
(2003) 09 KAR CK 0043

In the Karnataka High Court

Case No : Writ Petition No"s. 27451-52 of 2003

Tanibai Ramchandra Patil

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 01-09-2003

Acts Referred:

Citation : (2003) ILR (Kar) 4056

Hon'ble Judges : V. Gopala Gowda, J

Bench : Single Bench

Advocate : R.D. Gokakar, for the Appellant; J. Nagaraj, AGA for R1 and 2 and Ravi S. Balikai, for R3a-4d and 5b, for the Respondent

Final Decision : Dismissed

Judgement

Gopala Gowda, J.—The petitioner is questioning the correctness of the impugned order at Annexure-A dated 30.4.2003 passed by Land Tribunal granting occupancy rights in favour of the legal representatives of deceased respondents 3 to 5 in respect of Sy. Nos. 463/2 and 463/3 of Bidakihal village.

2. According to the petitioner, the 3rd respondent and one Keshava Nimbalkar were cultivating the lands prior to 1958 and on 23.7.1958 the 3rd respondent and widow of Keshava Nimbalkar had executed Surrender Deed and pursuant to the same their names had been deleted by M.E.No. 1623 and the name of the landlady was entered in the revenue records from 1965-66 onwards. The copies of Record of Rights are produced as Annexure-B and C series. It is contended that without considering the said important documents the land tribunal erroneously granted occupancy rights. Counsel for the petitioner relied upon the decisions reported in Siddamma and Another Vs. State of Karnataka and Others, , Vallabbhai Nathabhai Vs. Bai jivi and Others, , .

3. I have perused the impugned order. It is a lengthy order. At paragraph 14 of the order, the land tribunal considered the alleged surrender. It was found that the three applicants Ravu Arjun Mane, Bhavu Arjun Mane and Devu Arjun Mane,

who were brothers, filed the application jointly for grant of occupancy rights. But, the surrender was made by Ravu Arjun Mane and Smt. Champabai. The other two applicants have not signed the surrender application. Even their consent for surrender also was not obtained. Added to that, there is no document for having handing-over possession to the landlord. Taking into consideration these aspects, the land tribunal has rightly held that there was no valid surrender.

4. The land tribunal also took note of the sale agreement^{4.4.1971} executed by the landlady in favour of the applicant in respect of the lands in question. In that agreement there is a recital that the lands are under cultivation of the tenants. The applicants have produced receipts for having paid geni. The letter dated 24.10.1970 seeking payment of the money in respect of the lands in question was also considered by the land tribunal. It was also found that the Tobacco License stood in the name of the applicants from 1970-71 to 1978-80. The receipts for having purchased pumpset, payment of electricity bills, receipts for having paid bank loans and receipt for having given levy paddy, even though stood in the name of the landlady, were all produced by the applicants. If really the applicants surrendered the land and were not cultivating the lands as tenants, all these receipts would not have been in their custody. The adjacent land owner Balappa Jamu Jagadev has stated that the applicants have been in possession and cultivation of the lands as tenants from even prior to 1958. Taking into consideration all these documents and the statements, the land tribunal rightly held that the lands are tenanted and accordingly granted occupancy rights. The impugned order is a well considered and I do not find any ground to disturb the same.

5. The order impugned is also in conformity with the law laid down by this Court in Puttegowda Vs. State of Karnataka and Others, . Hence, the decisions relied upon by the learned Counsel for the petitioner are inapplicable to the case on hand.

6. For the aforesaid reasons, the Writ Petitions are dismissed.