

Bheemappa and ors. Vs. the Assistant Commissioner and anr.

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Court : Karnataka

Decided On : Jun-18-2008

Reported in : 2008(5)KarLJ517

Judge : N.K. Patil, J.

Acts : [Karnataka Land Reforms Act, 1961](#) - Sections 77A; Hyderabad Abolition of Inams Act, 1954

Appeal No. : Writ Petition No. 1665 of 2008

Appellant : Bheemappa and ors.

Respondent : The Assistant Commissioner and anr.

Advocate for Def. : Nadiga Shivanandappa, High Court Government Pleader for Respondent 1 and ;Vigneshwar S. Shastri, Adv. for Respondent 2

Advocate for Pet/Ap. : G.S. Kannur, Adv.

Disposition : Petition dismissed

Judgement :

ORDER

N.K. Patil, J.

1. These three petitioners, assailing the correctness of the order passed by the Karnataka Appellate Tribunal, Bangalore dated 4th July, 2006 passed in Appeal No. 1227 of 2004 in respect of land bearing Sy. No. 83/4 measuring 9 acres 37 guntas situate at Herur Village, Devadurga Taluk, have presented the instant writ petition.

2. Petitioners herein claim that, they are the tenants in respect of the land in question and that, they are cultivating the said land and are in peaceful possession and enjoyment of the same. Accordingly, they had filed Form 7-A for registration of occupancy rights under Section 77-A of the amended Karnataka Land Reforms Act. The application filed by petitioners had come up for consideration before the first respondent-Assistant Commissioner, Raichur on 8th March, 2004 in proceedings No. LRM/TNC/50/99-2000 and the application filed by petitioners were allowed and the occupancy rights was registered in favour of these petitioners. Assailing the correctness of the said order passed by first respondent dated 8th March, 2004 granting occupancy rights in favour of petitioners, the second respondent herein has filed an appeal in Appeal No. 1227 of 2004 on the file of the Karnataka Appellate Tribunal at Bangalore. The Karnataka Appellate Tribunal after hearing the Counsel appearing for first respondent and the second respondent, after careful perusal of the records available on file and after evaluation of the relevant material available on file, has allowed the appeal and set aside the order passed by first respondent. Being aggrieved by the impugned order passed by the Appellate Tribunal, petitioners herein felt necessitated to present the instant writ petition.

3. I have heard learned Counsel appearing for petitioners and learned Counsel appearing for respondents.

4. After careful perusal of the impugned order passed by the Karnataka Appellate Tribunal dated 4th July, 2006 passed in Appeal No. 1227 of 2004, it emerges that, the land in question is an 'inam land' granted for the services rendered by the inamdars under the provisions of the Hyderabad Abolition of Inams Act, 1954. The father of the second respondent has filed the application for grant of the land in question before the Deputy Commissioner, Raichur and his application has been

considered in proceedings No. Revenue/Inam/38/92-93 and the occupancy rights was granted by the Deputy Commissioner, by his order dated 4th March, 1996 in favour of second respondent and since then second respondent has been in peaceful possession and enjoyment of the said land and mutation has also been effected by entering the name of the second respondent in the record of rights and that, the said land has also been converted into patta land by the Deputy Commissioner, by its order dated 20th September, 1996. Further, it is significant to note that, petitioners intentionally and deliberately have not stated the true facts before the Court that, the father of the petitioners had filed the application before the Deputy Commissioner as rival claimant in proceedings No. Revenue/Inam/38/92-93 and the same was rejected. By suppressing this vital material fact, petitioners have filed Form 7-A before the first respondent for registration of occupancy rights. The Appellate Tribunal, after critical evaluation of the material available on file, by assigning valid reasons at paragraph 9 of the order has held that, the land in question has been granted in favour of second respondent and that, he has also paid the necessary amount to Government for making patta of the disputed land in his name, in pursuance of the order passed by the Deputy Commissioner in the year 1996 who is the Competent Authority to grant the occupancy rights in favour of second respondent under the provisions of the Hyderabad Abolition of Inams Act, 1954. Having good knowledge of these facts and fully participated in proceedings before the Deputy Commissioner under the provisions of the Hyderabad Inams Act and being fully aware of the same, these petitioners have intentionally and deliberately suppressed this vital material and filed Form 7-A for grant of occupancy rights in respect of the disputed land. The Assistant Commissioner, without giving any opportunity of being heard to the second respondent and without verifying the relevant material available on file in a mechanical manner, had registered the occupancy rights in favour of petitioners. When the said land has already been granted in favour of second respondent and the same is not available for grant, question of registering the occupancy rights in favour of petitioners herein does not arise.

5. Further, the Appellate Tribunal, has specifically pointed out at paragraph 10 of its order that, these petitioners have not fulfilled the three conditions as per the amended Land Reforms Act for registration of occupancy rights under Section 77-

A of the Karnataka Amended Land Reforms Act. Therefore, the Appellate Tribunal has held that, petitioners are not entitled to claim the occupancy rights in respect of the disputed land in their favour and accordingly, the Tribunal set aside the order passed by first respondent, holding that, the said order is illegal and against law. The said valid reasoning given by Appellate Tribunal at paragraphs 9 and 10 of its order is after evaluation of the material available on file. Hence, I do not find any arbitrariness or illegality as such committed by the Appellate Tribunal and the said reasoning given is after critical evaluation of the relevant material available on file. Therefore, interference by this Court, in the impugned order passed by the Appellate Tribunal is uncalled for nor I find any good grounds to entertain the instant writ petition. Hence, I decline to interfere in the impugned order passed by the Appellate Tribunal.

6. For the foregoing reasons, the writ petition filed by petitioners is liable to be dismissed as devoid of merits. Accordingly, it is dismissed.

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