

Subhakar and Others Vs. the Land Tribunal, Karkala Taluk, Karkala and Others

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Court : Karnataka

Decided On : Feb-22-1999

Reported in : 1999(4)KarLJ524

Judge : Y. Bhaskar Rao, Actg. C.J. and; A.M. Farooq, J.

Acts : [Karnataka Land Reforms Act, 1961](#) - Sections 2(A), 4 and 48-A

Appeal No. : Writ Appeal Nos. 4088 and 4463 of 1998

Appellant : Subhakar and Others

Respondent : The Land Tribunal, Karkala Taluk, Karkala and Others

Advocate for Def. : A.G. Holla for Sri Sudhakar Pai, Adv.

Advocate for Pet/Ap. : Sri G.S. Vishveswara, Senior Counsel for ;Sri Taranatha Poojary, Adv.

Judgement :

Y. Bhaskar Rao, Actg. C.J.

1. These appeals are filed assailing the common order dated 29-7-1998 passed by the learned Single Judge dismissing the writ petition filed by the tenants/appellants and allowing the writ petition filed by the respondent-Harideesh Rumar.

2. The brief facts of the case are that the lands bearing Sy. No. 162/1 measuring 2 acres 11 cents and Sy. No. 176/2 measuring 8 cents situated in Gandhinagar, Marapady Village, Moodabedri, Karkala Taluk of Dakshina Kannada District are shown as Punja lands in the records of rights. According to the appellants, they are Chalgeni Tenants. That the late Sesu Poojary the father of the appellants filed an application under Form No. 7 before the Land Tribunal for grant of occupancy rights under the Karnataka Land Reforms Act. The respondent-Harideesh Kumar claimed the land as owner on the basis of a gift deed from his grandfather. The Land Tribunal granted occupancy rights to the appellant's father by an order dated 25-4-1981. The said order was challenged in W.P. No. 10910 of 1984 before this Court and this Court allowed the writ petition and remanded the matter to the Land Tribunal. After remand, the Land Tribunal by its order dated 18-12-1996 on a majority decision rejected the claim of the appellants in respect of 1.81 acres of land and granted 0.30 acres on 'Humanitarian Grounds'. The appellants as well as the respondent-Harideesh Kumar filed writ petitions challenging the order passed by the Land Tribunal. The learned Single Judge dismissed the writ petition filed by the appellants and allowed the writ petition filed by the respondent-Harideesh Kumar by a common order. Against that these two appeals are filed.

3. The learned Counsel for the appellants Sri G.S. Vishveswara, Senior Counsel, contended that merely because the land is described as a Punja land it cannot be held not suitable for agriculture. The said lands are dry lands. Once it is a dry land it is a cultivable land or capable of cultivation. Therefore, as per Section 2(18) the land is an agricultural land. Accordingly, the Act applies to the land. Therefore, the Tribunal as well as the learned Single Judge both erred in holding that the tenants are not entitled for grant of occupancy certificate.

4. On the other hand, Sri A.G. Holla, learned Counsel for landlord/respondent contended that in Dakshina Kannada District the Punja lands are known to be non-agricultural lands where only thatching grass is grown naturally. Particularly, in this case, only a house is given and not the land which is not an agricultural land. In the land there is a tailoring shop and a hotel. Further, the deed of rent executed by the tenant itself shows that the rent is monthly rent and not yearly rent and the premises is situated in Municipal limits. All these indicate that the land in question

is not an agricultural land. Therefore, the learned Single Judge was quite right in dismissing the writ petition filed by the tenants. It is stated that there are no merits in these appeals. These appeals are to be dismissed.

5. In view of the above stated contentions, the only point to be considered is whether Punja lands in Dakshina Kannada District are agricultural lands or not. In this case, the land is described as a Punja land. This Court in Venkatesha Shet v Narayan Achari, Justice Govinda Bhat as he then was considered the question whether a Punja land in Dakshina Kannada District is an agricultural land or not. His Lordships relying on the survey scheme in that area held that Punja lands are not agricultural lands as only thatched grass are grown in those lands naturally and such lands are not brought under cultivation and held that Punja lands are not agricultural lands. Thereafter, in C.R.P. No. 5130 of 1990 disposed of on 23-10-1990 one of the Single Judge of this Court considered the same question and agreed with the view expressed by Justice Govinda Bhat as he then was in the above decision and held that Punja lands are not agricultural lands. In C.V. Gouramma v Land Tribunal, Bantwal and Others, again the same question came up for consideration as to whether Punja lands in Dakshina Kannada District are agricultural lands or not. After elaborately considering it was held that Punja lands are not agricultural lands as only thatched grass is grown in that lands naturally. Thereafterwards, a Division Bench of this Court in W.A. No. 6222 of 1997 in which Justice Y. Bhaskar Rao was one of the Judges held that Punja lands are not agricultural lands. Thus, this Court by continuous pronouncements from the year 1975 till 1998 held that Punja lands in Dakshina Kannada are not agricultural lands.

6. The learned Counsel for the appellant has relied on a book written by Sunder Raj Iyengar 'Land Tenure in Madras Presidency' published in the year 1921. It has to be mentioned that Dakshina Kannada District was originally a part of the Madras State before the States Reorganisation. In the said book, the division of Tamil villages is described at page 80 of the book and the classification of lands are also mentioned. Reference to Punja land is mentioned at pages 159, 160, 438 and 439 wherein the Punja lands are described as dry lands and the classification of Punja lands are mentioned as follows.-

PUNJA BAGHAYAT, Garden cultivation when made on Punja land.

PUNJA MEL NANJA, Cultivation of wet crops on lands classified as dry.

PUNJA TARAM NANJA, Dry land assessed as wet from having been cultivated with a wet crop.

PUNJA TIRWA, Assessment fixed on dry lands.

PUNJA VANPAYIR, Special products such as chillies, brinjal, tobacco, saffron, sweet-potato, etc., raised on Punja.

PUNJA-VARAVU-NANJA, Punja converted into wet.

There cannot be any dispute about the above classification. Wherever Punja lands are converted into wet, baghayat and garden lands, the same was called as Punja baghayat, Punja mel nanja, Punja taram nanja, Punja vanpayir etc. But, the question whether Punja land is cultivable or not is a pure question of fact. Where the finding is there that the Punja land is not cultivable land and only grass is grown naturally on the land, the presumption or inference raised that the said land is only grassland and not an agricultural land cannot be found fault with.

7. In the present case, rent deed is produced by the landlord wherein it is shown that the land is settled on a minor and the guardian of the minor is given the house on a monthly rent of Rs. 2.25 per month which is produced at Annexure-F. If this deed is taken, it clearly shows that monthly rent is paid and not yearly rent as in the case of an agricultural land, the case of the tenant is that he has taken the land from one Ujjakka Shedthi and not from the present owner. These lands are settled long back on a minor. Therefore, even accepting the contention, the possession of the appellant is only unauthorised possession. The land in his possession cannot be held to be a cultivable land. If a person is deemed to be a tenant as provided under Section 4 of the Act it must be on lawful possession. Therefore, any unauthorised possession cannot be said to be lawful possession. The Tribunal has also held that there is no relationship of landlord and tenant. Even apart from the alleged rent deed the evidence on record clearly show that the land is a non-agricultural land situated in Municipal area in which buildings are constructed.

Merely because certain plants and trees are found inside the compound, as in most of the compounds in Dakshina Kannada the land cannot be termed as an agricultural land.

8. In view of the above circumstances, we hold that in this case, the land in question is a Punja land where only thatched grass is grown naturally. There may be some trees on the land. That does not mean that a natural grass growing land is an agricultural land particularly, in the facts and circumstances of this case where a built house is surrounding the land. For all the above reasons, in the present case, having regard to the facts of the case, we make it clear that Punja land in Dakshina Kannada is not an agricultural land. We make it clear that where Punja land is brought under cultivation, it is not a bar on the parties to adduce evidence that such land is brought under cultivation for agricultural purpose. No such evidence is there in this case. No ground is made out to interfere with the impugned order passed by the learned Single Judge confirming the order passed by the Land Tribunal. The learned Single Judge was also right in allowing the writ petition filed by the respondent-Harideesh Kumar setting aside the grant of a portion of the land to the appellants on humanitarian grounds. It cannot be disputed that the Land Reforms Act does not give jurisdiction to the Land Tribunal to grant occupancy rights on humanitarian grounds.

9. Accordingly, writ appeals are dismissed. No order as to costs.