

(2011) 11 KAR CK 0158
In the Karnataka High Court
Case No : Writ Petition No. 2846 of 2006 (LR)

Sri Muniraju and Others

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 08-11-2011

Acts Referred:

Karnataka Village Offices Abolition Act, 1961 — Section 7

Citation : (2011) 11 KAR CK 0158

Hon'ble Judges : Ajit J. Gunjal, J

Bench : Single Bench

Advocate : G. Papi Reddy, for the Appellant; H.V. Shyame Gowda, for R-8, for the Respondent

Final Decision : Dismissed

Judgement

Ajit J. Gunjal

1. The land in question is Survey No. 71 of Battaramarenahalli village measuring 2 acres 7 guntas. According to the petitioners, It is a service inam land and the provisions of Karnataka Village Offices Abolition Act, 1961 are attracted. The petitioners claim to be the great grand children of one Talawari Hanuma and the sons of one Anjanappa. It is their case that their father Anjanappa was the erstwhile holder of Village Office and discharging duties of village office of Talawara. He was in actual and lawful possession and enjoyment of land in question. After his death, the petitioners being his sons have lawfully continued to hold and possess the said land. Suffice it to say that one Narayan Gowda makes an application in Form No. 7 for grant of occupancy rights in respect of lands in question. Respondent No. 6, one Vajramuniyamma is alleged as the owner of the land in question before the Land Tribunal. The Land Tribunal grants occupancy rights in favour of the original applicant that is Narayan Gowda pursuant to an order dated 12.2.1981. The said order is questioned in this writ petition.

2. When the matter was listed before this Court, this Court was of the view that an enquiry is required to be held as to whether respondent No. 6 is the owner of the land in question. A report, it appears, is filed indicating respondent No. 6 has got nothing to do with the land.

3. Sri G. Papireddy, learned Counsel appearing for petitioners vehemently submit that the petitioners were not notified of the proceedings, in as much as the impugned order is passed without hearing them. Thus, it is in violation of principles of natural justice. He submits that respondent No. 6 has got nothing to do with the land in question.

4. Heard the learned Counsel for parties and perused the impugned order.

5. In the first instance, it is to be noticed that the impugned order is passed in the year 1961. The only reason given by the petitioners is that they were not notified of the proceedings. Indeed it is noticed that the writ petition is filed in the year 2008 after lapse of 28 years. It is trite that a person who claims to be the owner of the land in question does not venture to verify as to what has happened and wakes up after lapse of 27 years and questions the order. Indeed, the petitioners would claim that they are the great grand sons of one Talawari Hanuma, but however, nothing is made available to establish the said fact.

Another factor that is required to be noticed is that neither the father of petitioners nor the petitioners have filed any application for re grant of the land after vesting by virtue of the Karnataka Village Offices Abolition Act, 1961 having come into force as early as in the year 1973, After lapse of 45 years, the petitioners are before this Court practically seeking re-grant order in the guise of the order passed by the Land Tribunal.

6. Sri G. Papireddy, learned Counsel would press into service, Section 7 of the Karnataka Village Offices Abolition Act, 1961. But however, Section 7 is referable only to the eviction of unauthorised holders which is not the case here.

7. I am of the view that in the absence of any vested rights in the petitioners and without an order of re-grant, the question of them having any locus to question the impugned order does not arise. On both counts i.e., on the laches and locus, the petitioners are not entitled for the relief as sought for. Indeed, no reasons are forthcoming as to why there is delay of 28 years in questioning the order. It is also to be noticed that after the grant of occupancy rights in favour of the original applicant, Narayan Gowda, he has sold the property in favour of one L. Muniraju on 26.3.1997. It is said that L. Muniraju in turn has sold the property in favour of respondent No. 8, pursuant to another sale deed dated 8.6.2007. Incidentally, it is also to be noticed that the 3rd party rights have already been created. This is another reason as to why the petitioners are not entitled to any reliefs.

8. Consequently, the following order:

Petition stands rejected.

Sri R. Kumer, learned HCGP is permitted to file memo of appearance within four weeks from today.