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Court : Karnataka

Decided On : Jan-31-2011

Reported in : 2011(2)KCCR916; 2011(3)KantLJ363; 2011ILR(Kar)2454; 2011AIR(Kar)156

Judge : D.V. Shylendra Kumar

Appeal No. : Writ Petition Nos.27401 of 2010 & 2226 of 2010 (KLR-RR/SUR)

Appellant : Sri Krishnappa

Respondent : State of Karnataka Rep by Principal Secretary, Bangalore and Others

Advocate for Pet/Ap. : For the Petitioner: K. Abhinav Anand and C. Nagesh, Advocates. For the Respondents: R1 to R4 - R. Omkumar, AGA.

Judgement :

(Prayer: These petitions are filed under Articles 226 and 227 of the Constitution of India, praying to quash the order dated 19/4/2010 passed by the Learned R2 in case No. Revn. Petn.116/2007-08 produced at Anex-A and the order dated 31/5/2007 passed by the learned R3 in case No. RA(A) No.6/2006-07 produced at Annex -B and the mutation recorded by the R4 in M.R.No.46/1995-96 and M.R.No.121/2006-07 produced at Annex-N and etc.,.)

1. Writ jurisdiction is not one for working out as to who has purchased what extent of land in which survey number, what extent he is able to assert and enjoy claiming possession, what other extent is encroached on public land and all such matters can only be fit matters for examination in civil suits and not either by the revenue authorities who tinker with the entries in the revenue entries, even when there is no corresponding change of ownership rights and many a times contrary to such ownership rights also and find it a fertile area for indulging in corruption and nepotism.

2. The present writ petition is not any better with the petitioner claiming ownership rights in respect of some extent of land in Sy.No. 302 of Anekal Village and some extent of land said to have been purchased in the name of his wife as per a sale deed dated 9/7/1969, by his wife and the other by the petitioner as per sale deed dated 4/5/1973.

3. It is the version of the petitioner that the revenue entries reflected such change only in the year 1995-96 and some correspondents had taken place in this regard in the year 2005-06, but the third respondent in this petition - the Assistant Commissioner, Bangalore South Sub-Division, Bangalore, appears to have found things not very proper and for a good measure, there are as many as six private parties impleaded as respondents to these petitions, with fifth respondent claiming to have acquired title from respondents 6 to 10 and on the pretext of such sale deeds in his favour, is trying to interfere with the lands that the petitioner or his wife had purchased and particularly, trying to close some part of his land describing that to be as part of a public road and one providing for a way to a public tank located in Sy. No. 304 of the same village and at the instance of the fifth respondent, the revenue authorities, particularly, the Assistant Commissioner having effected changes in the revenue records for reducing the extent shown, saying that an extent of 3 guntas of land from the land purchased by the petitioner, being shown as kharab land and that it is not shown as holding of the petitioner etc.

4. The petitioner being aggrieved had also preferred revision before the Deputy Commissioner, but without much success as the revision petition came to be

dismissed and therefore this writ petition, praying for the following relief:

“Issue a writ of certiorari and quash the order dated 19/4/2010 passed by the learned 2nd respondent in case No. Revn. Petn.116/2007-08 produced at Annexure-A and the order dated 31/5/2007 passed by the learned 3rd respondent in case No.RA (A) No.6/2006-07 produced at Annexure-B and the mutation recorded by the 4th respondent in MR No.46/1995-06 and M.R.No.121/2006-07 produced at Annexure-N”

5. Submission of Sri. Abhinav Anand, learned counsel for the petitioner is that the details of public road should be properly maintained in revenue records and even when it is not so depicted in the revenue records, it is not open to the Assistant Commissioner or the Deputy Commissioner to appropriate or misappropriate the kharab land attached to the land of the petitioner and to show it as a public road, just because the land lies in between the land of the petitioner and the fifth respondent; that such orders passed by the revenue authorities are without any rhyme or reason, illegal and should be quashed; that the dispute relates to 3 guntas of kharab land and it is for ensuring that the land is sustained as kharab and not shown as public way leading to a public tank in Sy.No.304, the efforts of the present petitioner in these writ petitions.

6. These writ petitions are typical examples of the gross abuse, misuse of writ jurisdiction of this court. Every person asserting ownership rights having property disputes with either neighbours or other third parties jump into this court by ensuring that the revenue records are tinkered by the revenue authorities exercising power under section 136 of the Karnataka Land Revenue Act, 1964 (for short ‘the Act’) or any other power under this Act and using that as a cause which is more in the nature of a pretext to invoke the writ jurisdiction of this court.

7. It is not the function of this court to keep reviewing the orders passed by the revenue authorities to show name of one person or the other in the revenue records as revenue entries are only reflection of ownership rights otherwise the persons have. By a mere tinkering of the revenue entries, neither ownership rights are lost nor gained. In spite of repeated orders passed by this court observing this legal position, it has become a habit for the persons without bona fides, who may

or may not have any legal right, property right to jump into High court invoking jurisdiction of Articles 226/227 of the constitution of India only claiming that some order passed by some authorities at some level is bad, is not proper, against the procedure or against the statutory provisions etc.,.

8. Such disputes are not worthy of examination by this court in a petition under Article 226/227 of the Constitution of India and judicial time of this court is wasted by such petitions coming up before the court.

9. These petitions do not deserve examination by this court and they are accordingly dismissed levying exemplary costs of Rs.10,000/- on the petitioner.

10. Cost to be deposited to the credit of the Karnataka High Court Legal Services Committee account and the Secretary of High Court Legal Services Committee is directed to ensure this amount is received and utilized properly for extending legal aid to deserving litigants who seek relief before the High Court, but cannot afford to meet the litigation costs.

11. Cost to be deposited within four weeks from today before this court by the petitioner, failing which the registry is directed to issue certificate in favour of the Secretary, High Court Legal Services Committee, to realize this amount as though it is a decree passed by the civil court.

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