

M.B. Devaraju Vs. State of Karnataka and Others

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Court : Karnataka

Decided On : Feb-02-1999

Reported in : 1999(3)KarLJ346

Judge : Chidananda Ullal, J.

Acts : [Karnataka Land Revenue Act, 1964](#) - Sections 94-A(4); Karnataka Land Revenue Rules, 1966 - Rule 108-C

Appeal No. : Writ Petition No. 18596 of 1997

Appellant : M.B. Devaraju

Respondent : State of Karnataka and Others

Advocate for Def. : Sri M.N. Ramanjaneya Gowda, Additional Government Adv.

Advocate for Pet/Ap. : Sri K.N. Mahabaleshwar Rao, Adv.

Judgement :

ORDER

1. The petitioner herein had challenged the notice issued by the respondent 2, the Tahsildar, copy as at Annexure-E to writ petition, whereby the Tahsildar had directed the petitioner to vacate the very subject land measuring 6 acres in Sy. No. 167 of Agani village. He had further sought for issuance of writ of mandamus directing the respondents to regularise the said extent of land in pursuance of his

application dated 18-4-1991, copy as at Annexure-B to writ petition, filed by him.

2. I heard the learned Counsel for the petitioner, Sri K.N. Mahabaleshwar Rao. The respondents 1 to 3 are represented by the learned Additional Government Advocate, Sri M.N. Ramanjaneya Gowda.

3. The learned Counsel for the petitioner had taken me through the facts of the case and further the grounds made out in the writ petition. It is his case that the petitioner herein being the cultivator of the subject land for thirty years had filed Form No. 50 as contemplated under Rule 108-C of the Land Grant Rules for regularisation of his unauthorised cultivation and that the said application was duly received by the office of the respondent 2 on 18-4-1991, copy as at Annexure-C to writ petition. It is also his submission that when the said application of the petitioner was pending before the Regularisation Authority, the respondent 2 had issued the impugned notice whereby he had directed the petitioner to vacate from the premises wherein he had grown cardamom and coffee plant. According to Sri Rao, the impugned notice was totally illegal inasmuch as his application for regularisation of unauthorised occupation was very much pending before the Authority. He prayed that the impugned notice be quashed and the respondents be directed to consider the application for regularisation of unauthorised occupation of the subject land measuring 6 acres.

4. The learned Additional Government Advocate on the other side while adverting to the objection statement filed by the respondents submitted that the petitioner herein did not resort to Form No. 50 at all as claimed by him and that the respondent 2 had issued the impugned notice at Annexure-E when the petitioner was found to have encroached upon the granted land of the third parties. It was also his submission that when the very application was not resorted to by the petitioner, the question of regularisation of his unauthorised occupation of the subject land did not arise at all. Therefore, he prayed that the instant writ petition be dismissed with cost to State.

5. In the light of the above submissions made, I have carefully gone through the petition papers as well as the objection statement filed by the respondents.

6. At the threshold, I have to point out here that though the respondent 2-the Tahsildar had notified the petitioner by issuing notice as at Annexure-E to writ petition that he had encroached upon the Government lands those were granted to some other grantees and that he had illegally put up a house and further grown cardamom and coffee plantation, the same was not at all challenged in the writ petition. In the writ petition with reference to the said impugned notice at Annexure-E, he had averred in para (3) of the writ petition that he had unauthorisedly occupied the land and grown agricultural products. It is relevant to mention here that in filing the objection statement, the respondents had disputed the very filing of Form No. 50 by the petitioner, copy as at Annexure-B to writ petition. If it is true that no application came to be filed by the petitioner, as he had claimed in the writ petition, it is obvious that the question of regularisation of unauthorised occupation of the said land by the Authorities did not arise at all. Even otherwise, in Column No. 11 of Form No. 50 filed by the petitioner, it had been stated therein that the petitioner was the owner of 7 acres of land in Sy. No. 168/2 of Agani village in Sakaleshpur Taluk and if that is taken, it is clear therefrom that the petitioner herein had rendered himself as a non-eligible person for such a regularisation of the land in view of the provision in sub-section (4) of Section 94A wherein it is clearly provided that if a person owns two hectares of land (equivalent to 5 acres of dry land) one is non-eligible for regularisation of unauthorised occupation.

7. In the totality of the facts and circumstances of the case, it appears to me that the petitioner herein had resorted to the instant writ petition on false premise, particularly when he was issued with impugned notice at Annexure-E by the respondent 2, the Tahsildar knowing fully well that there was no truth in the said claim. In doing that the petitioner was also successful in stopping the Authorities from proceedings against him by challenging the impugned notice at Annexure-E before this Court on false pleas and he therefore also stood to gain, for he enjoyed the subject land of 6 acres unauthorisedly by growing commercial crops such as coffee and cardamum besides making thereon an abode without any deterrence. That being so, I feel that not only this petition has to be dismissed but the petitioner has to be awarded with exemplary cost while so doing and that cost I assess Rs. 10,000.00, for in my considered view the petitioner should not be

allowed to gain at the cost of the State, that too with false presentations before this Court. That is the message to him in particular and other chance litigants in general. What a sorry pass! 'plundering' has become the order of the day and at that Courts cannot shut it eyes than to abhor, at times deal with the situation with heavy hand. In the instant case, this Court chose to express its abhorrence by imposition of heavy cost as against the petitioner.

The writ petition therefore stands dismissed with exemplary cost of Rs. 10,000.00 to State. Rule issued earlier made stands discharged. The petitioner is directed to pay the cost within three months from the date of this order. In the event of non-compliance of the said direction, the State is at liberty to recover the same, as if, the land revenue was due from him to it, besides let the State get the entire extent of subject land cleared at the cost of the petitioner to be made over to the original grantees or their successors in title at the earliest.

The Registry is directed to send a copy of this order one to the Chief Secretary and another to the Deputy Commissioner, Hassan District, at the earliest.

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