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Court : Karnataka

Decided On : Jan-20-2006

Reported in : 2006(2)KarLJ113

Judge : N.K. Patil, J.

Acts : Mysore Tenancy Act, 1952 - Sections 91 and 133; Land Reforms (Appellate Authority) Rules, 1986

Appeal No. : Land Reforms Revision Petition No. 5705 of 1989

Appellant : Devaki

Respondent : The Land Tribunal and ors.

Advocate for Def. : A.R. Sharadhamba, High Court Government Pleader for Respondents-1 and 2 and ;R.G. Hegde, Adv. for Caveator-Respondents-3 and 4

Advocate for Pet/Ap. : K.V. Jayaprakash, Adv.

Disposition : Petition dismissed

Judgement :

ORDER

N.K. Patil, J.

1. The petitioner, questioning the legality and validity of the common order dated 7-9-1989 in Appeal No. DAAA:AP: 318/1986 on the file of the District Additional Land Reforms Appellate Authority, Sirsi ('Appellate Authority' for short) confirming the order dated 13-4-1981 in proceeding No. LRM:SR:4949 passed by the Land Tribunal, Sirsi, has presented this revision petition.

2. The petitioner and the respondents 3 to 5 claiming to be the rival tenants in respect of land bearing Sy. No. 26/1 measuring 1 acre; Sy. No. 28/2 measuring 1 acre 15 guntas situate at Adanalli Village, Sirsi Taluk, Uttar Kannada District, have filed their applications in Form 7 for registration of occupancy rights in their favour. The applications filed by the petitioner and the respondents 3 to 5 had come up for consideration before the Land Tribunal, Sirsi on 13th April, 1981. The Land Tribunal, Sirsi has registered the occupancy rights in favour of the respondents 3 to 5 and rejected the claim of the petitioner by its order dated 13-4-1981. Being aggrieved by the order dated 13-4-1981 passed by the Land Tribunal, Sirsi, petitioner has filed writ petition before this Court. The said writ petition was disposed of by this Court. Aggrieved by the order passed by the learned Single Judge of this Court, respondents 3 to 5 and others have filed writ appeals before this Court in W.A. Nos. 2302 to 2305 of 1984 and the said writ appeals were allowed by this Court by setting aside the observation made by the learned Single Judge and the matter was transferred to the Appellate Authority for disposal and it was renumbered as DAAA:AP:318:1986. The Appellate Authority, after conducting the enquiry as envisaged under the Land Reforms (Appellate Authority) Rules, 1986 and after critical evaluation of oral and documentary evidence and other materials available on file, has dismissed the said appeal and confirmed the order passed by the Land Tribunal, Sirsi. Being aggrieved by the orders passed by the Land Tribunal, Sirsi and the Appellate Authority, Sirsi, as referred above, petitioner felt necessitated to present this revision petition.

3. I have heard learned Counsel appearing for petitioner, learned Counsel for respondents 3 and 4 and the learned Government Pleader appearing for respondents 1 and 2. Other respondents served and unrepresented.

4. After careful perusal of the impugned orders passed by the Land Tribunal, Sirsi as well as the Appellate Authority, Sirsi, it emerges on the face of the orders passed by both authorities that, they have not committed any error, much less material irregularity in registering the occupancy rights in favour of respondents 3 to 5 and rejecting the claim made by the petitioner on the ground that, petitioner's father-in-law one Sri Shivayya Madival was a Chalgeni tenant and taking undue advantage of the entry found in the RTC, 6th respondent has filed the necessary petition before the authority and the same was referred to the Munsiff Court, Sirsi, which has got the jurisdiction to decide the tenancy matters under Mysore Tenancy Act, 1952. The said suit was decreed. Against that, the said Shivayya Madival has filed an appeal and the same was dismissed and the order passed in the suit was confirmed by this Court stating that, he has failed to establish that he is cultivating the said land as tenant. This fact has not been disputed by the learned Counsel for the petitioner. The Land Tribunal as well as the Appellate Authority, after critical evaluation of oral and documentary evidence and the admission made by the petitioner herself that she is not in possession, has rightly rejected the claim of the petitioner. However, learned Counsel for respondents 3 and 4 has placed reliance on the judgment of the Full Bench of this Court in K. Ramaiah (deceased) by L.Rs. v. K.C. Basappa 1982(2) Kar. K.L. 587 (FB), wherein the Full Bench of this Court has held that:

If the tenancy dispute is decided in a civil suit prior to the coming into force of Act 1 of 1974 the same is binding'. Further it is held that:

If that decision has become final, then it will not be necessary again to refer the said issue to the Land Tribunal consequent on the amendment of Section 133 of the Act and by virtue of Section 91 of the Act 1 of 1974.

The ratio of the law laid down by the Full Bench of this Court as stated supra is squarely applicable to the instant case. In the instant case, both the authorities after critical evaluation of oral and documentary evidence have recorded the concurrent finding of fact against the petitioner that, she has failed to establish that she is a tenant as on 1-3-1974 nor produced any iota of documentary evidence to substantiate her claim. In view of the concurrent finding of fact recorded by both

the authorities after appreciation of oral and documentary evidence, the interference by this Court by exercising revisional power is not justifiable, in view of the well-settled law laid down by this Court and Apex Court in host of judgments. Therefore, having regard to the facts and circumstances of the case as stated above, I do not find any good grounds or justification to interfere with the well-considered order passed by both the authorities'.

5. For the foregoing reasons, instant revision petition is dismissed as devoid of merits.

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