(2001) 06 KAR CK 0012

In the Karnataka High Court

Case No : Writ Petition No. 38612 of 2000

Sunny Augastin APPELLANT

Vs

The Deputy Commissioner and Others RESPONDENT

Date of Decision : 06-06-2001

Acts Referred:

Karnataka Land Revenue Act, 1964 — Section 50, 94 A

Citation : (2001) 3 KCCR 2018

Hon'ble Judges : V. Gopala Gowda, J

Bench : Single Bench

Advocate : K. Govindaraj, for the Appellant; P. Satyanarayana, A.G.A. for Respondents 1 to 3, for the Respondent

Final Decision : Allowed

Judgement

V. Gopala Gowda, J.—Petitioner was in unauthorised cultivation of land bearing Sy. No. 23/1A, 1B2 of Nelyadi Village in Mangalore District. On the application filed by him u/s 94A of the Karnataka Land Revenue Act, his unauthorised cultivation was regularised by issuing Saguvali Chit as per Annexure-C dated 7.1.1997. That was challenged by the 4th Respondent in appeal before the Assistant Commissioner. The Assistant Commissioner by his order at Annexure-E dated 31.3.1999 allowed the appeal, and set aside the Saguvali Chit at Annexure-C and ordered to take the land into the possession of Government and to submit proposal to reserve the land for public purpose. The said order was confirmed by the Deputy Commissioner in the second appeal filed by the Petitioner u/s 50 of the Karnataka Land Revenue Act by his order at Annexure-F dated 20.11.2000. Petitioner is seeking to quash both these orders in this writ petition.

2. It is not in dispute that the land in question was regularised under Annexure-C in favour of the Petitioner. The same has been set-aside in the appeal preferred by the 4th Respondent. 4th Respondent claimed that an extent of 0-07 cents had been granted to him and he was aggrieved by the regularisation made in favour of the Petitioner. It is pertinent to note that if the claim of 4th Respondent was

genuine, he would not have kept quiet when the Assistant Commissioner ordered to take the land into the possession of the Government and to reserve it for public purpose. He would have preferred appeal questioning the legality and validity of the said order. But 4th Respondent did not do so. Though he claimed that the extent stated above was granted in his favour, he questioned the regularisation made in favour of the Petitioner and at the same time he remained silent when the Assistant Commissioner passed adverse order at Annexure-E against both. This shows that the rivalry exhibited by the 4th Respondent against the Petitioner. Petitioner did not kept quiet as was done by the 4th Respondent. He has questioned the order of the Assistant Commissioner before the Deputy Commissioner, which resulted in failure. Therefore, the order passed by the Assistant Commissioner at the instance of 4th Respondent was not warranted.

3. One of the reasons furnished by the Assistant Commissioner in his order is that in Column 2 the Revenue Inspector has made a report that the land is required for public purpose. On what basis such an entry was made by the Revenue Inspector is not disclosed and even copy of the report of the Revenue Inspector was not furnished to the Petitioner. Therefore, the impugned order at Annexure-E is bad in law and cannot be sustained. It follows that order of the Deputy Commissioner at Annexure-F confirming the order of Assistant Commissioner which was bad in law, is nullity in the eye of law.

4. Writ Petition is allowed and impugned orders at Annexures-E and F are hereby quashed.

