

(2016) 03 KAR CK 0237

In the Karnataka High Court

Case No : Writ Petition No. 103699 of 2014 (LR).

**Virupakshappa Ishwarappa Martur - Petitioner @HASH State of
Karnataka and Others**

Date of Decision : 17-03-2016

Acts Referred:

Karnataka Land Reforms Act, 1961 — Section 48A

Citation : (2016) 3 KantLJ 301

Hon'ble Judges : B. Manohar, J.

Bench : Single Bench

Advocate : Sri Gode Nagaraja, Advocate, for the Petitioner; Sri Ravi V. Hosamani, Additional Government Advocate, for the Respondent Nos. 1 and 2

Final Decision : Dismissed

Judgement

Mr. B. Manohar, J. - The petitioner in this writ petition has challenged the order dated 18-3-1981 passed by the Land Tribunal, Hanagal, granting occupancy rights in favour of the tenant to an extent of 1 acre 13 guntas of land in Sy. No. 185/1 situated at Naregal Village, Hangal Taluk and vesting remaining 2 acres of land with the Government.

2. Sri Code Nagaraja, learned Counsel appearing for the petitioner contended that Sangappa Erappa Angadi was the tenant of 1 acre 13 guntas of land in Sy. No. 185/1 situated at Naregal Village. However, he filed Form 7 in respect of 3 acres 13 guntas of land in said survey number. During the course of enquiry, the tenant made a submission that he is in possession and cultivation of 1 acre 13 guntas of land and he had surrendered remaining 2 acres of land about 8 years back. On the basis of the said statement, the Land Tribunal granted occupancy rights in respect of 1 acre 13 guntas of land in favour of Sangappa Erappa Angadi and found that remaining 2 acres of land is a tenanted land, in view of coming into force of the Karnataka Land Reforms Act, 1961, all tenanted lands vested with the tenants and ordered for vesting of the 2 acres of land in favour of State Government. The said order is sought to be questioned by the landlord before this Court after lapse of 34 years.

3. In paragraph 12 of the writ petition, the petitioner has explained the cause for the delay. He has stated that, he came to know of the order only in the year 2012 and on verification of mutation entry that the Land Tribunal has passed the order vesting 2 acres of land with the State Government. Hence, he has filed the writ petition.

4. The learned Additional Government Advocate appearing for the respondents 1 and 2 submits that there is inordinate delay of 34 years in filing this petition. As on the date of passing of the order, the petitioner was present. Hence, it is not open to the petitioner to contend that he was not aware of the order passed by the Land Tribunal and that he came to know only in the year 2012. Hence, he sought for dismissal of the writ petition on the ground of delay and laches.

5. I have carefully considered the arguments addressed by the Counsel appearing for the parties and perused the order passed by the Land Tribunal and other records.

6. The record would clearly disclose that the Land Tribunal by its order dated 18-3-1981 granted occupancy rights to an extent of 1 acre 13 guntas in Sy. No. 185/1 in favour of the tenant. Though the tenant submitted that was cultivating 3 acres 13 guntas of land about 8 to 10 years back, he himself confined his tenancy rights only to an extent of 1 acre 13 guntas. As the tenant was not willing to claim tenancy in respect of remaining 2 acres of laird, the said land had to be vested with the State Government. Accordingly, the Land Tribunal had passed the said order. The order passed by the Land Tribunal dated 18-3-1981 was questioned by the tenant in W.P. No. 25275 of 1993 before this Court. This Court dismissed the said writ petition and confirmed the order passed by the Land Tribunal in the year 2001 itself. In the said writ petition, the petitioner and his brother were parties and they engaged the services of an Advocate. Hence, it is clear that the petitioners are fully aware of the order passed by the Land Tribunal in the year 1981 if not in the year 1993. Copy of the writ petition has been served upon him. The reason assigned in paragraph 8 is patently incorrect. The petitioner has not approached the Court with clean hands. The inordinate delay of 34 years in filing the writ petition cannot be condoned that too when the petitioner was present on the date of passing of the order. The petitioner has not made out a case to interfere with the order impugned and to condone the inordinate delay. Accordingly, the writ petition is dismissed.