

**Krishne Gowda Vs. Lobo**

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**Court :** Karnataka

**Decided On :** Mar-24-1992

**Reported in :** ILR1992KAR1382

**Judge :** S.P. Bharucha, C.J. and ;K. Shivashankar Bhat, J.

**Acts :** Karnataka Land Grant Rules, 1969

**Appeal No. :** W.A. No. 1411 of 1991

**Appellant :** Krishne Gowda

**Respondent :** Lobo

**Advocate for Def. :** K.M. Chandraprasad, Adv. for R-1 and ;N.K. Gupta, Govt.  
Adv. for R-2 to R-4

**Advocate for Pet/Ap. :** M.S. Gopal, Adv.

**Disposition :** Appeal allowed

**Judgement :**

**Shivashankar Bhat, J.**

1. Appellant challenged the grant of 10 acres of land to the first respondent under the Land Grant Rules. The grant was made in November 1983.

2. According to the appellant he sought the grant of land because he belonged to the category of ex-military personnel. Earlier he had also applied for the grant of land in the same survey number in the year 1979. Subsequently the first respondent also applied for the grant of land claiming to be an ex-military personnel. It is stated that the land is situated in Survey No. 41 which in all measured more than 340 acres out of which 20 acres of land was reserved for grant to exhibitory personnel. The first respondent was allotted 10 acres out of this 20 acres on 26-10-1983 by the Deputy Commissioner. The first respondent was not satisfied with this grant and persuaded the authorities to allot him further land and accordingly under the impugned order he was granted with another 10 acres thus exhausting the entire land reserved for ex-military personnel. The appellant was not aware of this grant and immediately on coming to know of this he questioned the grant in the year 1986 by approaching the Karnataka Appellate Tribunal. The appeal was rejected on the ground that there was nothing to show that the appellant's claim was based on the fact that he belonged to the ex-military personnel category. The Appellate Tribunal further observed that the appellant had challenged the grant of another portion in the same survey number to a few others which is pending consideration by this Court in W.P.4710/1985. The Tribunal observes that the appellant's applications were filed, one on 19-7-1979 and another on 18-12-1980 and therefore the appellant could not have invoked the reservation made in favour of ex-military personnel in the year 1982. Since the grant made in favour of the first respondent was after due consideration of his case based on recommendation of the various authorities, the Appellate Tribunal did not find it just and proper to set aside the said grant. It was argued before the Appellate Tribunal that the appellant was granted another land in Survey No. 134 measuring 7 acres but the Appellate Tribunal observes that the said fact had no relevancy to the present dispute raised by the appellant. This order was challenged by the appellant without any success before the learned Single Judge.

3. Mr. Gopal, learned Counsel for the appellant, contended that the case of the appellant was not at all considered before the land was granted in favour of the first respondent; since an application was filed by the appellant in this category was already pending before the Deputy Commissioner, it was incumbent on the part of the Deputy Commissioner to consider the claim made by the appellant

along with the case of the first respondent.

4. The learned Counsel for the first respondent however contended that the appellant never made an application under this category. For this purpose the learned Counsel relied upon the observations of the Appellate Tribunal which reads as follows:

'... Whether the application filed on 18-12-80 and the one filed on 19-7-79 are one and the same and in respect of the very land is not made clear. In all probability it appears that the appellant has confused himself with the portion of the land sought for by him vide his application dt.19-7-79 and another application dt.18-12-80. We have gone through the order of this Tribunal in Appeal No. 16/82 dt.4-10-83 which is said to be under consideration in W.P.No.4710/85. We are of the opinion that the subject matter involved in appeal No. 16/82 is altogether different from the one involved in the present appeal. It cannot be said that the very land which is the subject matter of appeal 16/82 was granted to R-2 by the Dy. Commissioner on 29-11-83.'

It is not possible to accept this contention of the first respondent because the finding of the Appellate Tribunal is nothing but a result of guess work. The applications were not summoned from the records of the authorities. State of Karnataka was a party before the Appellate Tribunal and it was not its contention that the appellant's applications did not claim the grant under this category and therefore his applications should not be considered. The position is not different in any manner even before this Court. There is an assertion by the petitioner that he made an application claiming the grant as belonging to the category of ex-servicemen. The State has not denied this assertion made by the appellant. The first respondent is not the proper person who can speak to this factual aspect of the status claimed by the appellant since the application was filed before the Deputy Commissioner. In fact the contention of the learned Counsel for the first respondent is based entirely on the suppositions which are found in the observations made by the Appellate Tribunal, Therefore we have to proceed that the appellant had made an application for the grant of land claiming to be an ex-serviceman. If so, the question is whether his application should have been

considered at the time the claim of first respondent was considered by the Deputy Commissioner. The Land Grant Rules specifically do not provide for the consideration of several applications simultaneously; the procedure to be followed by the authorities granting the land in this regard will have to be inferred having regard to the principles of equity and justice and the purpose of the Land Grant Rules. The available lands are notified to afford an opportunity for the needy persons to file their applications seeking the grant. In such a situation when the claimant files an application it is but most natural that his claim will have to be considered along with the claim of any other claimants. No useful purpose will be served by considering the claim of one of the claimants and granting the land to such a claimant, because the claim of the applicant whose application was not considered will be lost for want of land. The grant of Governmental land cannot be a mere largess to be granted as the authorities deem it fit, irrespective of the merits of the individual cases. It is in these circumstances learned Judge of this Court in RAMAIAH v. STATE OF KARNATAKA AND ORS., 1979(2) KLJ 474 held at page 477:

'...The Rules in specific and express terms do not say that when more than one person files an application for grant of one and the same land they should be considered together. An examination of all the Rules clearly indicate that when there is more than one application for grant of one and the same land, the competent authority has necessarily to consider all the applications together and dispose of them together. Such a course if not adopted will result in non-consideration of the case of an eligible applicant and rejection of his application which would result in failure of justice to the person whose application is not considered by the authority. Law apart, failure to consider the applications together when the applications are for grant of one .and the same land, is not in the interest of justice. Fair and full justice cannot be meted out by an authority if applications are for grant of one and the same land by more than one person are not considered together. In cases arising under the Inams Abolition Act and various other Acts, this Court has consistently taken the view that when there is more than one application made in respect of a land for one and the same relief, all the applications made will have to be necessarily considered together and justice done to all the parties. In my view, the principles enunciated by this Court in

dealing with the applications for grant of occupancy rights under the Inams Abolition Act, Land Reforms Act, should be equally made applicable to the consideration of applications made by more than one person for grant of one and the same land under the Rules. As the Government has not considered the applications made by the petitioner and respondent No. 3 for one and the same land, it necessarily follows that the order granting the land to respondent No. 3 and the saguvali chit issued thereto to respondent No. 3 are liable to be quashed and a mandamus issued to consider their applications together.'

We are in agreement with the observations of the learned Judge. Any other view, if taken, will lead to arbitrary results and the very purpose of the Land Grant Rules will be lost.

5. In view of the above, there is no other alternative except to allow the Appeal as well as the Writ Petition and set aside the order made in favour of the first respondent granting ten acres of land on 29-11-1983. The Deputy Commissioner shall consider the respective claims of the appellant and of the first respondent afresh in accordance with law. It is clarified that the parties shall maintain status quo as on today in regard to the possession of this ten acres of land.

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