

Amaregowda Vs. State of Karnataka

Amaregowda Vs. State of Karnataka

SooperKanoon Citation : sooperkanoon.com/379154

Court : Karnataka

Decided On : Nov-22-1989

Reported in : ILR1990KAR1280

Judge : Venkatachala, J.

Acts : [Karnataka Land Reforms Act, 1961](#) - Sections 67, 67(1), 113(2) and 118(1A)

Appeal No. : W.P. Nos. 33992 to 33995 of 1982

Appellant : Amaregowda

Respondent : State of Karnataka

Advocate for Def. : M. Siddagangaiah, HCGP

Advocate for Pet/Ap. : V.T. Rayareddy and ;Shivaraj Patil, Advs.

Judgement :

ORDER

Venkatachala, J.

1. Order of Shahapur Land Tribunal made under Section 67(1) of the [Karnataka Land Reforms Act, 1961](#) ('the Act'), was impugned in the Writ Petitions. During the pendency of the Writ Petitions before this Court, the Karnataka Land Reforms

(Amendment) Ordinance, 1985, and subsequently, the Karnataka Land Reforms (Amendment) Act, 1986, which inserted Section 118(1A) in the Act, creating Appellate Authorities with appellate jurisdiction conferred upon them to deal with orders of Land Tribunals, came into force. Thereafter, this Court, by its order dated 21-7-1986, transferred the Writ Petitions for their disposal by the Appellate Authority at Gulbarga, in exercise of its powers under Sub-section (2) inserted in Section 113 of the Act.

2. Now, an interlocutory application I.A.I. has been filed in the Writ Petitions, praying for the recalling of the earlier order dated 21-7-1986 made therein transferring them to the Land Reforms Appellate Authority at Gulbarga for their disposal, relying upon a Division Bench decision of this Court in BABASAHEB alias RANGANGOUDA v. STATE OF KARNATAKA, : ILR 1988 KAR3081 wherein it is held thus:

'...We hold that the order of the Tribunal under Section 67(1) of the Act is final and no appeal lies to the Appellate Authority under Section 118(1A) of the Act. The aggrieved party has to take recourse to the jurisdiction of this Court under Article 226 of the Constitution.'

As the prayer in I.A.I. calls to be granted having regard to the Division Bench decision in Babasaheb @ Rangana-gouda's case (supra), I.A.I. is allowed and the earlier order dated 21-7-1986 made in the Writ Petitions transferring them for disposal as appeals by the Land Reforms Appellate Authority at Gulbarga is recalled. It is ordered that the Writ Petitions be listed for hearing in the usual course.

3. Though I have allowed I.A.I. and recalled the earlier order dated 21-7-1986 made in the Writ Petitions transferring them for disposal by the Land Reforms Appellate Authority at Gulbarga and further directed the Writ Petitions to be listed for hearing in the usual course conforming to the Division Bench decision of this Court in Babasaheb @ Ranganagouda's case (supra), I have felt it my duty to place on record my views as to why immediate legislative action on the part of the State in specifically conferring the appellate jurisdiction on the Land Reforms Appellate Authorities respecting the orders made by Land Tribunals under Section

67(1) of the Act is called for, as follows:

4. The Karnataka Land Reforms (Amendment) Ordinance, 1985, was an urgent legislative measure brought into force creating Land Reforms Appellate Authorities in the State invested with the appellate jurisdiction to deal with the orders of Land Tribunals which had been made and to be made under Sections 38, 48A and 67 of the Act. The object of creation of such Appellate Authorities invested with the said appellate jurisdiction, was to bring about satisfactory finality to matters respecting which the Land Tribunals under the Act were empowered to adjudicate upon, conforming to the desire expressed by the High Court in this regard in one of its decisions. The desire expressed by the High Court as to the need for creation of such Appellate Authorities to deal with the the decisions of Land Tribunals, it cannot be forgotten, had taken note of the stark reality of the situation that most of the orders of Land Tribunals challenged in the High Court invoking its certiorari jurisdiction suffered from apparent legal infirmities which warranted their quashing and remittance of cases to the Land Tribunals for fresh disposal in accordance with law. When the said Ordinance was brought into force making provision for creation of Appellate Authorities to deal with the orders of Land Tribunals, it was intended that the Appellate Authorities created under the Ordinance should have necessary powers to give finality to the matters coming up before them, became apparent from the vast appellate powers invested in them with no power of remand, by inserting Sub-section (2) in Section 113 of the Act, which read thus:

'The Appellate Authority shall, for the purposes of the disposal of the appeals before it, have the same powers as are vested in a Court of Appeal under the Code of Civil Procedure, 1908, except the following, namely,

(a) power of remanding the appeal to the Tribunal, either for recording fresh decision or for recording further evidence or for any other purpose;

(b) regulating the practice and procedure of the Tribunal;

(c) such other matters as may be prescribed.'

The Appellate Authorities to be created under the said Ordinance were to finally adjudicate upon important matters concerning ceiling areas of holders of agricultural lands and the surplus lands to be surrendered by them to the State, becomes obvious from the fact that Sub-section (1A) in Section 118 of that Ordinance specifically invested in such Appellate Authorities power to deal with appeals arising from orders made under Section 67 of the Act. However, when the Ordinance took the form of a Bill and subsequently became an Act, Sub-section (1A) of Section 118 in that Bill and Act, though provided that every decision or order passed by a Land Tribunal was appealable to the Land Reforms Appellate Authority, omitted the mentioning of Section 67 besides Sections 38 and 48A of the Act. This situation led the Division Bench of this Court in Babasaheb alias Rangana-gouda's case (supra) to hold that such omission of Section 67 in Sub-section (1A) of Section 118 of the Act, could be regarded as deliberate and the appellate power invested in the Appellate Authority by Sub-section (1A) of Section 118 of the Ordinance respecting the orders made under Section 67 of the Act by the Land Tribunals, can be of no avail.

5. In the last a few months, sitting on the Writ side of the High Court, I have dealt with innumerable Writ Petitions directed against the orders made under Section 67(1) of the Act by Land Tribunals, relating to ceiling area of agricultural lands in one's holding and the surplus lands to be surrendered to the State. The impugned orders were seen to suffer from one or the other legal infirmity warranting interference. Indeed, most of the impugned orders have been quashed by me, though some of them had been made for the second time or even third time, because of the earlier remand orders made by this Court. Though certiorari Writ Jurisdiction exercisable by this Court respecting orders of Land Tribunals can be used for quashing such orders, the same cannot ordinarily be made use of for correcting the impugned orders and giving finality to the matters in dispute. This situation has resulted in holders of surplus lands retaining and enjoying surplus lands without entitlement, for over a decade and a half. The only possibility of getting over the hard situation is, by investing the Land Reforms Appellate Authorities which are already created by amending the Act, with appellate jurisdiction to deal with orders of Land Tribunals made under Section 67(1) of the Act, in the manner already provided under the amended Sub-section (2) of Section

113 of the Act, so that the matters may find a finality. In that event, large number of Writ Petitions, in which orders of Land Tribunals made under Section 67 are challenged before this Court, Could also be transferred to Land Reforms Appellate Authorities for a proper and final disposal.

6. The immediate legislative action, which I have suggested as above and the views I have expressed in support thereof as above, I must state before parting with the case, is the result of a feeling in me that the object of the Act of taking surplus lands from their holders and distributing them among the landless, has remained unfulfilled, if not frustrated, though as many as fifteen long years have elapsed after the coming into force of the Act, due to non-providing of a well thought out and effective legal machinery in the Act, to deal with the most important matter of deciding on surplus land to be surrendered by its holder to the State Government.

7. Having regard to the views I have expressed as to the need of legislative action for amending the Act, let a copy of this order be sent to the Chief Secretary for being placed before the State Government.