

(2013) 12 KAR CK 0150

In the Karnataka High Court

Case No : Writ Petition No. 50521 of 2013 (SC/ST)

Sri Yellappa

APPELLANT

Vs

The Special Deputy Commissioner, Bangalore District, The
Assistant Commissioner, Bangalore North Sub-Division, The
Tahasildar and Sri Bhoomi Reddy

RESPONDENT

Date of Decision : 16-12-2013

Acts Referred:

Citation : (2013) 12 KAR CK 0150

Hon'ble Judges : B.S. Patil, J

Bench : Single Bench

Advocate : Vema Reddy S, for the Appellant; Shwetha Krishnappa, HCGP for R1-R3 and Sri D.L. Jagadeesh, for R4, for the Respondent

Final Decision : Dismissed

Judgement

B.S. Patil, J.—Learned Government Pleader takes notice for respondents 1 to 3. In this writ petition, petitioner is challenging the order dated 23.08.2013 passed by the Deputy Commissioner, Bangalore District, Bangalore, thereby dismissing the appeal filed by the petitioner against the order passed by the Assistant Commissioner, Bangalore Sub-Division, Bangalore. Petitioner is also challenging the order dated 04.02.2013 passed by the Assistant Commissioner.

2. The facts, briefly stated are the petitioner claims to be a person belonging to Scheduled Caste. Land bearing Sy. No. 37 & 38 in Block No. 9 measuring 1 acre situated at Munnekolalu village, Varthur Hobli, Bangalore South Taluk, was granted in favour of Muniyappa @ Junja - grandfather of the petitioner vide order dated 23.06.1966 passed by the Tahsildar, Bangalore South Taluk. The said land was sold on 03.08.1967 allegedly in violation of the condition imposed in the Rules regulating the grant regarding non-alienation. Hence, petitioner claims to have filed an application before the Assistant Commissioner seeking restoration of the land impleading the 4th respondent - purchaser as party respondent. The Assistant Commissioner has passed the order holding that the dispute with

regard to resumption and restoration of the land in question had been considered at an earlier point of time on the application moved by the original grantee resulting in the orders passed by the Assistant Commissioner and the Deputy Commissioner rejecting the application holding that there was no violation of any condition regarding non-alienation of the granted land and that the said orders having been challenged before this Court in W.P. No. 12518/1987 the same was dismissed and the matter was taken up in W.A. No. 2142/1992, which also came to be dismissed confirming the order passed by the authorities refusing to restore and resume the land. Hence, the Asst. Commissioner held that the petitioner being the legal representative of the original grantee cannot again initiate fresh proceedings seeking restoration of the land on the very ground.

3. This order passed by the Assistant Commissioner on 04.02.2013 was challenged before the Deputy Commissioner. The Deputy Commissioner has confirmed the said order reiterating the reasons assigned by the Assistant Commissioner. Aggrieved by these two orders, the present writ petition is filed.

4. It is the case of the petitioner that the respondent authorities failed to appreciate that the earlier proceedings pertained to group of lands, filed by several grantees and no separate order was passed in respect of the land granted in favour of the ancestor of the petitioner and therefore, the orders passed earlier was vitiated.

5. I have heard the learned Counsel for the petitioner and the learned Government Pleader who has taken notice for respondents 1 to 3 and Mr. D.L. Jagadeesh, learned Counsel who has taken notice for the 4th respondent.

6. It is not in dispute that in the earlier round of proceedings, the grantee himself had filed application seeking resumption and restoration of the land contending that there was violation of the provisions contained u/s 4 of the Karnataka Scheduled Caste and Scheduled Tribe (Prohibition of Transfer of Certain Lands) Act, 1978, as is apparent from the findings recorded by both the authorities below viz., the Assistant Commissioner and the Deputy Commissioner. The said application filed by the original grantee has been dismissed holding that there was no violation of any rules regarding non-alienation. The said orders passed by the authorities under the Act has attained finality by virtue of the judgment of the Division Bench of this Court in W.A. No. 2142/1992. A copy of the said judgment dated 22.01.1996 is made available for perusal of the Court. Review petition in C.P. No. 897/1996 filed against the judgment rendered in W.A. No. 2142/1992 also came to be dismissed.

7. Petitioner cannot be permitted to raise the contention that earlier proceedings were filed by several grantees and no separate order was passed in respect of the land granted in favour of the ancestor of the petitioner, because all available contentions had been raised by the predecessor in-title of the petitioner viz., the original grantee and the same have been repelled.

8. In the light of the above undisputed facts, it is clear that petitioner cannot be

permitted to re-agitate the matter as the dispute has attained finality. Petitioner cannot be permitted to re-open the controversy as otherwise there will be no finality to the proceedings. As the petitioner is claiming under the grantee, the orders earlier passed bind him by virtue of the principle of res judicata. Petitioner is disentitled to initiate fresh proceedings urging the same grounds regarding violation of non-alienation condition. Hence, this writ petition is dismissed. Learned Government Pleader is permitted to file memo of appearance within three weeks from today.