

Muniyallappa

Vs

B. M. Krishnamurthy and Others

Civil Appeal No. 2892 of 1977

(K. Jagannatha Shetty, V. Ramaswami – II, Yogeshwar Deyal JJ)

25.07.1991

ORDER

1. The appellant claims occupancy right under the Karnataka Land Reforms Act. His claim has been allowed by the Land Tribunal, but the order of the Land Tribunal was set aside by the Karnataka High Court. The decision of the High Court has been challenged in this appeal.

2. The question for consideration is whether the High Court after setting aside the order of the Land Tribunal ought to have remanded the matter to the Land Tribunal for fresh consideration. In fact, this was the only question that was urged in the appeal before the Division Bench of the High Court. The Division Bench has rejected that request on the ground that the occupancy rights claimed by the appellant was not one arising out of agrarian relations. This conclusion seems to have been based on the pleadings before the High Court. It is reflected from the following observations of the Division Bench of the High Court :

"In our opinion, the dispute between the parties is not one arising out of agrarian relations. The scope of the Act is limited to questions arising out of agrarian relations. A person whose possession of agricultural lands does not rest on agrarian relations cannot invoke the jurisdiction of the Land Tribunal under Section 45 of the Land Reforms Act. Since the appellant, on the basis of his own pleadings before this Court, does not base his rights founded on agrarian relations, there is, in our judgment, no case to go before the Tribunal for adjudication. Bhimiah, J. would have been right in allowing the writ petition and refusing to remand the matter to the Tribunal on the ground that on the admitted pleadings of the appellant there is no case of agrarian relations for adjudication to go before the Tribunal."

3. It seems to us that the High Court was not justified in its approach. Pleadings of parties in the High Court are not relevant in this case. The claim made by the applicant before the Land Tribunal in his application under Section 45 of the Land Reforms Act is only relevant. That application has been made in the prescribed form and it is the foundation of the appellant's claim. By ignoring that application, the High Court could not have rested its conclusion on the pleadings of parties before the High Court.

4. The learned Single Judge in the instant case has set aside the order of the Tribunal on two grounds : (i) The respondent-landlord was denied fair hearing and the entire proceedings of the Tribunal were conducted in gross violation of the rules of natural justices; and (ii) The appellant was denied registration of occupancy under the Inams Abolition Act and he has no right to claim occupancy right under Section 45 of the Tenancy Act.

5. It may be stated that the purpose and scope of the two Acts are distinct. The Inams Abolitions Act was enacted for the purpose of abolition of inam tenures and conversion of such tenures into ryotwari tenure and in that process, grant of occupancy rights to the inamdars and the three classes of tenants specified in that Act. The purpose of the Land Reforms Act, however, is quite different. The main purpose was to abolish the relationship of landlord and tenant in respect of tenanted lands and to confer occupancy rights on tenants who are personally cultivating the lands. Therefore, the rejection of the claim of the appellant under the Inams Abolition Act does not lead to the inference that he has no claim for occupancy right under the Land Reforms Act. The appellant claims that he is a deemed tenant as provided under Section 4 of the Land Reforms Act. The requirement of deemed tenant, as provided under Section 4 of the Tenancy Act, must be determined by the Land Tribunal. The High Court having come to the conclusion that the procedure adopted by the Land Tribunal was not in accordance with the rules of natural justice ought to have remitted the matter to the Tribunal for fresh disposal.

6. We therefore, allow the appeal, set aside the order of the Division Bench of the High Court and remit the matter to the Tribunal for fresh disposal of the matter on merits and in accordance with the law. The Tribunal will decide the matter without being influenced by any of the observations in the judgment of the High Court. No costs.

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