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M. Manjappa Vs. State of Karnataka and Others

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Court : Karnataka

Decided On : Jan-19-2011

Reported in : 2011(1)KCCR590(DB)

Judge : V.G. Sabhahit &Amp; B. Manohar

Appeal No. : Writ Appeal No. 1501 of 2008 (LR)

Appellant : M. Manjappa

Respondent : State of Karnataka and Others

Advocate for Pet/Ap. : For the Petitioner: G.M. Anand, Advocate. For the Respondent: R12 - M/s. Ravivarma Kumar Associates, R1 and R2, R5, R6, R7, R8, R9, R10, R11, R13, R14 – K. Krishna, Advocates, Additional Government Advocate, R5 to R10 - Served, R3 and R4 - LRs of De

Judgement :

B. Manohar, J.

1. Appellant is the petitioner in W.P.No. 37875/1993 being aggrieved by the order dated 14-6-2007 passed by the learned Single Judge dismissing the writ petition filed by the petitioner confirming the order dated 31-7-1993 passed by the Land Tribunal filed this appeal.

2. The appellant has contended that he is a tenant in respect of the land bearing Sy.No. 10 measuring 3 acres 27 guntas of land situated at Arhatolalu village. Bhadravathi Taluk from the year 1969. The said land was taken on lease from one Kalamma who is the grandmother of respondents 13 and 14 herein as per Guthige Kararu Pathra dated 6-10-1969 since then he has been in possession and cultivating the said land. In view of coming into force the Land Reforms Act, he filed an application in Form No.7 for grant of occupancy rights in respect of the aforesaid land. Further respondents 3,4,5 also filed Form No.7 for grant of occupancy rights in respect of the aforesaid land. The Land Tribunal after clubbing all the applications filed in respect of Sy.No. of 10 of Arhatolalu Village, by its order dated 13-10-1981 granted I acre of land in favour of 3rd respondent and 1 acre of land in favour of the petitioner and 1 acre 27 guntas of land in favour of 5th respondent and rejected the claim of the 4th respondent. The petitioner being aggrieved by the order dated 31-10-1981 passed by the Land Tribunal filed W.P.No. 1571/1982 before this Court challenging the same on various grounds. This Court by its order dated 11-6-1985 allowed the writ petition and set aside the order passed by the Land Tribunal and remanded the matter to the Land Tribunal for fresh enquiry and also directed the Tribunal to issue notice to all the interested parties.

3. The Land Tribunal after issuing notice to all the parties and after holding necessary enquiry by its order dated 31-7-1993 granted occupancy rights in favour of the 5th respondent (i.e., respondent No.12 herein) and rejected the claim of the petitioner and respondents 3 and 4. The Land Tribunal after recording the statement of the applicants and their witnesses came to the conclusion that the petitioner is residing at Hutha colony, Bhadravathi Taluk which is about 24 Kms away from the Arhatolalu village. It was further observed that the petitioner was doing the business of arrack vending and no document has been produced to show that he was cultivating the land from the year 1969. The other applicants have also not produced any documents to show that they were the tenants of the said lands.

4. Being aggrieved by the order dated 31-7-1993 passed by the Land Tribunal, the petitioner filed W.P.No. 37875/2005 before this Court contending that the order

passed by the Land Tribunal is contrary to law without considering the lease deed, rent receipts. RTC entries solely on the statement of the landlord granted occupancy rights in favour of the 5th respondent in the writ petition and sought for setting aside the same. The learned Single Judge after hearing all the contesting parties held that the lease dated 6-10-1969 produced by the petitioner cannot be accepted. The lease deed said to have been executed on 6-10-1969 whereas the witness has signed the lease deed on 6-8-1969. The said document was cooked up for the purpose of claiming occupancy rights. Further there was money transaction between the petitioner and the owner of the land i.e., grandmother of respondents 13 and 14 and he has been taken signature on the blank papers. The said blank papers might have been used for the purpose of creating Guthige Kararu and the same cannot be believed at all. Further, the owner of the land in her evidence deposed that 5th respondent is cultivating the land. Further no document has been produced before the Court to show that he was cultivating the said land accordingly dismissed the writ petition.

5. Being aggrieved by the order passed by the learned Single Judge the petitioner filed this appeal.

6. Sri G.M. Anand, learned Counsel appearing for the appellant contended that the learned Single Judge without considering the mutation entries and rent receipt produced by the appellant, dismissed the writ petition which is contrary to law. Further contended that the mother of the 6th respondent has no right to create lease in respect of the very same property in favour of the 5th respondent and sought for setting aside the order passed by the learned Single Judge by allowing this appeal.

7. Sri K. Krishna, learned Additional Government Advocate appearing for respondents 1 and 2; M/s Ravivarma Kumar Associates, learned Counsel appearing for respondent No. 12 argued in support of the order passed by the Land Tribunal.

8. We have carefully considered the arguments addressed by the learned counsel for the parties and perused the order impugned passed by the learned Single Judge and also the order passed by the Land Tribunal.

9. It is not in dispute that the appellant and other three persons claimed occupancy rights in respect of land bearing Sy.No. 10 measuring 3 acres 27 guntas of land situated at Arhatolalu village. The occupancy rights granted by the Land Tribunal had been quashed by this Court in W.P.No. 1571/1992. After remand the Land Tribunal conducted fresh enquiry and found that the appellant and other two applicants are not in possession of the land in dispute and Krishnoji Rao, i.e., 5th respondent in the writ petition is in possession of the property. The said order has been questioned by the appellant. Before the Land Tribunal, the appellant relied upon the lease deed (Guthige Kararu) dated 6-10-1969 and also Gutha receipt and contended that form 1969 onwards, he has been in possession and cultivating land. The learned Single judge after verifying the original records, found that though the lease deed was executed on 6-10-1969, the witness to the said lease deed had signed on 6-8-1969 even prior to the execution of the lease deed. Further there was also money transaction between the appellant and the landlord and he has taken signatures on the blank papers and the said blank papers might have been used for creation of lease deed and the said document cannot be believed. So also the Gutha receipts produced as Annexures-C and D in the writ petition. Further, the landlord categorically submitted before the Land Tribunal that 5th respondent - Krishnaoji Rao is in possession and cultivating the land. Some of the revenue entries also support the ease of the landlord. Further, the brother of Krishnoji Rao appeared before the Land Tribunal and produced the documents and also lease deed executed in his favour as Ex.P.1 and Guthige receipts were also produced as Ex.P.2 to Ex.P.5. The land Tribunal after considering the evidence led by the parties and after persuing the documents produced by both the parties held that 5th respondent in the writ petition i.e., Krishnoji Rao is in possession and cultivation of the land and accordingly granted occupancy rights.

10. We find that there is no irregularity and illegality in the order passed by the Land Tribunal. The land Tribunal after considering the entire material on record came to the conclusion that 5th respondent in the writ petition is in possession and cultivation of the land as on 1-3-1974 and granted occupancy rights. The order passed by the Land Tribunal is in accordance with law.

11. The learned Single Judge after considering the matter in detail dismissed the writ petition filed by the appellant herein and confirmed the order passed by the Land Tribunal. The appellant has not produced any material to take a different view than the view taken by the learned Single Judge. Accordingly, We pass the following:

ORDER

The Writ appeal is dismissed.

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