

Manappa and Others Vs State of Karnataka and Others

Court: Karnataka High Court (Gulbarga Bench)

Date of Decision: Feb. 24, 2015

Acts Referred: Karnataka Land Reforms Act, 1961 - Section 44, 44(1), 48-A, 5

Hon'ble Judges: L. Narayana Swamy, J.

Bench: Single Bench

Advocate: Chaitanyakumar C.M., for the Appellant; Shivakumar Tengli, A.G.A., Advocates for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

L. Narayana Swamy, J.

Writ petition No. 101115/2013 is filed by the wives and children of late Manappa, the purchaser of the property

from the 10th respondent who was landlord in respect of suit schedule property. The petitioners have made a prayer to set aside the order passed

by the land Tribunal dated 14.03.2013.

2. The grounds urged by the petitioners are that they are the owners of land in question and respondent Nos. 5 to 9 were the members of the joint

family and they were cultivating lands in question as tenants and respondent No. 9-Manappa being the karta of the family, his name was entered in

the record of right. The respondent-tenants filed Form No. 7 under Section 48-A of the Land Reforms Act and made prayer before the Land

Tribunal to declare them as tenants. Without following the provisions of the Land Reforms Act, the Tribunal has declared the respondents as

tenants in respect of land in question. On earlier two occasions the order of the Tribunal was challenged before this Court and writ petitions were

allowed and matter was remanded for fresh consideration. Even thereafter the Tribunal did not comply the provisions of law. Hence, the order

dated 14.03.2013 is liable to be set aside. The order of the land Tribunal is bad in law for non joinder of parties. Late Manappa who is purchaser

of the property from the landlord in question had two wives and after his death his legal representatives should have been brought on record.

Without bringing them on record the orders have been passed. Hence, on this ground also the order has to be set aside. The other ground urged

by the petitioners is that as per the order sheet it discloses the matter was reserved on 14.03.2013. The order sheet discloses that the order was

pronounced on the same day. But in fact the order was pronounced on 25.3.2013 by wrongly showing the date as 14.3.2013. This gives scope

for challenging the order. On this ground, learned counsel for the petitioners submitted to set aside the order passed by the land Tribunal. On

20.03.2013 election has been declared and code of conduct was pressed into service. Accordingly, the Tribunal should have restrained from

passing the said order.

3. Respondent No. 10 in the first petition the original landlord of the land in question. Manappa S/o. Hayalappa Harijan had surrendered the

tenancy rights in favour of the 10th respondent and the 10th respondent had come into actual and physical possession of the lands as owner. The

Tribunal has not given specific finding as to tenancy as on 1.3.1974 and it is also submitted that land is not sold to the deceased Manappa who is

the petitioner in earlier matter. On this ground there is no finding given by the Tribunal. Revenue records are however silent about as to whether the

tenants were cultivating the land in question or not.

4. Learned Government Advocate submits that on the three occasions the land Tribunal passed order in favour of tenants but the petitioner on one

or the other grounds challenged the said order. The Tribunal has declared the tenants are the cultivators for the purpose of Section 48-A of the

Land Reforms Act. Under the circumstances no grounds to interfere by this Court.

5. I have heard both parties.

6. The petitioners who claim that their predecessor purchased the property originally from the 10th respondent by name Raja Rukmanna Naik. But

they have not produced any material before this Court as to when it was purchased. There is no averments in the petition also in this regard. Unless

the sale is proved with reference to date, case is not maintainable before the land Tribunal as well as before this Court.

7. The grounds urged by the petitioners that the legal representatives of Manappa were not brought on record since he had two wives. Petitions

were silent when Manappa died. Further he had two wives is also a disputed fact. Manappa himself had approached the Tribunal on two

occasions but at no point of time he has taken the ground that he had purchased the property from the 10th respondent. On filing the Form No. 7

under Section 44(1) lands vest in the State Government. Section, 44 of the Act reads as under:

44(1) Vesting of lands in the State Government: All lands held by or in the possession of tenants (including tenants against whom a decree or

order for eviction or a certificate for resumption is made or issued) immediately prior to the date of commencement of the Amendment Act, other

than lands held by them under leases permitted under Section 5, shall, with effect on and from the said date, stand transferred to and vest in the

State Government.

8. When such being the case unless the petitioners establish, on what date the 10th respondent has sold the property to Manappa, the vested land

cannot be sold. The Government was the custodian and owner. When such being the case, interest over the land at any stretch of imagination,

cannot be said to be with the 10th respondent. By looking at any angle legal representatives of Manappa have not made out their case for the

purpose of interference. Both Manappa and the landlord they have filed writ petition in W.P. No. 25444/1993 it was disposed of on 28.01.2005.

Even in the said petition the petitioner Raja Rukmanna Naik had not taken the contention or ground that the land was transferred to Manappa. If at

all landlord and Manappa entered into sale transaction, it cannot be countenanced in this writ petition unless the date of sale is spelt out.

9. Sri Chaitanya Kumar Chandriki, learned counsel for the petitioners submits that in the year 1979 the 10th respondent Raja Rukmanna Naik filed

the affidavit before the Tribunal that he had entered into agreement with the Manappa for the disposal of the land. Once the applications in Form

No. 7 has been made by the tenants, automatically under Section 44 of the Act, land vested with the Government and subsequently all agreements

sale, transferring of interest by any means, are null and void and contrary to the Act. The petitioner and Raja Rukmanna Naik cannot take two

stands firstly he had not sold the property to Manappa and secondly that he had entered into agreement with Manappa as per the affidavit. A

person who approaches the Court has to approach with clean hands and the sworn the affidavit filed before the Land Tribunal, is final for the

person who has sworn to the affidavit. The said affidavit has not been placed before the Court. However, the submission of the petitioner for

Manappa has been taken on record. Raja Rukmanna Naik sold the property to Manappa cannot be accepted because he only along with

Manappa have filed two writ petitions.

10. The purpose and object of the Act is to strengthen the agricultural reforms and to confer ownership and title to the tenants. The Act came into

force in 1961 and section 48-A enabled the tenants to file application in Form No. 7. The order of the Land Tribunal is self explanatory, which

discloses that the respondents filed writ petition No. 3183/1981 which was disposed on 15.07.1983 again another writ petition No. 25444/1993

which was disposed of on 26.08.2002. Thereafter, almost ten adjournments were provided. The date of death of Manappa was not disclosed to

consider the case of the petitioners as legal representatives. If Manappa died during pendency of the writ petition they should have even filed

impleading application, which writ petitions came to be disposed in on 15.07.1983 and 26.08.2002. The petitioners should produce all the

necessary materials and evidence. Under the circumstances petitioners have failed to make out their pleaded case.

11. Accordingly the petition filed by the legal representatives of Manappa is rejected on the ground of locus standi and also insufficient materials.

12. Petitions filed by Raja Rukmanna Naik who claims he is the owner of property, as per submission made by the learned counsel Sri

Chaitnyakumar C.M., for the petitioners that he had filed affidavit in support of Manappa that he had executed an agreement of sale. Such a sale

cannot be recognized in view section 44 of the Act. Both alleged sale agreements or sale deed if it is made they are null and void and non est in the

eye of law. Since the dispute and the prayer made are similar in the connected writ petition and private respondents who are parties in the first writ

petition as R5 and R6, R5 is served unrepresented and R6 is represented, this court is not inclined to issue notice in the said writ petition. Under

the circumstances the ground urged by the petitioner's counsel Sri Chaitanyakumar C.M., that improper order is passed by the Land Tribunal, i.e.,

the case was reserved for orders on 14.03.2013 but the order itself saying pronounced on the same day, which gives scope for ambiguity. The

said submission cannot be accepted for two reasons, firstly petitioners do not have locus standi to challenge. Since they do not disclose when

Manappa died, they say he had purchased the property before filing the Form No. 7, which is not substantiated. Secondly there is technical error,

the case was posted on 14.03.2013 probably same date must have been mentioned in the operative portion of the order. Mentioning the date

14.03.2013 is insignificant since the order in its entirety is to be looked into. I have gone through the order and found that there is no illegalities

found in the order. It is also not a case for remand at this length of time, which is also not in the ends of justice. Accordingly, the connected petition

also stands dismissed.