State of Karnataka and another

Vs

G. Seenappa and another

Civil Appeal No.14641 of 1992

(CJI M. H. Kania, B. P. Jeevan Reddy JJ)

27.02.1992

ORDER

1. Learned counsel for the petitioners, the State of Karnataka and others, has sought to challenge the correctness of the decision of a Division Bench of the Karnataka High Court in Lakshmana Gowda v. State of Karnataka, (1981) 1 Kant LJ1 which has been followed by that High Court in the impugned judgments. As we are of the view that the judgment in Lakshmana Gowdas case deserves to be upheld, it is not necessary for us to set out the facts except the barest minimum necessary.

2. The Karnataka-Village Offices Abolition Act, 1961 (for short the 'said Act') came into effect from Feb. 1, 1963. It is common ground that under the said Act the lands given to the village officers were resumed and then re-granted to them. The re-grants were made at different periods. Sub-sec. (3) of S. 5 of the said Act placed a restriction on transfer of land regranted. It runs as follows :-

> "(3) The occupancy or the ryotwari patta of the land, as the case may be, regranted under sub-sec. (1) shall not be transferable otherwise than by partition among members of Hindu joint family without the previous sanction of the Deputy Commissioner and such sanction shall be granted only on payment of an amount, equal to fifteen times the amount of full assessment of the land."

Sub-section (3) of S.5 of the said Act was amended by the Karnataka Offices Abolition (Amendment) Act, 1978. After the said amendment the said sub-section reads as follows:-

> "(3) The occupancy or the ryotwari patta of the land, as the case may be, re-granted under sub-section (1) shall not be transferable otherwise than by partition among members of Hindu joint family for a period of 15 years from the date of commencement of S. 1 of the Karnataka Village Offices Abolition (Amendment) Act, 1978."

Although several questions have been answered by the High Court in the said judgments, the arguments before us were confined to the decision on questions Nos. (vi) and (vii) as formulated in the aforesaid judgment. The said questions run as follows:-

> "(vi) Did a transferee of a Service Inam Land from its holder or authorised holder after its regrant under S. 5 or 6 of the Principal Act, get title to or interest in, such land, if such transfer had taken place without the previous sanction of the Deputy

Commissioner under the unamended sub-section (3) of S. 5 of the Principal Act?

(vii) Is sub-section (4) of S. 5 of the Principal Act attracted to -

(a) a transfer of a Service Inam Land in contravention of unamended sub-section (3) of that Section; or

(b) a transfer of such land in contravention of amended sub-section (3) of that section; or

(c) both of them."

The High Court has taken the view that omission to obtain the previous sanction of the Deputy Commissioner under original sub-section (3) of S. 5 of the said Act did not render void a transfer of a land re-granted effected prior to the coming into force of the aforesaid amendment of sub-section(3) of Section 5 but that such transfer can be regularised by paying to the Government an amount equal to fifteen times of full assessment of that land.

3. In our view, this interpretation placed by the Division Bench of the Karnataka High Court on the provisions of sub-section (3) of S. 5 (before its amendment) appears to be a fair and just interpretation. The only condition laid down for the grant of previous sanction appears to be payment of an amount equal to fifteen times the full assessment of the land. There is no indication as to the principles on which the sanction was to be granted or refused and hence the interpretation placed by the Karnataka High Court that the only condition of sanction was the payment of an amount equal to fifteen times of full assessment of the land appears to be a just construction. That construction has stood for the last more than ten years and transactions must have been effected on the basis of the view of the law laid down by the Karnataka High Court. There is no good reason which would lead us to take a different view, nor can it be said that the view taken is in any manner unjust and unfair.

4. In these circumstances, we uphold the interpretation placed by the Karnataka High Court on the provisions of sub-section (3) of S. 5 of the said Act. The question No. (vi), therefore, must be answered against the State. As we have upheld the view of the Karnataka High Court on question No. (vi), no decision is called for on question No. (vii). In the result, the special leave petitions and appeals preferred by the State of Karnataka are dismissed. There will, however, be no order as to costs. Petitions and appeals dismissed.

</html