
(2015) 07 KAR CK 0302

In the Karnataka High Court

Case No : Writ Petition No. 48851 of 2014 (KLR-RR/SUR)

Suresh Chandra Mehta

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 03-07-2015

Acts Referred:

Karnataka Land Revenue Act, 1964 — Section 128, 129

Citation : (2015) 5 KarLJ 125

Hon'ble Judges : Ram Mohan Reddy, J

Bench : Single Bench

Advocate : Naveed Ahmed, for the Appellant; E.R. Diwakar, Additional Government Advocate, Advocates for the Respondent

Final Decision : Partly Allowed

Judgement

Ram Mohan Reddy, J—Facts briefly stated are:

"4 Acres in Sy. No. 200/19 of Marenahalli, Jala Hobli, Devanahalli Taluk, Bangalore District, is claimed to be owned, and possessed by the petitioner having acquired the same under a registered deed of sale executed by his vendor by name Ramaiah, pursuant to which in the year 1972, in accordance with Section 128 of the Karnataka Land Revenue Act, 1964, mutation entry was effected in the name of the petitioner in respect of 2 out of 4 acres. These entries it is stated were in force until the year 2000. Petitioner having noticed the discrepancy in not recording his name for the balance extent of 2 acres, made a representation Annexure-C on 12-10-2006 to 3rd respondent-Tahsildar, who did not take any action and therefore, filed Writ Petition No. 10979 of 2008 whence, by order dated 20-11-2008, Annexure-D, a direction was issued to the Tahsildar to consider the representation and passed orders in accordance with law within three months therefrom. Petitioner filed a representation on 18-12-2008 enclosing a copy of order Annexure-D with a request to comply with the direction, whence, the 3rd respondent by order dated 9-3-2009 initiated a proceeding under Section 129 of the Act by registering the dispute as No. RRT.

118/08-09 and accordingly, rejected 4 petitioner's claim on the premise that certain illegal encroachment of Government land had taken place and the petitioner purchased 4 acres of land from one Ramaiah who in turn had acquired the property from one Venkatappa grantee while there was no grant in favour of Venkatappa.

That order dated 9th March, 2009 of the Tahsildar is said to have been challenged in Writ Petition No. 4681 of 2010 (Sureshchandra Mehta Vs. The Additional Tahsildar, (2010) 3 KarLJ 268), whence, by order dated 5th April, 2010, learned Single Judge issued a direction to the Deputy Commissioner to hold an enquiry over alleged encroachment by issuing notice to the vendor of the petitioner as also the grantee by name Venkatappa who allegedly made illegal encroachment and sold the property and to pass orders in accordance with law. It is the further assertion of the petitioner that the Deputy Commissioner conducted a detailed enquiry, extended reasonable opportunity of hearing to all the parties and recording findings that petitioner was the owner of the said property, having acquired title under the registered sale deed and that the immovable property was not classified gomal land, hence, directed the 3rd respondent to re-enter the name of the petitioner in the revenue records, by order dated 11-6-2013, Annexure-G."

By order dated 12-8-2013, Annexure-H, the 3rd respondent is said to have corrected the survey number as Sy. No. 200/P19 in place of Sy. No. 200/19, who sought consent of the 2nd respondent-Deputy Commissioner to re-enter the name of the petitioner in the revenue records by letter dated 8-5-2014 Annexure-J. The 3rd respondent-Tahsildar yet again by another letter dated 8-5-2014 rectified the mistake and corrected the Survey Numbers as 200/19 and not 200/P19.

2. Inaction on the part of the 3rd respondent to give effect to the order dated 11-6-2013 of Annexure-G of the Deputy Commissioner has resulted in this petition for a writ of mandamus to re-enter the name of the petitioner in the revenue records in respect of 4 acres of land in Survey Number 200/19, Marenahalli, Jala Hobli, Devanahalli Taluk, Bangalore District, and; for a direction to the 3rd respondent to pay damages to the petitioner as also cost of litigation.

3. Petition is not opposed by filing statement of objections. Learned Counsel for petitioner reiterates the averments made in the memorandum of writ petition while learned Government Advocate in great elaboration, consuming sufficient public time read over the order dated 11-6-2013 consisting of 12 pages to submit that a writ of mandamus be issued to the 3rd respondent to comply with the order.

4. In the facts and circumstances stated supra, there can be no more doubt that petitioner is subjected to unwanted harassment at the hands of the 3rd respondent-Tahsildar, both by driving him to Courts, to institute proceedings, suffer orders, while the allegation that there was no grant in favour of the vendor

in title by name Venkatappa commenced by the 3rd respondent was found to be false by order Annexure-G of the Deputy Commissioner. Even thereafterwards, the 3rd respondent-Tahsildar has been dillydally in the discharge of statutory duties occasioning grave injustice and miscarriage of justice. It is in this backdrop there is need to compensate the petitioner in terms of money and for a direction to the 3rd respondent to comply with the order Annexure-G of the Deputy Commissioner. In the result, this petition is allowed in part. A writ of mandamus shall ensue to the 3rd respondent to record the name of the petitioner in the revenue record, in compliance with the order Annexure-G of the Deputy Commissioner. Cost quantified at Rs. 50,000/- payable to the petitioner by the 3rd respondent from out of his salary. The Chief Secretary, Government of Karnataka to ensure that the amount is paid to the petitioner and thereafter, recover the same from the salary of the 3rd respondent.