

Govindaswamy Gowda Vs. Siddappa and Others

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Court : Karnataka

Decided On : Nov-26-1999

Reported in : ILR2000KAR1343; 2000(3)KarLJ478

Judge : V. Gopala Gowda, J.

Acts : [Karnataka Land Reforms Act, 1961](#) - Sections 48-A

Appeal No. : Land Reforms Revision Petition No. 44 of 1988

Appellant : Govindaswamy Gowda

Respondent : Siddappa and Others

Advocate for Def. : Sri Kalasa Shamanna, Adv. and ;Sri H.S. Surendra, ;High Court Government Pleader

Advocate for Pet/Ap. : Sri H.J. Narendra Prasad ;for Sri Raviverma Kumar and ;Sri D.S. Reddy, Advs.

Judgement :

ORDER

1. The petitioner-tenant has filed this revision petition challenging the impugned order passed by the erstwhile Land Reforms Appellate Authority in LRA No. 66 of 1986 dated 31-7-1987 particularly aggrieved by the observation made by the said authority at paragraph 3 stating that the petitioner is in possession of 4 acres 5

guntas of land as per the Surveyor's report though the Tribunal has granted occupancy rights to an extent of 6 acres 36 guntas of land vide its order dated 6-7-1976. Therefore, the petitioner's grievance is that, the impugned order passed by the Appellate Authority granting 1 acre 35 guntas of land in Sy. No. 8 of Ichikere Village, N.R. Pura Taluk, Chickmagalur District is not legal and valid therefore, the petitioner seeks to set aside the order urging various legal contentions.

2. From the facts narrated in the revision petition, it is noticed that applications were filed by the petitioner and the first respondent in respect of the above land. The extent of the said Sy. No. is 10 acres 35 guntas, out of which, the petitioner preferred claim petition to an extent of 6 acres 36 guntas and the first respondent without mentioning the Sy. No. and the extent of land filed application before the 4th respondent-Land Tribunal on 4-10-1977. The Land Tribunal conducted an enquiry and granted occupancy rights in respect of the land in question to an extent of 6 acres 36 guntas in favour of the petitioner on the basis of the claim made by him. Further, the Land Tribunal has recorded a finding holding that the petitioner was a tenant to that extent of the land. The said order became final.

3. The first respondent, aggrieved by the order of rejection of his claim by the 4th respondent filed writ petition before this Court challenging the order dated 22-7-1977 passed by the Tribunal. The said order was examined by the Appellate Authority after the writ petition was transferred to it pursuant to amendment to the [Karnataka Land Reforms Act, 1961](#). The grant of occupancy rights in favour of the petitioner by the Tribunal was not challenged in the appeal filed by the first respondent and another. The Appellate Authority while examining the case of the first respondent and another, at paragraph 3 on the basis of the surveyor's report said to have been recorded behind the back of the petitioner has recorded a finding holding that the petitioner was in possession of the land to an extent of 4 acres 5 guntas in Sy. No. 8 though the Tribunal granted occupancy rights to an extent of 6 acres 36 guntas. The said finding was totally uncalled for having regard to the fact that the order of grant of occupancy rights in favour of the petitioner was not challenged by the first respondent. The Appellate Authority has not set aside the order of grant made in favour of the first respondent.

4. In this view of the matter, the apprehension of the petitioner is that, the land was not available in Sy. No. 8 after grant of occupancy rights by the Tribunal in favour of the petitioner and others therefore, grant of occupancy rights by the Appellate Authority to an extent of 1 acre 35 guntas in the same survey number in favour of the first respondent on the basis of the finding recorded by it at paragraph 3 holding that the petitioner is in possession of 4 acres 5 guntas though occupancy rights were granted for 6 acres 36 guntas is totally wrong. Therefore, it would be proper and appropriate for this Court to make an observation that the order of the Tribunal passed in favour of the petitioner has not been set aside. Therefore, the order passed by the Appellate Authority shall not affect his right insofar as grant of occupancy rights to an extent of 6 acres 36 guntas despite a finding that has been recorded by the Appellate Authority at paragraph 3. It is however made it clear that, grant of occupancy rights to an extent of 1 acre 35 guntas in the said Sy. No. in favour of the first respondent based on the surveyor's report is not binding on the petitioner as the same has been obtained behind his back and without giving opportunity to the petitioner to cross-examine the Surveyor on the basis of the sketch and report submitted by him.

5. For the reasons stated supra, the revision petition is disposed of with an observation that, the order passed by the Appellate Authority granting occupancy rights shall not affect the petitioner's right to an extent of 6 acres 36 guntas in respect of the land in question.