

Muniyallappa Vs. State of Karnataka

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Court : Karnataka

Decided On : Oct-21-1994

Reported in : ILR1995KAR255; 1994(5)KarLJ391

Judge : G.C. Bharuka, J.

Acts : [Karnataka Land Revenue Act, 1964](#) - Sections 84 and 94A(5); Karnataka Land Revenue Rules, 1966 - Rules 105, 108C, 108G and 108G(1)

Appeal No. : W.P. No. 29765 of 1994

Appellant : Muniyallappa

Respondent : State of Karnataka

Advocate for Def. : H.H. Kaladgi, HCGP

Advocate for Pet/Ap. : P.M. Siddamallappa, Adv.

Disposition : Petition allowed

Judgement :

ORDER

Bharuka, J.

1. This Writ Petition has been filed by the sole petitioner questioning the validity of the order dated 25-11-1992 passed by the respondent, Tahsildar (Annexure-A) by

which he has fixed Rs. 12,000/- per acre as the value for the land granted in favour of the petitioner in terms of Section 94-A of the [Karnataka Land Revenue Act, 1964](#) (in short the 'Act').

2. According to the petitioner, pursuant to the application filed by him under Section 94-A of the Act, the Land Grant Committee by its order dated 16.11.1992 directed for grant of 1 acre 20 guntas of land in Sy.No. 1 of Halasahalli village, Kasaba Hobli, Hoskote Taluk, Bangalore Rural District. Consequent thereupon, the impugned order Annexure 'A' has been passed demanding Rs. 12,000/- per acre by the Tashildar against the said grant. Learned Counsel for the petitioner has assailed the impugned order on the ground that though under Rule 108-C of the Karnataka Land Revenue Rules, 1966 (hereinafter referred to as 'the Rules') the amount payable under Sub-section (5) of Section 94-A of the Act can be only two hundred times the land revenue payable for the land granted, the Tahsildar for his own reasons has arbitrarily fixed Rs. 12,000/- per acre without first assessing the Land Revenue for the land in question in terms of Rule 108C. In support of his submission he relied upon a Decision of this Court in Writ Petition No. 15601/94 disposed of on 21-9-1994. Sri Kaladgi, learned High Court Government Pleader does not dispute the said legal position.

3. The relevant provisions of the Act and the Rules are as follows:-

'Section 94A(5) - The amount payable for the grant of land under Sub-section (1) shall be such as may be prescribed'.

'Rule 108G. Amount payable for grant of Land. - The amount payable for the grant of land under Section 94A, shall subject to the provisions of Sub-rules (2) and (3) be two hundred times the Land Revenue payable for such land;

Provided that no amount shall be payable by persons belonging to Scheduled Castes and Scheduled Tribes.

(2) In computing the amount payable for the land, the Tahsildar shall not take into consideration the value of any trees standing on the Land or Improvements made by the applicant during the period of unauthorised occupation.

(3) If at the time of determining the amount payable, there is reason to believe that the tree has been cut, the Tahsildar shall, verify the entries in the record of rights and hold an enquiry as he deems necessary after giving the grantee an opportunity of being heard. After such enquiry, on being satisfied that the grantee has cut the tree, the Tahsildar shall get the value of the tree assessed by the authorities of the Forest Department and include the same in the amount payable by the grantee.

(4) Land Revenue Assessment for the entire period of unauthorised occupation shall be collected in addition to the amount payable by the grantee.'

4. Section 84 of the Act reads as follows :-

'84. Assessment by whom to be fixed.- (1) On all lands which are not wholly exempt from the payment of land revenue, and on which assessment has not been fixed under the provisions of Chapter X, the assessment of the amount to be paid as land revenue, shall, subject to such rules as may be made by the State Government in this behalf, be fixed by the Deputy Commissioner, for such period not exceeding the maximum prescribed as the State Government may, by general or special order, specify, and the amounts due according to such assessment shall be levied on all such lands;

Provided that in the case of lands partially exempt from land revenue, or the liability of which to the payment of land revenue is subject to special conditions or restrictions, regard shall be had in the fixing of the assessment and the levy of the revenue to all rights legally subsisting according to the nature of the said rights:

Provided further that where any land which was wholly or partially exempt from payment of land revenue has ceased to be so exempt, it shall be lawful for the Deputy Commissioner to fix the assessment of the amount to be paid as land revenue for such land, with effect from the date on which such land ceased to be so exempt of any subsequent date, as he may deem fit. (2) After the expiry of the period for which the assessment of any land is fixed under Sub-section (1), the Deputy Commissioner may from time to time revise the same in accordance with the rules made in this behalf by the State Government. The assessment so

revised shall be fixed each time for such period not exceeding the maximum prescribed as the State Government may, by general or special order, specify.'

'Rule 105. Assessment of land revenue of lands not already assessed under Chapter X of the Act.- Where assessment has not been fixed on any land not wholly exempt from land revenue under Chapter X of the Act, the Deputy Commissioner of the District in which the land is situate shall fix the same for a period not exceeding five years taking into account the land revenue assessment prevailing for similar and contiguous lands in the local area concerned.'

5. On a reading of the Act and the Rules as noticed above, it is clear that before fixation of the amount payable for the grant of land, it is incumbent upon the concerned statutory authority to assess the land revenue as per Section 84 and the Rules made thereunder. It is only after making of such assessment, that the Tahsildar can determine the amount payable under Section 94-A(5) read with Rule 108G(1), since the amount payable can only be two hundred times the land revenue payable for such land.

6. In the above view of the matter the order Annexure 'A' demanding Rs. 12,000/- per acre for grant of land in question is quashed. Respondent-Authorities are directed to assess the land revenue payable in respect of the land in question and thereafter create a demand for the price of the land granted as provided under the Act and the Rules.

7. The Writ Petition is accordingly allowed to the said extent.