(2012) 01 KAR CK 0134

In the Karnataka High Court

Case No : Writ Petition No. 43368 of 2011 (KLR-RR/SUR)

State of Karnataka — APPELLANT

Vs

Sri Pruthviraja Ready and The Special Deputy Commissioner (Revenue) Bangalore District — RESPONDENT

Date of Decision : 04-01-2012

Acts Referred:

Karnataka Land Revenue Act, 1964 — Section 136 (3)

Citation : (2012) 01 KAR CK 0134

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

Bench : Single Bench

Advocate : D.R. Rajashekharappa, for the Appellant;

Final Decision : Dismissed

Judgement

B.S. Patil

1. The State Government is calling in question the order dated 21.08.2010 passed by the Special Deputy Commissioner, Bangalore District, thereby dropping the suo motu proceedings initiated by him u/s 136(3) of the Karnataka Land Revenue Act, 1964 (for short ''the Act'').

2. The Principal Secretary, Department of Revenue, Government of Karnataka, Bangalore addressed a letter dated 13.10.2006 to the Deputy Commissioner requesting to take necessary action with regard to the entries effected in the revenue records in the names of some private individuals, of the property allegedly belonging to the Government comprised in Sy.No. 21 of Hosahalli Village, Jala Hobli, Bangalore North (Additional) Taluk and to take steps to correct the revenue entries.

3. Based on the said letter, the Deputy Commissioner initiated suo motu proceedings u/s 136(3) of the Act to examine the genuineness of the entries made in the revenue records as per mutation entry effected in the name of the 1st respondent herein in M.R.No. 59/2004-05 in respect of the land bearing Sy.

No. 21 measuring 2 acres. The Deputy Commissioner issued a show cause notice dated 30.10.2006 to the 1st respondent calling upon him to show cause why the entries made in the revenue records in his name should not be cancelled. Pursuant to the notice issued, objections were filed.

4. The Deputy Commissioner, has recorded a finding that as per the registered sale deed dated 27.05.1946 executed by the original owner Sri. Syed Masthan Sab in favour of Sri. Abdul Sattar Sab, there was a clear recital to the effect that the land was acquired by Hangami Saguvalli and was in possession and enjoyment to an extent of 4 acres. Subsequently, the land came to be alienated by Sri. Abdul Sattar in favour Sri. Syed Mohiyuddin as per the registered sale deed dated 03.05.1947.

5. The Deputy Commissioner has further referred to the sale transaction dated 15.01.1973 and the mortgage effected in respect of the land on 11.12.1973 which was subsequently got released on 03.11.1981 and the mutation entries effected by virtue of the sale deed. The Deputy Commissioner has also referred to the sale deed executed on 11.01.1996 and the mutation subsequently effected in M.R.No. 59/2004-05 apart from referring to the entries in the pahanis with effect from 1968-69 to 2001-02, wherein entries were made in favour of the owners at different points of time who acquired title to the property. Subsequent to 2005-06, the name of Sri. J. Pruthviraj Reddy-1st respondent herein has been shown in the revenue records based on the purchase made under the sale deed dated 11.01.1996.

6. Thus, the Deputy Commissioner has come to the conclusion that though original grant order was not made available, the recitals in the registered sale deed dated 27.05.1946 which was the original document evidencing title to the property disclosed that the land in question was granted for temporary cultivation in favour of Sri. Syed Masthan Sab much earlier to 1946 and he alienated the land thereafter. Taking note of the indisputable documents of ancient origin and the revenue records which consistently showed the names of private individuals from time to time as per the purchase made by them, the Deputy Commissioner has recorded a finding that there was no room for interference in exercise of the revisional powers u/s 136(3) of the Act, to set, aside such entries.

7. Learned counsel for the petitioner contends that, the Deputy Commissioner has erred in not perusing the original documents and in not noticing that the entries had been effected fraudulently in the revenue record.

8. Such contentions cannot be entertained, in light of the findings of the Deputy Commissioner. No illegality is committed by the Deputy Commissioner in passing the impugned order as the order is based on materials on record that disclosed sufficient basis for the entries in favour of the 1st respondent. There is no basis for the allegation of fraud made.

9. If at all the petitioner intends to establish that the entries were got effected by

playing fraud and in collusion with the officers, then the petitioner has to lay a proper foundation for such a case and establish the same before the competent Court by filing a suit in accordance with law, if only such claim could be laid as per law. No illegality can be attributed to the order passed by the Deputy Commissioner declining to exercise his suo motu revisional powers to set aside the entries that have stood the test of time and have been consistent in showing the names of private individuals for the last more than 65 years.

10. Hence, this writ petition is dismissed subject to the observations made above.

