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Court : Karnataka

Decided On : Oct-21-2005

Judge : N.K. Patil, J.

Acts : [Karnataka Land Reforms Act, 1961](#); Karnataka Land Reforms Appellate Authority Rules, 1986; [Constitution of India](#) - Article 14

Appeal No. : Land Reforms Revision Petition No. 4726 of 1989

Appellant : Patel Rangegowda

Respondent : The Land Reforms Appellate Authority and ors.

Advocate for Def. : A.R Sharadamba, High Court Government Pleader for Respondent Nos. 1 and 2, ;M.B. Chandra Chooda, Adv. for Respondent No. 3 and ;D.L. Suresh and ;H.B. Mahesh, Adv. for Respondent Nos. 4(A) to 4(C)

Advocate for Pet/Ap. : K.L. Ashok, Adv. on behalf of Vagdevi Associates, Adv.

Disposition : Petition dismissed

Judgement :

ORDER

N.K. Patil, J.

1. The petitioner, questioning the legality and validity of the order dated 12-5-1989 in No. LRAA(RA) No. 57 of 1986 on the file of the Land Reforms Appellate Authority, Hassan District, reversing the order passed by the Land Tribunal, Alur Taluk, Hassan District, Hassan, has presented this land reforms revision petition.

2. The petitioner claiming to be the tenant in respect of lands bearing Survey Nos. 18/2, 51, 66 and 65 measuring 29 guntas; 1 acre 6 guntas; 6 guntas and 32 guntas respectively, situate at Bellavara Village, Alur Taluk, Hassan District, had filed Form 7 for grant of occupancy rights in his favour. The said application had come up for consideration before the Land Tribunal, Alur-2nd respondent herein on 26-10-1979. The Land Tribunal has granted the occupancy rights in favour of the petitioner. Being aggrieved by the said order passed by the Land Tribunal, the 4th respondent-deceased E.G. Ramesh had filed writ petition before this Court in No. 9690 of 1981. In view of the amendment to the [Karnataka Land Reforms Act, 1961](#), the Appellate Authority has been constituted and this Court by its order dated 1-7-1986 has transferred the said writ petition to the Land Reforms Appellate Authority, Hassan District, Hassan and renumbered as (LRAA) RA No. 57 of 1986. Before the Appellate Authority, the parties have filed LA. for adducing additional evidence. The said LA. has been allowed and additional evidence has been recorded. The Appellate Authority, after conducting enquiry in strict compliance of the Karnataka Land Reforms Appellate Authority Rules, 1986, in view of the categorical statement made by the petitioner and after appreciating the oral and documentary evidence in para Nos. 17, 18 and 19 of its order, has set aside the order passed by the Land Tribunal and rejected the application filed by the petitioner in Form 7. Further, liberty has been reserved to the appellant/4th respondent to establish his title to the lands in dispute in a Civil Court and passed an order on 12th May, 1989. Being aggrieved by the order passed by the Land Reforms Appellate Authority, Hassan, as referred above, the petitioner felt necessitated to present the instant revision petition.

3. The principal ground urged by the petitioner in this revision petition is that, order passed by the Appellate Authority is bereft of reasoning and it has not considered the statements made by the neighbouring landlords and has not given sufficient opportunity to the petitioner to substantiate his case and hence it is against the

principles of natural justice being against Article 14 of the [Constitution of India](#). Further, the impugned order is illegal arbitrary and is a non-speaking order. The Appellate Authority has wrongly interfered with the well-considered order passed by the Tribunal and has ignored the evidence on record in coming to its wholly wrong conclusions. Further, the Appellate Authority has failed to appreciate evidence and also take note of the civil proceedings that have gone on between and among the parties to the proceedings in respect of the very lands. Therefore, the impugned order passed by the Land Reforms Appellate Authority, Hassan is liable to be set aside and the order passed by the Land Tribunal, Alur is liable to be confirmed.

4. Per contra, the learned Government Pleader for respondents 1 and 2, inter alia, contended and substantiated the order passed by the Appellate Authority. Further, he has taken me through the order passed by the Land Tribunal and vehemently submitted that, the Land Tribunal has passed a non-speaking order, without conducting the proper enquiry. The Appellate Authority, after giving sufficient opportunity to both the parties to adduced their evidence and after appreciating the oral evidence has given a specific finding in para Nos. 17 and 18 of its order and it has given its conclusion in para No. 19 by holding that, the lands in question is not a tenanted land as on 1-3-1974 and petitioner has failed to establish that, he is cultivating the said lands as on that date. Therefore, the Appellate Authority has rightly passed an order rejecting the claim made by the petitioner for grant of occupancy rights. Therefore, he submitted that, the Appellate Authority has not committed any error or irregularity or infirmity in passing the order. Nor the petitioner has made out any good grounds to interfere with the well-considered order passed by the Appellate Authority and hence the revision petition filed by the petitioner is liable to be dismissed.

5. After careful perusal of the grounds urged by the petitioner in the revision petition and after microscopic evaluation of the entire original records available before this Court, the only question that arises for consideration in the instant revision petition is:

Whether the impugned order passed by the Appellate Authority is in accordance with law?

6. After hearing the learned Counsels appearing for both the parties and after careful evaluation of the original records available on file, including the order passed by the Appellate Authority, it emerges on the face of the order that, Appellate Authority has not committed any error, much less irregularity in rejecting the claim made by the petitioner and setting aside the order passed by the Land Tribunal, after assigning cogent reasons in para Nos. 17 to 19 of its order. Further, the Appellate Authority has given a specific finding after critical evaluation of the oral and documentary evidence and the statement made by the petitioner on 26-10-1979 which is available at Red Ink Page No. 14 in the original records, who has stated in unequivocal term that, 'he is cultivating the lands till 1968 and he has handed over the lands to the owner and again in pursuance of the agreement arrived between the petitioner and the landowner on 20th September, 1974, he is cultivating the said lands on crop share basis'. To substantiate his statement, he has produced the receipt issued by the landowner Sri M.V. Venkataramaiah, the 3rd respondent herein and it is available at red ink page No. 15. The Appellate Authority, has given a specific finding that, the RTC and pahani records do not support the claim of the petitioner that, he is in possession of the lands in question as a tenant as on and immediately prior to 1-3-1974. Further, it is specifically held that, the petitioner himself has stated in unequivocal terms that, he was cultivating the lands in question under document dated 20th September, 1974, which is subsequent to 1-3-1974. When these vital documentary evidence are available on file, the Land Tribunal has grossly erred in coming to the conclusion that, the petitioner was a tenant in possession of the aforesaid lands and the same is not at all justifiable. Further, the Tribunal has erred in granting occupancy rights in favour of the petitioner. Therefore, the Appellate Authority has opined that, the interference is called for. Further, the Appellate Authority has rightly observed that: 'deceased B.G. Ramesh is none other than the appellant before the Appellate Authority claiming to be purchased the lands in question from the 3rd respondent under a registered sale deed Exs. P. 13 and P. 14 and he has to work out his remedy before the appropriate competent Civil Court' and rightly set aside the order passed by the Land Tribunal and rejected the claim made by the petitioner

for grant of occupancy rights in his favour. The said reasoning given by the Appellate Authority after appreciating the credible documentary evidence available on file is just and reasonable. Therefore, I do not find any error, much less material irregularity as such has been committed by the Appellate Authority while setting aside the order passed by the Land Tribunal and rejecting the claim of the petitioner. The Appellate Authority has passed a well-considered order. The interference by this Court by exercising powers under revision may not be justifiable, in view of the well-settled principles of law laid down by the Apex Court and this Court in catena of judgments. Nor the petitioner has made out any good grounds to interfere in the order passed by the Appellate Authority, except taking a specific ground, he has not produced any documentary evidence before this Court to substantiate the ground urged by him. As a matter of fact, as referred above, the petitioner himself has appeared before the Appellate Authority and stated in unequivocal terms that, he is cultivating the said lands till 1968 and thereafter he has handed over the possession to the 3rd respondent, landowner and thereafter he is alleged to have continued to cultivate the lands on the basis of the document dated 20th September, 1974, as referred above, which is subsequent to 1-3-1974. Therefore, it is duty cast on the petitioner to establish that, he is cultivating the lands from 1970-71 to 1973-74 which is the crucial and relevant dates for considering the claim of the tenant for registering occupancy rights. But, in the instant case, the petitioner has not produced any documents to establish that, he is cultivating the lands in question from 1970-71 to 1973-74. Therefore, the Appellate Authority has rightly appreciated the same and passed a well-considered order holding that, the lands in question are not a tenanted lands and they are not vested in the Government as on 1-3-1974 and rejected the claim of the petitioner.

7. Having regard to the facts and circumstances of the case as stated above and taking into consideration the totality of the case in hand, I do not find any good grounds to interfere with the order passed by the Appellate Authority. Hence, the revision petition filed by the petitioner is liable to be dismissed. Accordingly, it is dismissed.

So far as the non-compliance of the order dated 28-11-2003 is concerned, Sri Ashok, Counsel appearing for the petitioner has submitted that, the said order has been complied with and cost has been paid to the Counsel for the respondents. If that is so, Counsel appearing for the petitioner Sri Ashok is directed to file a memo to that effect immediately in the Registry.

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