

(1991) 03 KAR CK 0039

In the Karnataka High Court

Case No : W.P. No. 2222 of 1984 c/w W.P. No. 2055 of 1984 c/w W.P. No. 2232 of 1984

Yejman Eregowda and Others

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 06-03-1991

Acts Referred:

Karnataka (Religious and Charitable) Inams Abolition Act, 1955 — Section 6A

Citation : (1991) 1 KarLJ 509

Hon'ble Judges : H. G. Balakrishna, J

Judgement

H.G. Balakrishna, J.-In all these writ petitions, the petitioners are common and they are stated to be the villagers and, to be more precise, senior members of the village. They have sought for a declaration that Section 6-A as brought into force under Karnataka Act 27 of 1973 amending the provisions of Karnataka Act No. 18 of 1975, an unconstitutional, null and void. They have also asked for a writ of certiorari quashing the order dated 16-3-1982 at Annexure-C in W.P. No. 2232 of 1984, Annexure-D dated 16-3-1982 in W.P. No. 2055 of 1984 and Annexure-C dated 16-3-1982 in W.P. No. 2222 of 1984.

2. Sri P.R. Ramesh, learned counsel appearing for the petitioners in these cases submitted that though, in all these cases, the temples were established, maintained and run by the villagers and eventhough these temples are not Muzrai Institutions, the impugned orders have been passed without an opportunity of hearing to the Members of the village community who are necessary and proper parties with a right to be heard.

3. All the impugned orders run on the same lines with a familiar pattern in the sense that only the applicants seeking occupancy rights have been heard with the respondent therein being only the temple as a silent spectator. In all these uncontested matters which otherwise would have been contested had the villagers been notified, one sided orders have been passed in favour of the applicants conceding occupancy rights. In the circumstances of the cases, it

would be unnecessary to go into the merits of the impugned orders. There is sufficient basis to infer that the petitioners were never notified and never heard by the Land Tribunal in all the three cases. It appears to me that the Tahsildar has arrogated himself the power to represent the temples which are not Muzrai Institutions. It is my opinion that the Tahsildar is not a representative of the Temples, but is only a representative of the Government which does not have any sway over these Temples for the reason that they are not Muzrai Institutions. In other words, the Tahsildar is not a necessary and proper party. The necessary parties are atleast the senior members of the village community to whom these temples belong. Valuable rights of occupancy Cannot be bartered away in this fashion by the Tribunal. In the circumstances of the case, I am of the opinion that a Notification or public notice should have been issued informing the village community concerned, of the applications made for grant of occupancy rights by the Archaks of the Temples before deciding upon the grant of occupancy rights. The procedure adopted by the Tribunal is contrary to law and Rules of natural justice. Hence the following order:

ORDER

The writ petitions are allowed. The impugned orders passed by the Land Tribunal, Channapatna Taluk, in all the three cases viz., Annexure-C dated 16-3-1982 in W.P. No. 2222 of 1984; Annexure-D dated 16-3-1982 in W.P. No. 2055 of 1984 and Annexure-C dated 16-3-1982 in W.P. No. 2232 of 1984; are quashed. It is not necessary to go into the constitutional validity of the provisions since the learned counsel for the petitioners wanted the questions to be left open. The cases are remitted back to the Land Tribunal, Channapatna Taluk, with a direction to notify the village community by issuing a public notice and to afford a reasonable opportunity of hearing to the senior members of the concerned village community, hold an enquiry and to dispose of the cases on merits in accordance with law, expeditiously, after affording reasonable opportunity of hearing to all the concerned parties. All the questions urged in these writ petitions are left open for decision on merits by the Land Tribunal.

4. The learned counsel appearing for the petitioners submitted a memo dated 6-3-1991 stating that in each of the writ petitions, the 1st petitioner may be deleted. Accordingly, it is ordered that the 1st petitioner in each of the writ petitions shall be deleted.