

Siddawwa Kom Udochappa Vaddar and Another

Vs

Ningayya Erayya Hiremath and Others

Civil Appeal No. 2311 of 1989

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

15.09.1998

ORDER

1. Delay in filing vakalatnama and appearance is condoned.
2. This appeal arises out of certain proceedings initiated under the Karnataka Land Reforms Act, 1961 (hereinafter referred to as "the Act"). The appellants and the respondent made rival claims for registration of occupancy rights under Section 45 of the Act. The Tribunal which enquired into the matter found that on 1-3-1974, when the Act came into force, the appellants were not in possession of the land while Respondent 1 alone being in possession of the land was cultivating the same. In the ultimate decision of the Chairman of the Tribunal, though, was not accepted by a majority, no specific reasoning was given to indicate any contrary finding to the one recorded by the Chairman that the respondent alone was cultivating the land in question. When the matter was carried in writ petition and thereafter in writ appeal the finding recorded is that the first respondent is in possession of the land in question. The Division Bench and the learned Single Judge took different views on the applicability of Section 22 of the Act to the facts of the case. It is not necessary to examine this aspect of the matter at all. The short question which falls for consideration is that on the relevant date, that is on 1-3-1974, when the Act came into force, as to who has been in possession of the land. If the first respondent has been in possession thereof and cultivating the same, necessarily, is entitled to registration of occupancy right. Since the appellant on the relevant date was not in possession thereof and the concurrent findings of the Tribunal, learned Single Judge and the Division Bench, we do not think there is any merit in this appeal which is accordingly dismissed. There shall, however, be no order as to costs.