

H.A. Manjunatha Bhatta Vs. State of Karnataka and ors.

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Court : Karnataka

Decided On : Jan-07-2002

Reported in : ILR2002KAR1820; 2002(4)KarLJ174

Judge : N.K. Patil, J.

Acts : [Karnataka Land Revenue Act, 1964](#) - Sections 94A; Karnataka Land Revenue Rules, 1966 - Rule 108F and 108I; Karnataka Land Grant Rules, 1969 - Rule 4(1)

Appeal No. : Writ Petition No. 1042 of 2001

Appellant : H.A. Manjunatha Bhatta

Respondent : State of Karnataka and ors.

Advocate for Def. : K. Shantharaj, High Court Government Pleader

Advocate for Pet/Ap. : S.V. Shastri, Adv.

Judgement :

ORDER

N.K. Patil, J.

1. The petitioner is assailing the legality and validity of the orders passed by the 4th respondent in case No. RA 13/2000-01, dated 19-9-2000 confirming the order

passed by the 2nd respondent dated 5-7-1993 in case No. NCR 2276/91-92 and the order passed by the 3rd respondent in case No. BAHU 3:98-99, dated 20-3-2000.

2. The petitioner is a resident of Neelandur, Haraveri Village and his house is surrounded by the Government land in Sy. No. 160 of the said village. He has been cultivating the portion of the said land measuring 5 acres and 12 guntas for the last 20 years. Accordingly, he has filed an application for regularisation of unauthorised occupation of the said land before the Competent Authority. The Land Grant Committee has considered the application of the petitioner and rejected the application filed by him in view of Rule 108(i) of the Karnataka Land Revenue Rules (for short the 'Rules') on the ground that the petitioner's income exceeds more than Rs. 25,000/-. Feeling aggrieved by the order passed by the Regularisation Committee dated 5-7-1993, petitioner has filed an appeal before the Assistant Commissioner. The Assistant Commissioner after hearing the petitioner and after going through the entire material available on record and also taking into consideration the detailed report submitted by the Revenue Inspector to find out the genuineness of the application filed by the petitioner whether he is entitled for regularisation of the unauthorised occupation of the land in question, passed a detailed and considered order giving details of the income of the petitioner and total holding of the petitioner and his wife and held that the income of the petitioner exceeded Rs. 25,000/- and also held that the holding exceed more than the prescribed limit as per the relevant Rules. Taking all these facts, he rejected the application filed by the petitioner for regularisation of unauthorised occupation of the land in question confirming the order of the Regularisation Committee.

3. Feeling aggrieved by the said order, the petitioner has filed an appeal before the Deputy Commissioner. The Deputy Commissioner in turn after considering all the facts and circumstances and the orders passed by the Regularisation Committee and the Assistant Commissioner has rejected the said appeal and the application filed by the petitioner holding that the petitioner is a sufficient holder. He has also taken into consideration that the land in question is a forest land. Therefore, there is no need to consider the application of the petitioner for regularisation of the

unauthorised occupation of the land in question. Feeling aggrieved by the order passed by the three authorities viz., respondents 2 to 4 the petitioner has filed this petition.

4. The learned Counsel for the petitioner has specifically contended that he has filed application for regularisation of unauthorised occupation of the land in question on the ground that he was cultivating the land unauthorisedly for 20 years and is entitled for regularisation of the land in question. Further he contended as on the date of filing of the application the holding was less than prescribed limit and the respondents have failed to take into consideration the fact that the request of similarly situated persons holding the land unauthorisedly in Sy. No. 160 was considered and the lands were granted in their favour. Therefore, he contended that it is but discrimination between the petitioner and other similarly situated persons. Except making this submission, the petitioner has not impleaded the similarly situated persons. If he has impleaded those persons in whose favour the lands were granted, this Court could take cognizance of the same. Therefore, I do not find any force in the submission made by the learned Counsel for the petitioner.

5. Per contra, the learned High Court Government Pleader justified the impugned order passed by the respondents-authorities on the ground that the respondents have conducted the enquiry strictly as per the relevant provisions of the Act and have taken into consideration the total holding of the petitioner observing that the petitioner is having more than prescribed limit and specifically stated that the land in question is forest land. When once it is declared as forest land, the application filed by the petitioner is not maintainable. Therefore, he contended that the petitioner has not approached the Court with clean hands nor has he stated the true facts before respondents 2 to 4.

6. The short question for consideration is whether the respondents are justified in rejecting the request of the petitioner for regularisation of unauthorised occupation of the land in question.

7. All the three authorities have concurrently held that the petitioner has not made out any case for consideration of the application for regularisation of unauthorised

occupation of the lands in question and has specifically held that the petitioner's income exceeds Rs. 25,000/- and his holding also exceeds the prescribed limit as per Land Grant Rules. Therefore, I do not find any infirmity or illegality in the orders passed by respondents 2 to 4 and this Court cannot sit over the judgment as Appellate Authority to interfere with the impugned orders. Further it is pertinent to note here itself that the land in question has been shown as forest land. When once it has been declared as forest land, the question of filing application in respect of the same and consideration of the same does not arise. The application filed by the petitioner is not maintainable in the eye of law. Further the authorities have considered the details of holding of the entire family of the petitioner and all the members of the family are holding separate holding and this fact was taken into consideration by the respondent. Therefore, the petitioner is not entitled to seek any relief before this Court. Hence, I do not find any error of law in the impugned orders passed by the respondents' authorities.

For the reasons stated above, writ petition is dismissed. Parties to bear their own costs.

Sri K. Shantharaj, learned Government Pleader is permitted to file memo of appearance within four weeks from today.

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