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Court : Karnataka

Decided On : Jun-18-2015

Judge : Ram Mohan Reddy

Appeal No. : Writ Petition No. 21153 of 2012 (SC-ST)

Appellant : Muni Rajappa

Respondent : Assistant Commissioner, Bangalore North Sub-Division, Bangalore and Others

Judgement :

1. Petitioner claiming to be the son of one Durgappa S/o Badiga, a grantee of 2 acres of land in Sy. No. 177 of Bagalur Village, Jala Holi, aggrieved by the conveyance of 1acre of said granted land by his father under a sale deed registered on 25-4-1959 jointly in favour of respondents 2, 3 and 4 as also balance 1acre of land under the registered sale deed 2-1-1961 in favour of said respondents 2, 3 and 4 alleging that his father belonging to Scheduled Caste community had conveyed the granted land in violation of conditions of the grant, filed an application under Section 4 of the Karnataka Scheduled Caste and Scheduled Tribes (prohibition of Transfer of certain Lands) Act, 1978 (for short, the PTCL Act') for a declaration to annul the sale deeds and restore the land to the petitioner.

2. That application when considered by the Assistant Commissioner led to an enquiry, whence, it was found that the grant certificate was a Xerox copy and not the original and that the records did not disclose a grant of land in Sy. No.177, since the entries in the register were not attested by the then Amildar nor provision of law under which the land was granted and further the Deputy Commissioner initiated suo motu proceedings under Section 136(3) of the Karnataka Land Revenue Act, 1964 to enquire into the alleged agreement dated 18-5-1955 in favour of Durgappa s/o Badiga and therefore, opined that a further enquiry over the grant of land under the PTCL Act was unnecessary and that of the Deputy commissioner concludes that there was a grant then the petitioner may seek re-opening of the case and accordingly, dropped all further proceedings by order dated 17th June, 2011, Annexure-D.

3. Petitioner preferred an appeal registered as No. SC. ST (A)79/11-12 before the Deputy Commissioner, Bangalore District, whence, he filed a memo dated 15-2-2012, Annexure-C, seeking leave of the Court to withdraw the case as not pressed on the premise that petitioner and respondents would settle the matter out of Court.

4. It is the allegation of the petitioner that the Deputy Commissioner instead of dismissing the appeal as withdrawn, nevertheless, went into the merit of the matter, set aside the order of the Assistant Commissioner, in the light of the finding that there was violation of the condition of grant, hence the sale deeds were null and void and directed resumption of the land to Government free from all encumbrance by order dated 3rd May, 2012, Annexure-D. Hence this petition.

5. Petitioner having filed the memo to withdraw the appeal has no subsisting right, title and interest in the property in question and therefore cannot be permitted to contend that he has a subsisting right in the immovable property in question or that he has right to question the order in appeal. When he had no more interest in the immovable property in question and declined to prosecute the appeal, cannot contend that the order in appeal is illegal.

6. In that view of the matter, this petition cannot but be characterised as frivolous and deserves rejection. Petition is accordingly, dismissed.

