

Y.R.Veeranna

Vs

State of Karnataka & Ors.

( K.Ramaswamy, S. Saghir Ahmad, G. B.Pattanaik JJ)

07.05.1997

ORDER

1. Delay condoned.

2. It is an undisputed fact that the Karnataka Land Reforms (Amendment) Act had come into force with effect from March 1, 1974. The petitioner laid claimed as an occupancy tenant, in respect of 13 acres and 24 gunthas of the land situated in K.R. Nagar Taluk, Karnataka District. When he filed application in Form-7 for recognition of his rights as an occupancy tenant, the Tribunal rejected him claim on the ground that his sons were cultivating the land. It was held that since the petitioner had not been cultivating the land, he could not file the application in Form-7 and, therefore, he was not entitled to be treated as a protected tenant. That order came to be affirmed by the High Court in LRRP No.2179/88 and in C.P. No.499/96 on June 10,1996 and January 6, 1997. Thus, this special leave petition.

3. In view of the fact that a tenant in cultivation is entitled to lay the claim under Section 44 and 48-A of the Karnataka Land Reforms Act (for short, the 'Act'), on his own admittedly showing that he had not been cultivating the land, the petitioner's right as occupancy tenant was rightly rejected. His status is that of the co-owner, Karta of the joint family and as such on behalf of his sons he had filed it and the sons were cultivating the land on behalf of the family; since this land was obtained at a partition between the petitioner and his brother way back in 1957, it is joint family property. In view of the fact that he is not personally cultivating the land on his own showing, the finding recorded by the Tribunal and the High Court is not vitiated by any manifest error of law. However, due to mistaken stand the application in Form-7 came to be filed. He was held disentitled to the claim as a protected tenant. If the sons were really occupying the land as tenants prior to the Amendment Act had come into force on March 1, 1974, it may be open to the sons to make an application in Form-7 and have the matter adjudicated. The limitation that has been prescribed in the statute, in the peculiar facts, may not be taken as a ground for rejection of their claims.

4. The special leave petition are accordingly dismissed with the above observations.