
(2015) 07 KAR CK 0377

In the Karnataka High Court

Case No : Writ Petition Nos. 104104 and 107268-272 of 2015 [KLR-RES]

Venkatesh and Others

APPELLANT

Vs

The State of Karnataka and Others

RESPONDENT

Date of Decision : 20-07-2015

Acts Referred:

Citation : (2015) 07 KAR CK 0377

Hon'ble Judges : B. Veerappa, J

Bench : Single Bench

Advocate : V.S. Kalasurmath, for the Appellant; Ravi V. Hosamani, AGA,
Advocates for the Respondent

Final Decision : Disposed off

Judgement

B. Veerappa, J—The petitioners in the above writ petitions sought for a writ of mandamus directing the respondents 3 and 4 to consider the representations dated 15.09.2014 vide Annexures "D" and "E" for grant of land and pass orders in accordance with law.

2. It is the case of the petitioners that they are the residents of Aremallapur village of Ranebennur Taluk and Haveri District and they have been in possession and enjoyment of the lands bearing Sy. No. 186 of Aremallapur village, measuring 20 acres 26 guntas, out of which 1 acre 29 guntas is pot karab land. The petitioners belong to scheduled caste community. It is their further case that the petitioners' father Yenappa Hanamappa Waddar and Sanjeevappa Waddar were granted 10 acres and 13 guntas of land respectively by respondent No. 3 on 21.02.1968 and since, then they have been in possession and enjoyment of the same for more than 45 years and the petitioners have paid fixed market value from time to time and even after the orders passed on 21.02.1968, the petitioners continued in possession of land in question and the RTC also shows their father's name both in Column No. 12 as cultivators and column No. 9. They further contended that the petitioners came to know that their name came to be entered in the record of rights as legal representatives of the original grantee

only with respect of 4 acres 15 guntas and the remaining 13 acres 11 guntas is in the name of Sarkari Hullugavalu and even the entire land is granted in favour of the petitioners" father by respondent No. 3 in the year 1968. Respondent No. 3 without holding any enquiry or looking into the documents, originally granted to the petitioners" father in the year 1968 and without giving an opportunity to the petitioners, entered the name as Sarkari Hullugavalu to the extent of 13 acres 11 guntas, which is against law; even though the petitioners have regularly paid the premium, but for the few years, they have not paid the premium; now, they are ready to pay the same as they are cultivating the lands since 50 years. Therefore, the petitioners submitted that their representations dated 15.09.2014 to the 4th respondent requesting to reconsider the entire matter and to enter the name of the petitioners deleting the name Sarkaari Hullugavalu, by taking requisite premium in respect of the said lands. However, the same was not considered so far. The petitioners have been approaching the authorities time and again with a request to grant the land, which is in their possession. No action has been taken by the respondents to consider the representations of the petitioners, etc.

3. I have heard the learned counsel for the parties to the lis.

4. Sri. V.S. Kalasurmam, learned counsel for the petitioners, has contended that non-consideration of the representations by the respondent No. 3 is opposed to law and arbitrary. Before entering the name of Government as Sarkaari Hullugavalu, no notice was issued to the petitioners nor an opportunity was given. Therefore, they have made representations before the authorities as long back as on 15.09.2014. The same is not considered. Therefore, he sought to allow the writ petitions as prayed for.

5. Per contra, learned AGA has contended that, as admitted by the petitioners in the petitions itself, without notice to the petitioners, the name Sarkaari Hullugavalu was shown in the RTC in respect of 13 acres 11 guntas of land, which is not at all challenged by the petitioners. Therefore, they are not entitled to any relief before this Court.

6. I have given my thoughtful consideration to the arguments advanced by the learned counsel for the parties and perused the entire material on record.

7. According to the petitioners, the property in question was granted to the their fathers in the year 1968 and subsequently, 4 acres was shown in favour of the petitioners and remaining 13 acres and 11 guntas was shown as Sarkari Hullugavalu, without notice to them. Therefore, they made representations before respondents 3 and 4 on 15.09.2014 to grant the said land. The respondent ought to have considered the representations with reference to the original records, since the petitioners alleged that the said land was granted to them.

8. Whether the land was granted to the petitioners" father in the year 1968 or not, has to be determined by the respondents, based on the original records and

the said exercise has not been done in the present case. Therefore, it is appropriate to direct the respondent Nos. 3 and 4 to consider the representations of the petitioners dated 15.09.2014, as per Annexures "D" and "E", and pass orders based on original records, after giving notice to the petitioners and in accordance with law, within a period of four months from the date of receipt of a copy of this order.

All contentions of both parties are left open.

The writ petitions are disposed of accordingly.