

(1988) 09 KAR CK 0016
In the Karnataka High Court
Case No : Writ Petitions No. 8874 of 1987

State of Karnataka

APPELLANT

Vs

Land Tribunal, Sorab and Others

RESPONDENT

Date of Decision : 20-09-1988

Acts Referred:

Karnataka Land Reforms Act, 1961 — Section 126

Citation : (1989) 1 KarLJ 11

Hon'ble Judges : K. A. Swami, J

Judgement

SWAMI, J.-In this petition under Articles 226 and 227 of the Constitution, the petitioner-the State of Karnataka, has sought for quashing the order dated 21-9-1977 passed by the Land Tribunal, In case No. TNC. 145/74-75 (Annexure-A). The Tribunal has rejected the application filed respondent-2 on the ground that it has no jurisdiction to entertain the application as the Land bearing S. No. 45 measuring 6 acres 37 guntas of Hachye Village, Sorab Taluk, is a Devadaya Inam Land governed by the Mysore (Religious and Charitable) Inams Abolition Act, 1955 (hereinafter referred to as the Mysore Act).

2. Learned High Court Government Pleader, appearing for the petitioner, contends that having regard to Section 126 of the Karnataka Land Reforms Act, 1961, (hereinafter referred to as the Act), the Tribunal has jurisdiction to consider the application. In support of this contention he has placed reliance on a decision of this Court in RAMAKRISHNA v LAND REFORMS TRIBUNAL, RAMANAGARAM AND ANOTHER, [1977 (1) Kar. L.J. 334]. In the said decision it has been held as follows:

ORDER

These are tenants writ petitions challenging the orders passed by the Land Tribunal, Ramanagaram, directing the tenants to approach the special Deputy Commissioner for Inams Abolition for confirmation of the occupancy rights.

2. The impugned order is clearly in contravention of the provisions of S. 126 of

the Karnataka Land Reforms Act, 1961. Sec. 126 says:

"For the removal of doubts it is hereby declared that the provisions of this Act in so far as they confer any rights and impose obligation on tenants and landlords shall be applicable to tenants holding in inam and other alienated villages or lands and to landlords and inamdar holding and such villages or lands."

3. It is clear from the above, that the provisions of the Act are applicable in so far as they confer any rights and impose obligations on tenants and landlords holding lands in inam and other alienated villages or lands and to landlords and inamdar holding such villages or lands. Therefore, the Tribunal has committed an error of law apparent on the face of the record. Hence, the impugned orders are set aside and the proceedings are remanded to the Land Tribunal, Ramanagaram, for fresh disposal in accordance with law after giving opportunity to the parties to produce evidence and of be heard. The writ petitions are allowed. No costs.

4. From the aforesaid decision it is not clear as to whether it related to the lands which were governed by any of the enactments mentioned in Schedule II to the Act. As far as the land in question is concerned, it is governed by the Mysore Act which is one of the enactments included in the II Schedule to the Act. In such a case Section 141 of the Act makes it clear that nothing in the Act shall affect the provisions of any of the Land Tenures Abolition Acts specified in Schedule II to the Act, in so far as such provisions relate to the conferment of the right of an occupant or grant of a ryotwari patta in favour of any inferior holder or tenant in respect of any land held by him. Sections 141 and 126 of the Act are to be read together and are to be construed harmoniously. In the aforesaid Ramakrishna's case Section 141 of the Act had not been brought to the notice of the Court. Therefore, the decision in Ramakrishna's case is of no assistance to the petitioner. The Mysore Act provides for conferment of occupancy right in respect of the land in question. Therefore, the claim for grant of occupancy right has to be considered as per the provisions contained in the Mysore Act. At the relevant point of time when the Land Tribunal passed the order it was the Deputy-commissioner who had the jurisdiction to decide such a claim and consider such applications. It is only by the Karnataka Act No. 26 of 1979, the jurisdiction of the Deputy commissioner regarding conferment of occupancy right under the Mysore Act is transferred to the Tribunal. Therefore, the Tribunal is right in holding that it had no jurisdiction to confer occupancy right under the Mysore Act on the date it passed the order.

4. For the reasons stated above, the writ petition fails and the same is dismissed.

Writ Petition dismissed.