

Subraya Bhat Vs. State of Karnataka and Another

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Court : Karnataka

Decided On : Dec-05-2011

Judge : Ajit J. Gunjal

Appeal No. : Writ Appeal No. 32102 of 2010 (LR)

Appellant : Subraya Bhat

Respondent : State of Karnataka and Another

Advocate for Pet/Ap. : For the Petitioner: G. Ravishankar Shastry, Advocate. For the Respondents: Shashidhar S. Karamadi, High Court Government Pleader.

Judgement :

1. This petition is by the landlord. Suffice it to note the lands held by him vested with the State Government under Section 44 of the Karnataka Land Reforms Act, 1961. The Tahsildar-respondent 2 determines the amount payable to the petitioner at Rs.1,08,453/- with interest at 5.5% p.a. The petitioner was aggrieved by the interest awarded at the rate of 5.5% and he questions the same before the Assistant Commissioner. The Assistant Commissioner, having regard to the decision rendered by this Court in W.P. No.20929 of 1992, decided on 13-7-2000 directed the Tahsildar to consider the claim of the petitioner the reference to the decision therein. It appears, the second respondent did not consider the said direction for considerable period of time. Hence, legal notice was issued. Thereafter, an endorsement was issued. A copy of which is produced at

Annexure-A indicating that the petitioner is not entitled for the benefit of the said orders as he was not a party to those proceedings.

2. Mr. Ravi Shankar Shastry, learned Counsel for petitioner submits that the petitioner is aggrieved only by the non- awarding of interest at the rate of 16.66%. The difference being 11.16%.

3. The learned Government Pleader submits that the impugned order is just and proper inasmuch as the petitioner was not a party to the earlier writ petition.

4. I am of the view that the impugned endorsement issued by the second respondent cannot be sustained. What is required to be followed by the second respondent was the ratio laid down by this Court in identical cases. The fact that the petitioner was not a party to the earlier writ petition does not necessarily disentitle him in getting interest at the rate of 16.66% on the amount, which was payable to him. Indeed it is to be noticed that the land vested with the Government on 1-3-1974. Occupancy rights have been granted.

5. Section 47 of the Karnataka Land Reforms Act, 1961 contemplates that the landlords who have lost the lands are entitled for compensation.

Section 51 of the Act speaks about the mode of payment. Sub-section (2)(a) would deal with awarding of interest on the belated payment.

6. Indeed, interpreting these provisions this Court has ruled that the landlord who has lost the land pursuant to these enactment is entitled for interest at the rate of 16.66%. Indeed, the order passed by this Court in W.P.No.20929 of 1992 decided on 13-7-2000 is also to the same effect.

7. The Division Bench in the Writ Appeal No.2572 of 1997 has awarded interest at the rate of 16.66% having regard to the provisions of the Act and also the current rate of interest at that point of time.

8. Having said do, I am of the view that the fact that the petitioner was not a party to the earlier proceedings, cannot be a ground to deny his legitimate amount with interest at the rate of 16.66%. Hence, the following order.-

The petition is allowed. The endorsement at Annexure-A is set aside. The petitioner is entitled for interest at the rate of 16.66% on Rs.1,08,453/- from 1-3-1974 less the interest awarded to hi at the rate of 5.5%. Thus the petitioner is entitled for additional interest which would work out to 11.16%. Compliance in three months from the date of receipt of this order. Rule is issued and made absolute.

Mr. Shashidhar S. Karamadi, learned HCGP is permitted to file memo of appearance within four weeks from today.

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