

(2013) 03 KAR CK 0044

In the Karnataka High Court

Case No : Writ Petition No's. 100700 to 100702 of 2013 (LR-RES)

Suvarna and Others

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 22-03-2013

Acts Referred:

Karnataka Land Reforms Act, 1961 — Section 79-A, 79-B, 83

Citation : (2013) 4 KarLJ 300

Hon'ble Judges : D.V. Shylendra Kumar, J

Bench : Single Bench

Advocate : Khadar Khan, for the Appellant; Manavendra Reddy, Government Advocate, for the Respondent

Final Decision : Dismissed

Judgement

D.V. Shylendra Kumar, J.—These writ petitions are by persons claiming to be legal heirs of the third respondent. Writ petitioners have questioned the order dated 30-10-2012 passed by the Assistant Commissioner, Sedam exercising his power under Sections 79-A and 79-B read with Section 83 of the Karnataka Land Reforms Act, 1961 (for short, "the Act") forfeiting to the State amongst other lands, the land comprising Sy. No. 170 of Moghala Village in Gulbarga Taluk and District and has sought for quashing of the said order insofar as the survey number is concerned and for a writ of mandamus to direct the Revenue Authorities to delete the name of the Government in the Revenue records and to enter the name of the petitioners and respondent 3 in place of the name of the Government. Sri Khadar Khan, learned Counsel appearing for the petitioners submits that the writ petitioners have filed a civil suit in O.S. No. 169 of 2011 on the file of Civil Judge (Senior Division), Chittapur, impleading amongst others the third respondent as a defendant and seeking for a declaration that the sale transactions effected by the third respondent in favour of third parties are all null and void and not binding on the petitioners as the third respondent being the member of the family would not have alienated the properties in the petitioners"

interest and therefore has sought for declaration to set aside the sale transactions etc.

2. It is submitted that in view of such suit being pending, in the meanwhile the Assistant Commissioner has passed an order forfeiting the said property to the State, the suit would be rendered infructuous and therefore it has become inevitable for the petitioners to question the order of the Assistant Commissioner before this Court under writ jurisdiction, having no other alternative remedy.

3. Sri Manavendra Reddy, learned Government Advocate who has received advance notice, appears for respondents 1 and 2.

4. Sri Manavendra Reddy, learned Government Advocate points out that, in the first instance petitioners have to locus to question the order, as the third and fourth respondents against whom the order has been passed have not sought for any relief.

5. It is also submitted that the fourth respondent who has purchased the property from the third respondent also has not questioned the impugned order. It is the property in the name of the purchaser namely, Veerabhadrapa, which has come to be forfeited to the State, as the fourth respondent is not able to make good before the Assistant Commissioner that he was a bona fide agriculturist and purchased the land for agricultural operation etc.

6. Sri Manavendra Reddy, learned Government Advocate also submits that they are all sham transactions, just to defeat the provisions of the Act, the restrictions and prohibition imposed under the Act against non-agriculturists acquiring agricultural land.

7. It is also pointed out that even a person who is aggrieved by the order passed by the Assistant Commissioner has a statutory remedy of an appeal as per Section 118 of the Act, to the Revenue Appellate Tribunal and therefore these writ petitions should not be entertained.

8. I do not find necessity to go into the question as to whether the petitioners are persons with any locus to question the order passed by the Assistant Commissioner, as these writ petitions are not entertained and it is open to the petitioners, if they have any remedies under law, to avail of the same. Without prejudice to the rights and remedies of the petitioners, these writ petitions are dismissed.