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Kariyappa Vs. State of Karnataka

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Court : Karnataka

Decided On : Jan-11-1990

Reported in : ILR1990KAR1269; 1990(1)KarLJ359

Judge : K.A. Swami, J.

Acts : Karnataka Land Reforms Act, 1961 - Sections 121A; ;Karnataka Land Reforms (Amendment) Act, 1986; Code of Civil Procedure (CPC) - Sections 115; Constitution of India - Articles 226 and 227

Appeal No. : C.R.P. No. 77 of 1990

Appellant : Kariyappa

Respondent : State of Karnataka

Advocate for Pet/Ap. : Tajuddin, Adv.

Judgement :
ORDER

K.A. Swami, J.

1. The petitioner had filed an application n Form No. 7 before the Land Tribunal, Malavalli which was registered as No. LRF/74/81-62. The Land Tribunal consisted of four members, including the Chairman, two members took a view in favour of the petitioner and the other two took a contrary view.

2. When the matter stood at that stage, the petitioner challenged the order dated 7-3-1984 passed by the Land Tribunal before this Court in Writ Petition No. 4777/84, which came to be transferred to the Land Reforms Appellate Authority, Mandya (hereinafter referred to as the LRA) under Section 19 of the Karnataka Act No. 19 of 1986.

3. The grievance in this Revision Petition is that the LRA is not deciding the appeal on the ground that the Land Tribunal has not decided the petitioner's application (Form-7) in one way or the other. Therefore, this is a case wherein the LRA is refusing to exercise the appellate jurisdiction. It is also stated that it is only adjourning the appeal on the ground that it cannot decide the appeal. Hence, this Revision Petition is filed by the petitioner.

4. When a statutory authority fails to exercise jurisdiction or unnecessarily postpones the matter under consideration, the normal course open to the aggrieved party is to approach this Court in a petition under Articles 226 and 227 of the Constitution seeking an appropriate direction.

5. Section 121A of the Karnataka Land Reforms Act, 1961 (hereinafter referred to as the Act) as amended by Karnataka Act of the 19/1986, provides that the High Court may at any time call for the records of any order or proceeding recorded by the Appellate Authority under the Act or any other law for the purposes of satisfying as to the legality of such order or as to the regularity of such proceedings and may pass such order with respect thereto as it thinks fit. Though the power conferred on the High Court is a power of Revision and not of appeal, and as such Revision Petition cannot be equated to an appeal, but nevertheless it is wider than the power of Revision of the High Court under Section 115 of the C.P.C. The restrictions imposed on the power of Revision under Section 115 of C.P.C. are not applicable to the power of revision under Section 121A of the Act. The power of Revision under Section 121A of the Act can ever be exercised against the proceedings before the L.R.A. even when the proceeding is not finally disposed of, as it is open to go into the regularity of the proceeding. The order sheet of the case, which is a part of the proceeding of the L.R.A. speaks of regularity of the proceeding conducted by the LRA. It is seen from the order sheet

that the appeal is being adjourned from 15-10-1987 for over a period of two years. It is apparent from the records that without any justification the proceeding is being adjourned by the LRA. Therefore it is not possible to hold that there is regularity in the proceeding in question. It is highly irregular to go on adjourning the proceeding without any reason for over a period of two years. Parties approach the Court or the Tribunal or the Authority for relief just as an ailing person approaches a Doctor and he wants relief as quickly and as cheaply as possible.

6. Even if it is held that a matter like this does not come under Section 121A of the Act, this Court can even, suo motu, exercise its jurisdiction under Article 227 of the Constitution, and issue appropriate direction.

7. In the above circumstances the instant case is an appropriate case to exercise suo motu jurisdiction, under Article 227 of the Constitution. Accordingly, the C.R.P. is disposed of with a direction to the L.R.A. to dispose of the Appeal, within tour months from the date of receipt of this order, on merits and in accordance with law.

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