

CASE NO.:
Appeal (civil) 1867 of 2008

PETITIONER:
Venkateshappa

RESPONDENT:
State of Karnataka & Ors

DATE OF JUDGMENT: 10/03/2008

BENCH:
Dr. ARIJIT PASAYAT & P. SATHASIVAM

JUDGMENT:
J U D G M E N T

CIVIL APPEAL NO. 1867 2008
(Arising out of S.L.P. (C) No.25804 of 2004)

Dr. ARIJIT PASAYAT, J

1. Leave granted.

2. Challenge in this appeal is to the order of the Division Bench of the of the Karnataka High Court dismissing the writ appeal filed under Section 4 of the Karnataka High Court Act. Challenge in the writ appeal was to the order passed by a learned Single Judge. The dispute relates to applicability of the Karnataka Land Reforms Act, 1961 (in short the 'Act') in the background of Mysore (Personal and Miscellaneous) Inam Abolition Act, 1954 (in short 'Inam Act') as amended by the Karnataka Inams Abolition Laws (Amendment) Act, 1979 (in short 'Amendment Act').

3. The factual controversy lies in a very narrow compass.

Appellant had filed the writ petition no.32930 of 1996 which was disposed of by orders dated August 4, 2000 and August 24, 2000. By the latter order the following directions were given:

"Even with regard to the question as to whether the lands in question are Inam lands or not, it is impossible for me to form a correct impression because each of the learned Advocates is making a different statement. The Tribunal shall first ascertain whether, the lands in question are imams lands and if the answer is in the affirmative, then the Tribunal shall forward the records to the Special Deputy Commissioner who shall give notice to the parties, hear them and decide the case. If however, the Tribunal does have jurisdiction in law to entertain the proceeding insofar as, if the lands are not inam lands then the Tribunal shall proceed to do so."

4. It is the case of the appellant that the Land Tribunal did not consider this aspect and did not also record any finding and came to an abrupt conclusion as follows:

"The Gattarlahally was the jodi village, after abolition, it is vest to the Government and not a Inam land."

5. Before the learned Single Judge the specific stand relating to the jurisdiction was disposed of with the following observations:

"After hearing the learned counsel for the parties, I have examined the correctness of the findings and reasons recorded in the impugned order by the Land Tribunal on the contentious points. In my considered view, none of the contentions urged in this petition warrant interference with the impugned order for the reason that, the order passed by the Special Deputy Commissioner under the Act of 1954 does not bind third respondent as he was not party to the proceedings. Further, in view of sub-section (1) of Sec.44 of Act notwithstanding the order of the Special Deputy Commissioner, Act of 1/74 has come into force, it is a tenanted land and therefore it will statutorily vests with the State Government. Thereafter, consequences as enumerated under sub-section (2) of Sec.44 will come into operation. Further, the contention urged that Form No.7 application is not maintainable as urged above in this petition are wholly untenable in law for the reason that submissions made on behalf of third respondent is well founded in place reliance upon the provisions of KLRF Act and also in view of Muniyellapa vs. B.M. Krishna Murthy reported in AIR 1992 SC 205 and the same is accepted. Therefore, contention urged on behalf of petitioner in this regard placing reliance upon the decisions of this Court are wholly untenable in law and the same is rejected. Further the reliance placed upon Rangaiah's case is wholly in-applicable to the fact situation and is misconceived. Hence, reliance placed upon the said Judgment are misplaced and the contention in this regard is rejected."

6. Learned Single Judge only observed that since the respondent was not party to the proceeding, the order passed by the Special Deputy Commissioner under the 1954 Act was of no consequence and even otherwise the consequences as enumerated in Section 44(2) came into operation. The Division Bench did not analyse the issue in detail and upheld the view of the learned Single Judge.

7. The specific ground has been raised in this appeal that question of jurisdiction of the Land Tribunal to reopen a case and decide by the Special Deputy Commissioner for Inams

Abolition has not been dealt with. Reference has been made to Section 141 of the Act.

8. Learned counsel for the respondent submitted that though it has not been specifically dealt with, the factual scenario clearly shows that no relief has been granted to the appellant.

9. On the earlier occasion, the learned Single Judge has specifically stated that the question of jurisdiction of the Tribunal has to be dealt with as quoted above. This apparently has not been done by the Land Tribunal, and learned Single Judge and the Division Bench lost sight of these relevant aspects.

10. In the circumstances, the impugned orders of the learned Single Judge and the Division Bench of the High Court are quashed and the matter is remitted to the learned Single Judge to deal with the issue in accordance with law.

11. The appeal is disposed of with no order as to costs.