

SUPREME COURT OF INDIA

M.Yashwanth Shenoy

Vs.

Muniyappa & Ors.

(C.Nagappan and M.Y.Eqbal, JJ.)

22.09.2015

JUDGEMENT

C. Nagappan, J.

(1.) Leave granted.

(2.) THESE appeals are preferred against the judgment dated 8.6.2007 rendered by the High Court of Karnataka at Bangalore in Writ Appeal No. 3901 of 2005, whereby the Division Bench in a common judgment affirmed the decision of the learned single Judge by dismissing the writ appeals. The Appellants herein are prior and subsequent purchasers of the subject property. The facts in brief are summarized as follows: One Venugopala Swamy son of Muniyappa filed an application Under Sections 4 and 5 of the Karnataka Scheduled Castes and Scheduled Tribes (Prohibition of Transfer of Certain Lands) Act, 1978, before the Assistant Commissioner, Bangalore North, stating that his father Muniyappa belonged to scheduled caste and he was granted 1 Acre 13 Guntas of land in Survey No. 69 and 27 Guntas of land in Survey No. 70 of Tubarahalli Village, Varthur Hobli, Bangalore during 1961 in Darkasth and Muniyappa sold the granted lands to Ramaiah Reddy by sale deed dated 9.10.1967 and he repurchased the same under sale deed dated 13.7.1972 and again he has sold the same in favour of Appellant Yashwanth Shenoy and the alienation being in violation of the conditions of grant, it has to be declared as void.

(3.) THE Assistant Commissioner held an inquiry and after hearing the parties by order dated 26.3.1999 held that the transfer of the granted lands at the first instance by sale deed dated 9.10.1967, is in violation of the terms of grant and the sale deed as well as the subsequent sale deeds are illegal and void and declared that the lands be resumed to the State and restored to the original grantee Muniyappa Under Section 5(1) of the Act. The Appellant Yashwanth Shenoy preferred appeal before the Special Deputy Commissioner, Bangalore and the appellate authority dismissed the appeal by order dated 27.2.2004. The Appellant Yashwanth Shenoy challenged the said order in Writ Petition No. 17842 of 2004 on the file of the High Court of Karnataka. Meanwhile the legal heirs of the grantee Muniyappa filed suit for partition in O.S. No. 4981 of 1999 and the suit is still pending. They also got implicated as Respondents in the writ petition. The learned single Judge after hearing the

parties dismissed the writ petition by order dated 30.11.2005. Aggrieved by the same, Appellant Yashwanth Shenoy preferred appeal in writ appeal No. 3901 of 2005 and obtained interim order of stay dated 23.1.2006 subject to the condition that the Appellant shall not make any construction in the land. He executed Deed of Relinquishment dated 20.1.2007, relinquishing his right and interest in the granted lands in favour of the original grantee Muniyappa. On the same day Muniyappa sold the said lands to the other Appellant herein Subramanya and he was also impleaded as Respondent in the writ appeal. ;