

Sureshchandra Mehta Vs. the Additional Tahsildar

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Court : Karnataka

Decided On : Apr-05-2010

Reported in : 2010(3)KarLJ268

Judge : Huluvadi G. Ramesh, J.

Appeal No. : Writ Petition No. 4681 of 2010

Appellant : Sureshchandra Mehta

Respondent : The Additional Tahsildar

Advocate for Def. : Chittappa, Special Government Adv.

Advocate for Pet/Ap. : P. Mahale, Sr. Adv. for A.L. Premakumar, Adv.

Judgement :

ORDER

Huluvadi G. Ramesh, J.

1. Petitioner has sought for quashing the order dated 9-3-2009 -Annexure-F in proceedings RRT No. 118 of 2008-09 and for a direction to the respondent to enter his name in the RTC/pahani of Sy. No. 200, Block 19 situate a Marenahalli Village, Jala Hobli, Bangalore North Taluk.

2. According to the petitioner, he has purchased the land in Block 19 in Sy. No. 200 from one Ramaiah and also made an application for change of entries in the RTC/pahani. Since no action was taken, petitioner filed W.P. No. 10979 of 2008. This Court by order dated 20-11-2008, granted three months time to the respondents to take necessary action. However, the application of the petitioner came to be rejected. Hence, this petition.

3. Heard the Counsel representing the parties.

4. Sri P. Mahale, Senior Counsel representing the petitioner vehemently contended that a Division Bench of this Court in the case of M.N. Venkateshaiah v. State of Karnataka and Ors. : 2005(6) Kar. L.J. 452 (DB) : ILR 2005 Kar. 5084 (DB) has held that the Tahsildar would have acquired the right to remove or change the entries only if the Deputy Commissioner were to cancel the grant orders or to hold the grant orders claimed by the appellant are non-existent. In the absence of such order of the Deputy Commissioner, it is held, necessarily the order of the Tahsildar is one without authority of law in terms of the judgment of the co-ordinate Bench. Accordingly, the orders passed by the Assistant Commissioner, Deputy Commissioner and by the learned Single Judge were set aside. Relying on this judgment, learned Senior Counsel contended that the impugned order at Annexure-P passed by the Tahsildar, Bangalore North Taluk, is bad in law.

5. Per contra, Government Pleader submitted that pursuant to the allegation regarding illegal encroachment of the Government land, a report has been secured; proceedings has been initiated by issuing notice to the concerned and, based on that, action has been taken to delete the entries made in the revenue records. It is also submitted, petitioner being one of the purchaser from the vendor who has acquired the property from one Venkatappa and there is no such grant order, the decision of the Division Bench is not applicable to the case on hand.

6. Petitioner is a purchaser from one Ramaiah to the extent of 4.00 acres in Block 19 formed out of Sy. No. 200 of Marenahalli Village. The vendor of the petitioner in turn is said to have purchased the land from one Venkatappa who according to the petitioner is a grantee. However, according to the Government Advocate, there

was no such grant available and it is a fabricated document created as such, the sale executed by the alleged grantee in favour of vendor of the petitioner and in turn to the petitioner, is non est and it is a fraudulent transaction.

7. According to the Government Advocate, having ascertained through the Committee, report has been submitted that there is no such grant made in favour of any of the persons much less Venkatappa who is said to have sold the property in favour of the vendor of the petitioner. Also in this regard to nullify the acts if any done by unscrupulous persons who have squatted and encroached the land belonging to the Government, due notice has been issued initiating inquiry.

8. In the circumstances, interfering with the order passed by the respondent-Tahsildar as is done by him, i.e., non-consideration of the application filed by the petitioner seeking for continuation of his name in the RTC to the extent of 2.00 acres, would not arise. According to the Government Advocate, even the entire land in question is a gomal land.

9. Prima facie, an inquiry has been initiated pursuant to the report on ascertaining that there is no such grant order and, such encroachment and alienation made are illegal and fraudulent. Petitioner is at liberty to seek for such orders only after the conclusion of the inquiry pending before the Deputy Commissioner. The decision of the Division Bench of this Court, in my opinion, would not be squarely applicable to the case on hand. Having regard to the fact that already inquiry has been initiated by the Deputy Commissioner and now the petitioner on such refusal by the Tahsildar to change the entries in the revenue records, is seeking for a direction for insertion of his name which is said to be left out, the order so passed cannot be faulted at this stage.

10. Further, the Deputy Commissioner who is holding inquiry in respect of encroachment of the lands and other various encroachments, insofar as this case is concerned, may have to issue notice to the vendor of the petitioner i.e., Ramaiah and also to Venkatappa who is said to have made illegal encroachment and sold the land in favour of Ramaiah and also to the petitioner, if need be; allow them to participate in the proceedings and dispose of the matter as expeditiously as possible. All contentions are left open to be urged before the Deputy

Commissioner.

With the above observations, petition is disposed of.

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