

Krishtappa Yellappa Pujar and Others

Vs

Ram Samsthan, Beladhadi

Civil Appeal No. 2178 of 1988

(S. Saghir Ahmed, S. R. Babu JJ)

15.09.1998

ORDER

1. This appeal arises out of an order made by the High Court in a revision petition filed under Section 121-A of the Karnataka Land Reforms Act, 1961. The appellants before us claim that they were cultivating the land comprised in Survey Nos. 160, 162 and 20/1B-2/2 in Chikkanandigal Village, Gadag Taluka, as tenants thereof. They made a joint application on the coming into force of the Karnataka Land Reforms Act for registration of occupancy rights in their favour. On notice being served upon, the respondent filed a written statement but did not appear before the Tribunal to substantiate the same. The Tribunal recorded the oral statement of the 1st appellant before us, which was endorsed to be correct by the other appellants and on examining this statement and the relevant documents available, held that in the revenue records from 1958-59 to 1965-66 the names of the appellants had been shown as ordinary tenants. However, in the year 1965-66, their names were omitted in the revenue records but there was no material to show under what circumstances the same was done. In spite of notices to the respondents, they did not come forward to substantiate their claim in their written statement. On the material on record, the Tribunal upheld the plea of the appellants that the said lands vested with the Government with a direction for registration of occupancy rights in their favour. On appeal to the District Land Reforms Appellate Authority by the respondents, two questions were considered by it as to the effect of the entries made in the revenue records and who was in possession of the land as on 1-3-1964. On both these questions, the appellate authority held in favour of the appellants. When the matter was carried in revision in the High Court, it was held that the Tribunal had not correctly appreciated the effect of the entries in the revenue records and that the appellants were not in possession of the lands as on the date of coming into force of the Act as evidence adduced by them could not be relied upon as the same was done irregularly and on that basis the High Court allowed the revision. Hence this appeal by special leave.

2. Mr Ranjit Kumar, learned counsel for the appellant, submitted that the High Court was in error in having concluded that there was irregularity in recording the evidence. The inference drawn that the appellants were not in possession of the land as on 1-3-1964 also proceeds on an unsound legal basis. He also pointed out that the High Court did not correctly appreciate the effect of the entries made in the revenue records.

3. Mr Kulkarni, learned counsel for the respondent, supported the view taken by the High Court and stated that when the appellant had not challenged the correctness of the entries made in the revenue records before the appropriate forum, it was not open for him to question the correctness of the same in another proceeding and the presumption had necessarily be raised as per Section 133 of the Karnataka Land Revenue Act. He submitted that the High Court was justified in reaching the conclusion it did.

4. Considering the scope of revision under Section 121-A of the Karnataka Land Reforms Act, the High Court could interfere only on the question of law or irregularity in procedure and no other aspect. The finding of the High Court is that the oral evidence was recorded in an irregular manner by the Tribunal concerned. We may state that the statement made by the 1st appellant was recorded and thereafter the other appellants stated that what had been stated by their brother, the 1st appellant was true and correct. The Tribunal did not record any joint statement. Hence the view of the High Court that there was irregularity in recording evidence is erroneous. The fact that the record of entries made from 1958-59 to 1965-66 showed that the appellants were cultivating the same. Under what circumstances suddenly the entries thereto were changed to show that the respondents cultivated the land is not clear, except to state that they claimed that the Land Reforms Act was not applicable to them. That circumstance will not enable an authority to alter entries in revenue records.

5. In the circumstances, we set aside the order of the High Court and affirm the order of the State Land Reforms Appellate Authority. The appeal is allowed. However, in the circumstances of the case, there shall be no order as to costs.