

(2007) 07 KAR CK 0013
In the Karnataka High Court
Case No : Writ Petition No. 11247 of 2007

Sri N. Muniraju

APPELLANT

Vs

The Special Deputy Commissioner and Others

RESPONDENT

Date of Decision : 23-07-2007

Acts Referred:

Karnataka Land Revenue Act, 1964 — Section 128, 129

Citation : (2007) ILR (Kar) 3400 : (2007) 6 KarLJ 511 : (2007) 3 KCCR 2069

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

Bench : Single Bench

Advocate : U. Shivakumar, for S and S Associates, for the Appellant;

Judgement

N.K. Patil, J.—The petitioner, assailing the correctness of the order dated, 22.6.2007 passed by first respondent in Revision Petition No. 79/06-07 as per Annexure-N and also the order dated 17.7.2006 passed by the 2nd respondent, in RA. No. 377/04-05, as per Annexure-M, has presented this writ petition. Further, petitioner has sought for a direction to confirm the order passed by the 3rd respondent in MR No. 74/04-05 dated 24.12.2004, as per Annexure-K.

2. The only grievance of the petitioner in this writ petition is that, petitioner and his family are agriculturists and he is in peaceful possession and enjoyment of the land bearing Sy. No. 40 measuring 2 acres 02 guntas situate at Munnikolala village. He has succeeded to the said property from his ancestors and the said land was granted in the name of his grandfather as early as on 20.10.1940 under the Deprived Class Rules. The said land has been sold to one Sri. Shamanna Reddy under registered sale deed dated 19.9.1955. The petitioner's father has re-purchased the said land from Sri. Shamanna Reddy under registered sale deed dated 17.11.1961 and they succeeded to the said property. Be that as it may. One Sri. Natarajan-4th respondent herein on the basis of the concocted agreement for sale from the third parties, has filed a suit for permanent injunction before the jurisdictional Civil Court and obtained the decree. On the basis of the judgment and decree passed by competent Civil Court, the sale deed

has been executed in favour of 4th respondent. On the basis of the sale deed executed through the trial court proceedings, 4th respondent has filed an application before the 3rd respondent for change of mutation. The 3rd respondent has refused to consider the request of 4th respondent for sanctioning the mutation certification and to enter his name in the relevant revenue records, by order dated 28.10.2004 in vide Annexure-L. Assailing the correctness of the order dated 28.10.2004 vide Annexure-L passed by 3rd respondent, 4th respondent herein has filed an appeal before the 2nd respondent-Assistant Commissioner, Bangalore North-Sub Division, Bangalore, in proceeding No. RA:377:04-05. The 2nd respondent has allowed the said appeal filed by 4th respondent and set aside the order passed by 3rd respondent vide order dated 17.7.2006. Assailing the correctness of the said order, petitioner herein has filed a revision before the first respondent-Special Deputy Commissioner, Bangalore, in Revision Petition No. 79/06-07. The said matter had come up for consideration before the first respondent -revisional authority on 22.6.2007. The first respondent- revisional authority, after hearing both sides and after considering the relevant materials available on record, has dismissed the said revision petition filed by petitioner. Further, first respondent-revisional authority has upheld the observation made by second respondent that, entry found in the revenue record is subject to out come of the civil suit pending adjudication before the competent Civil Court. Being aggrieved by the impugned orders passed by respondents-1 and 2 as referred above and seeking appropriate relief, petitioner felt necessitated to present this writ petition.

3. I have heard learned Counsel appearing for petitioner.

4. After careful perusal of the materials available on record, including the impugned orders passed by respondents-1 and 2 as referred above, it is manifest on the face of the orders that, both the authorities have not committed any error, much less material irregularity in passing the said orders. Further, it is not in dispute that the 4th respondent has filed a suit for permanent injunction and in the said suit there was a compromise between the parties i.e. plaintiff and defendant therein and there was a compromise decree and on the basis of the said compromise decree, sale deed has been executed through court proceedings. On the basis of the said sale deed, 4th respondent has filed an application before the 3rd respondent for sanctioning the mutation and for entering his name in the relevant revenue records. But his request has been refused by 3rd respondent. Against that order, 4th respondent has filed an appeal before the 2nd respondent-Assistant Commissioner, who in turn, after hearing both sides and after giving an opportunity to both the parties and in compliance of the mandatory provisions of the Land Revenue Act and Rules, has rightly allowed the appeal and set aside the order passed by 3rd respondent. If there is any dispute between the petitioner and 4th respondent, he has no right to decide the sale deed executed through court proceedings and rightly, petitioner has already filed a civil suit for declaration before the jurisdictional Civil Court in O.S. No. 382/2003 on the file of the learned Civil Judge (Jr.Dvn.)

Bangalore, Rural District, Bangalore and the matter is pending adjudication. As per Sections 128 and 129 of the Land Revenue Act, if once the registered sale deed is executed in favour of the 4th respondent, the revenue authorities are bound to consider his request and to give effect to the same. Both the authorities have rightly opined to that effect. It is specifically observed by the first respondent-revisional authority, in its order that, it is incumbent on the part of the revenue authorities to change the katha of the land according to the tenor of the registered sale deed etc. whenever produced and they are not competent to adjudicate the validity or otherwise as well as the right and title over the property and the mutation of the land in question has been effected and change of katha during the pendency of the suit filed by the petitioner will not affect his right for redressal of his grievance in the said suit and the entry found in the relevant records is subject to outcome of the suit filed by petitioner. In the light of the above observations made by first respondent-revisional authority in its order, I do not find any justification or good grounds to entertain this writ petition, on an apprehension. Learned Counsel appearing for petitioner has vehemently submitted that petitioner is apprehending that the 4th respondent taking undue advantage of the entry found in the relevant records in pursuance of the order passed by the respondents-1 and 2, will alienate or change the nature of land. On an apprehension this Court cannot entertain this writ petition and interfere in the orders passed by the authorities. It is very much open for the petitioner to make such an application before the jurisdictional Civil Court, where the matter is pending adjudication. If such an application is filed by petitioner before the Civil Court, the Civil Court will consider the same and take appropriate decision, in accordance with law and after affording an opportunity to the petitioner and 4th respondent or any other interested persons. Therefore, interference by this Court, at this stage, is not justifiable. Nor I find any good grounds to entertain this writ petition. Hence, the writ petition filed by petitioner stands disposed of.