

Eramma and Others Vs. K. Maremma and Others

Eramma and Others Vs. K. Maremma and Others

SooperKanoon Citation : sooperkanoon.com/1183014

Court : Karnataka Dharwad

Decided On : Mar-15-2016

Judge : B. Manohar

Appeal No. : Writ Petition No. 113072 of 2015 (KLR, RR/SUR)

Appellant : Eramma and Others

Respondent : K. Maremma and Others

Judgement :

(Prayer: This petition is filed under Articles 226 and 227 of the Constitution of India praying to quash the impugned order passed by the 3rd respondent on I.A. No. Nil/2015 filed by respondents 1 and 2 on 10.09.2015 vide Annexure-G and etc.)

1. The petitioners in this writ petition have sought for quashing the order dated 10.09.2015 passed by the Assistant Commissioner allowing the application filed for Police protection. The main grievance of the petitioners in the writ petition is that the order passed by the Assistant Commissioner is contrary to law, no opportunity was given to the petitioners to substantiate their possession and the order is not a speaking order.

2. Learned counsel for respondent nos.1 and 2 contended that on the appeal filed by the respondent nos.1 and 2 under Section 136(2) of the Land Revenue Act, the Assistant Commissioner initially stayed the order. In spite of that, the respondent in the appeal before the Assistant Commissioner is trying to interfere with the

possession. In view of the same, application is filed for Police protection for enforcement of the order of the Assistant Commissioner. Hence, sought for dismissal of the writ petition.

3. Learned Additional Government Advocate appearing for respondent no.3 argued in support of the order passed by the respondent no.3.

4. I have carefully considered the arguments addressed by the Advocates for the parties and perused the order impugned and other relevant record. Respondent nos.1 and 2 herein filed an appeal u/S 136(2) of the Karnataka Land Revenue Act challenging the order of the Deputy Tahasildar mutating the name. In the said appeal the respondent nos.1 and 2 filed interim application invoking Section 55 r/W Sec. 25 of the Karnataka Land Reforms Act seeking Police Protection.

5. The Assistant Commissioner without giving any opportunity to the petitioner herein on the same day passed the order. The order passed by the Assistant Commissioner is not a speaking order and no opportunity is given. Hence, I feel that the order passed by the Assistant Commissioner cannot be sustained. The Assistant Commissioner has to reconsider the matter and pass orders afresh in accordance with law. Accordingly, the following order is passed.

ORDER

Writ Petition is allowed. Order dated 10.09.2015 (vide Annexure-G) is hereby quashed. Matter is remanded to the Assistant Commissioner for considering the matter afresh after giving opportunity to the petitioner and pass orders in accordance with law.

Parties to bear their respective costs. In view of disposal of the writ petition, I.A. No. 1/2016 filed for clarification of the interim order does not survive and is accordingly disposed.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com