
(1985) 12 KAR CK 0017
In the Karnataka High Court
Case No : W.A. No. 497 of 1980

State of Karnataka

APPELLANT

Vs

Land Tribunal

RESPONDENT

Date of Decision : 03-12-1985

Acts Referred:

Karnataka Land Reforms Act, 1961 — Section 44, 48

Citation : (1986) ILR (Kar) 1047

Hon'ble Judges : Venkatesh, J; Rama Jois, J

Bench : Division Bench

Advocate : S.V. Jagannath, HCGP, for the Appellant; D.L.N. Rao, for R-3, for the Respondent

Final Decision : Dismissed

Judgement

Rama Jois, J.—This Writ Appeal is by the State of Karnataka, aggrieved by the order of the Learned Single Judge dismissing the Writ Petition presented by it praying for quashing the order dated 9-1-1979 made by the Land Tribunal, Siruguppa, on the ground that the State had no locus standi to present the Writ Petition.

2. The facts of the case, in brief, are as follows : The second respondent in the appeal filed an application before the Land Tribunal, Siruguppa, u/s 48 of the Karnataka Land Reforms Act, 1961 (in short "the Act") claiming occupancy rights in respect of 2 acres 78 cents of land in Sy. No. 61/B of Siruguppa, Taluk Siruguppa, The applicant remained absent whets the matter was taken up before the Land Tribunal. After looking into the revenue records which showed that the third respondent was cultivating the land, the Tribunal dismissed the application of the second respondent. Aggrieved by the said order the State Government presented the Writ Petition before this Court.

3. The plea of the State in the Writ Petition was that the Tribunal could not have dismissed the application of the 2nd respondent merely on the ground that he

remained *exparte* for the reason that by virtue of Section 44 of the Act every land which was being lawfully cultivated by a tenant as on 1-3-1974 stands vested in the State Government and thereafter occupancy rights has to be granted to the tenant concerned on an application made by him in Form No. 7 before the Land Tribunal. But in the present case, the Tribunal dismissed the application of the second respondent on the ground that he remained *exparte*, without deciding the question as to whether the land was tenanted as on 1-3-1974 or not.

4. The Writ Petition of the State Government was dismissed by the Learned Single Judge on the ground that the State Government had no *locus standi* to present the Petition. In this appeal presented against the said order two grounds are raised by the State Government.

(i) Having regard to the scheme of the Act the Tribunal to which the application is made by a tenant seeking occupancy rights on the basis that he was lawfully cultivating the land as on 1-3-1974 was bound to decide the question as to whether the land was tenanted as on 1-3-1974, and it could not have dismissed the application *exparte* even if the tenant remained absent for the reason, by the mere fact the tenant remained absent is no ground to defeat the consequences of Section 44 of the Act.

(ii) The State Government has the *locus standi* to question the legality of the order of the Land Tribunal for the reason that if the Tribunal held that the tenanted land was not tenanted one as on 1-3-1974 it would affect vesting of the land in the State as provided u/s 44 of the Act.

5. Both the points are covered by the two earlier decisions of Single Judges of this Court. As far as the duty of the Tribunal to decide the application preferred before it in Form No. 7 on merits and that it cannot dismiss the claim for default is concerned, it is covered by the Judgment in *Puttaraju S.P. v. State of Karnataka & ors.* 1978 (1) KarLJ 378. As regards the *locus standi* of the State Government to question the legality of the decision of the Land Tribunal, it is covered by the judgment in *Sakrappa v. State of Karnataka* ILR 1985 Kant 1833. We are entirely in agreement, with the views expressed in the two decisions and the reasons in support thereof. Therefore, we are of the view that the dismissal of the Writ Petition of the State on the ground that it had no *locus standi* to present the Writ Petition cannot be upheld.

6. Sri D.L.N. Rao, Learned Counsel for the third respondent however submitted that though the Tribunal had stated that it was dismissing the application of the second respondent on the ground that he remained absent, the Tribunal had examined the claim of the 3rd respondent that he was actually cultivating the land as on 1-3-1974, and had recorded a finding that it was the landlord 3rd respondent who was cultivating the land.

7. After going through the order of the Land Tribunal, we are satisfied that the submission is well-founded the Land Tribunal did not merely dismiss the

application of the second respondent, for default but it went into the question as to who was actually lawfully cultivating the land as on 1-3-1974 and on the basis of the entries in the record of rights for the years 1967-68 upto 1971-72 it came to the conclusion that it was the third respondent who was actually cultivating the land and it was not a tenanted land. In view of the finding of fact recorded by the Tribunal we are of the view that there is no ground to interfere with the order of the Land Tribunal, notwithstanding the fact that both the grounds urged by the State are upheld.

8. In the result, we make the following order : The Writ Appeal is dismissed but for the reasons different from the one given by the Learned Single Judge.