondent to issue the certified copy of the order sheet maintained by the Land Tribunal vide Annexure B. Therefore, being aggrieved by the impugned order dated 1st August 1992, petitioner herein felt necessitated to present the instant writ petition, seeking appropriate reliefs, as stated supra.

3. I have heard learned Counsel appearing for petitioner and learned Counsel appearing for respondents.

4. After careful evaluation of the material available on record, including the certified copy of the order sheet, produced by the petitioner vide Annexure B, it can be seen that, petitioner is not a party to the proceedings before the Land Tribunal, Lingasugur and the deceased Channayya Hiremath is a party to the said proceedings who is none other than the brother of petitioner. The Land Tribunal, after hearing the learned Counsel appearing for both parties and after careful perusal of the record of rights and other relevant material available on its file found that, the land bearing Sy.Nos.60/3 and 6074 measuring 01 acre and 02 acres 04 guntas situate at Virapur Village, Lingasugur Taluk are standing in the name of the deceased Chennayya Hiremath for the relevant period and as on the date of passing the order in the year 1992, the deceased father of the petitioner was in possession cultivation of the lands and they have not received any objection from the other parties. Accordingly, the Land Tribunal, Lingasugur has registered the occupancy rights u/s 5(3) of the Karnataka Certain Inams Abolition Act, 1977. Be that as it may.

5. After the death of the father and mother of third respondent, third respondent has filed the application before the Village Accountant to transfer the land standing in the name of deceased Channayya Hiremath. The said application had come up for consideration before the Deputy Tahsildar, Nada kacheri, Gurugunta, Lingasugur. Petitioner has appeared before the said authority and filed his objections contending that, his name is found in the record of rights in respect of an extent of 02 acres 04 guntas in sy. No. 60/4 and requested not to transfer the said land in the name of third respondent. The Deputy Tahsildar, after critical evaluation of the relevant material available on file, specifically recorded that, for the agricultural years 1988-89 to 1992-93, in column No. 12, the name of deceased father of third respondent, Sri. Channayya Hiremath is rounded off and petitioner's name is shown, but without any basis and without any order from the competent authority. The said entry made cannot be considered nor the same is permissible for consideration for the reason that the same is not supported by any supportive evidence. Further, the second respondent observed that, as per the order of the Tahsildar dated 20th May 1998, Form No. 11 was

issued in the name of Sri. Channayya and after taking into all other relevant factors into consideration since both the father and mother have passed away, third respondent being the only son, ordered to enter the name of third respondent in the record of rights.

6. The stand taken by petitioner that, he came to know of the transfer of rights in respect of the lands in question, only after the passing of the order by the Deputy Tahsildar dated 3rd December 2004, on the basis of the application filed by third respondent for transfer of the land in question to his name, on account of the death of the mother and father of third respondent, is not justifiable and is wholly untenable for the reason that, petitioner has participated in the proceedings and filed his objections also. Further, it is significant to note that, the order in question assailed by petitioner is dated 1st August 1992. Petitioner has intentionally and deliberately not made any sincere efforts to follow up, pursue and redress his grievance at the appropriate stage within the reasonable time nor has he produced an iota of document before this Court to show that, his name is shown in the relevant records and is cultivating the land in question as on the relevant date when the matter was taken up by the Land Tribunal for registration of occupancy rights in favour of deceased father of third respondent Sri. Channayya Hiremath, except producing xerox copy of record of rights vide Annexure A, which shows that, for the agricultural year 2003-04 in respect of Sy. No. 6074 measuring 02 acres 04 guntas, petitioner's name is shown. This aspect of the matter has been rightly clarified by the Deputy Tahsildar in his order. Therefore, in view of not producing any clinching documentary evidence to establish that, petitioner is the owner of the land in question, and particularly as on the date of registration of occupancy rights in favour of the deceased Channayya Hiremath, it can safely be concluded that, petitioner has intentionally and deliberately suppressed all these relevant materials and approach this Court taking shelter under the order passed by the Deputy Tahsildar that, he came to know only when the land in question was transferred to the name of third respondent on account of the death of both the father and mother of third respondent. The said stand is not a valid ground for consideration and condoning the inordinate delay and laches on the part of petitioner in redressing his grievances.

7. Therefore, in the light of the facts and circumstances of the case, as stated above, in view of not explaining the inordinate delay of nearly one and half decades, satisfactorily, I am of the view that, the prayer sought for by petitioner cannot be considered at this belated stage.

8. Having regard to the facts and circumstances of the case, as stated above, the writ petition filed by petitioner is liable to be dismissed on the ground of delay and laches as well as on merits. Accordingly, it is dismissed.