C.S. Umesh vs T.V. Gangaraju on 11 February, 2025

2025 INSC 298

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. OF 2025
(Arising out of SLP(C) Nos.14513-14514 of 2020)

C.S. UMESH

VERSUS

T.V. GANGARAJU & OTHERS

J U D G M E N T

NAGARATHNA, J.

Leave granted.

2. Being aggrieved by the judgment dated 11.09.2019 passed by the Division Bench of the High Court in Writ Appeal No.683/2018 as well as the order passed in Review Petition No.535/2019 arising out of Writ Appeal No.683/2018 dated 04.03.2020, these appeals have been filed by the persons who claimed to be the tenants and who had filed Form No.7 before the concerned Land Tribunal.

3. Briefly stated, the facts are the appellant's father Siddaveerappa was stated to be in possession of land measuring 23 Acres and 20 guntas in a certain survey number in Tavarekere village, Magadi Taluk as a tenant. He filed an application before the Land Tribunal (for short "Land Tribunal"), Magadi Taluk (now in Bangalore South Taluk) seeking grant of occupancy rights under the provisions of Karnataka Land Reforms Act, 1961 ('1961 Act' for short) in respect of Survey No. 150 and 151 measuring 9 acres and 14 acres 20 guntas respectively. By an order dated 11.04.1981, the Tribunal granted occupancy rights in favour of the appellant's father. Pursuant to the said order dated 11.04.1981, the Secretary of the Tribunal issued Form No. 10 being certificate of registration of tenancy. Consequently, the appellant's father was cultivating the said land in question and was in peaceful possession and enjoyment of the land.

However, in the year 2004, the appellant made an application before the Tribunal seeking rectification/ modification of the earlier order of the Tribunal dated 11.04.1981 for correcting the extent of land and survey number in respect of occupancy granted received by the appellant's father

by order dated 11.04.1981. By order dated 04.09.2004, the Tribunal dismissed the said question on the ground that it does not have the power to modify its own orders. Being aggrieved, the appellant approached the High Court by way of filing Writ Petition No. 45408 of 2004 challenging the order passed by the Tribunal dated 04.09.2004. By an order dated 02.09.2005, the High Court quashed the order passed by the Tribunal dated 04.09.2004 and remanded the matter to the Tribunal.

4. The High Court set aside the endorsement dated 04.09.2004 passed by the Land Tribunal and remitted the matter back to the Land Tribunal for a fresh disposal in accordance with law and in light of the observations made in the said order and after due notice to all parties. Pursuant to the remand, the Land Tribunal passed order dated 12.10.2007 by which the prayers sought for by the appellant herein was granted.

Pursuant to the said remand, the Tribunal by order dated 12.10.2007 allowed the application filed by the appellant to correct the extent of land and survey number and modified its earlier order dated 11.04.1981. Consequently, the competent authority issued a Certificate in favour of the appellant in respect of Sy No. 151 measuring 2 acres and 20 guntas and Sy.No. 153/1 measuring 21 acres situated at Tavarekere Village.

5. Being aggrieved, the respondents herein preferred W.P.No. 1331 of 2008 challenging the order passed by the Tribunal dated 12.10.2007. By the order dated 25.02.2013, the learned Single Judge of the High Court disposed of the writ petition. 'Paragraph 6' of the said order is of crucial importance and the same reads as under:

> "6. It is made clear that in respect of Sy.No.153 respondent applicant is not entitled since grant was not granted in respect of Sy.No.153. What is modified is only in respect of 153/1 which is to be read as Sy.No.150 and 151. In terms of the above the petition is disposed off."
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> 6. Thereafter, in the year 2016, the appellant seems to have made an oral mention before the learned Single Judge in W.P.No. 1331 of 2008 seeking for rectififcation/correction of the above order dated 25.02.2013. The learned Single Judge by way of "for being spoken to" passed a corrected order dated 19.01.2016. By way of the corrected order, the learned Single Judge has added a sentence in paragraph 6 of the order dated 25.02.2013. The modified paragraph 6 read thus:
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> "6. It is made clear that in respect of Sy.No.153 respondent applicant is not entitled since grant was not granted in respect of Sy.No.153. What is modified is only in respect of 153/1 which is to be read as Sy.No.150 and 151. In terms of the above the petition is disposed off. The order of the Land Tribunal dt.12.10.07 confirmed."
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> 7. On coming to know of the above addition and being aggrieved by the addition of the last sentence in the corrected order dated 19.01.2016, the respondents herein preferred writ appeal by way of filing W.A. 683 of 2018. It was their case that the said modification of 'paragraph 6' by the learned Single Judge was not in accordance with

law inasmuch as the respondent(s) herein had no opportunity to contest the said addition and therefore, the Writ Appeal was filed by them. By the impugned order dated 11.09.2019, the Division Bench disposed of the writ appeal clarifying the corrected order of the learned Single Judge dated 19.01.2016. The Bench observed that the addition of sentence made by the order dated 19.01.2016 in no way disrupts the modification earlier made by the learned Single Judge to the order dated 12.10.2007. The Bench further clarified that the said added sentence means that subject to the modification made by paragraph 6 of the order dated 25.02.2013, the order of Tribunal dated 12.10.2007 is confirmed. Thus, the modification made by paragraph 6 of the order dated 25.02.2013 by substituting the land in Survey No. 150 in place of land in Survey No. 153/1 stands notwithstanding the order dated 19.01.2016.

8. The Division Bench of the High Court heard the parties and by 'paragraph 6' further clarified the order of the Land Tribunal as well as the order of the learned Single Judge by way of the following observations:

"6. We have carefully considered the submissions. On a plain reading of the order dated 19th January 2016, we find that what the learned Single Judge intended to say was that subject to the modification made by the order dated 25th February 2013, the order dated 12th October 2007 passed by the Land Tribunal stands confirmed. Therefore, the addition of sentence made by the order dated 19th January 2016 in no way disturbs the modification earlier made by the learned Single Judge to the order dated 12th October 2007. The sentence added by the order dated 19th January 2016 means that subject to the modification made by paragraph 6 of the order dated 25th February 2013, the order of the Land Tribunal dated 12th October 2007 is confirmed. Thus, the modification made by paragraph 6 of the order dated 25th February 2013 by substituting the land in Survey No.150 in place of the land in Survey No.153/1 stands notwithstanding the order dated 19th January 2016. With this clarification, the appeal is disposed of.'

9. Being aggrieved, the appellant has preferred a review petition 535 of 2019 in Writ Appeal No. 683 of 2018 and the same was dismissed by order dated 04.03.2020. Hence the appellant has preferred this instant appeal.

Being aggrieved by the clarification made by the Division Bench of the High Court, these appeals have been filed.

10. We have heard learned senior counsel, Sri S.N. Bhatt for the appellant and learned Senior Counsel, Sri Shailesh Madiyal for respondent Nos.1 to 5 and perused the material on record in detail.

11. At the outset, we wish to observe that it was wholly improper on the part of the appellant herein to have sought for modification of 'paragraph 6' of the order dated 25.02.2013 passed in W.P.

No.1331/2008, three years subsequent to the said order by way of a "for being spoken to" in the absence of any application being made or the same having been served on the respondent(s). This was also without any oral intimation to the respondents herein. We also think that it was not in accordance with judicial propriety for the learned Single Judge to have accepted an oral prayer unilaterally made by the appellant herein and modified 'paragraph 6' of the order dated 25.02.2013 by adding the additional sentence extracted above vide order dated 19.01.2016 as if it was an innocuous correction. The said procedure followed was not at all in accordance with law and in total violation of procedure and practice as well as in violation of the principles of natural justice.

12. We take note of the fact that the operative portion of the order dated 25.02.2013 passed by the learned Single Judge is not coherent. However, in such circumstances, the ordinary legal recourse was to have filed a review of the said order or to seek clarification. Instead, an oral mention was made before the learned Single Judge after almost three years and an additional line was sought to be added to the order dated 25.02.2013 by way of a "for being spoken to" vide order dated 19.01.2016. It was also submitted at the bar that no notice was served on the respondents herein and the said correction made by way of a "for being spoken to" in utter violation of principles of natural justice and procedure established by law.

13. We deplore such practices of making oral mentions for modification of the orders/judgments in the guise of a review and the same cannot be permitted circumventing the legal process of filing a review. This Court in Supertech Limited vs. Emerald Court Owner Resident Welfare Association, (2023) 10 SCC 817, wherein one of us (Nagarathna. J.) was part of the bench, had observed that the hallmark of a judicial pronouncement is its stability and finality. Further that judicial verdicts are not like sand dunes which are subject to the vagaries of wind and weather. Therefore, in the present case, the learned Single Judge ought not to have entertained the oral mentioning of the appellant herein and made the impugned correction/addition by way of a "for being spoken to" at the instance of the appellant unilaterally orally mentioning the matter before the learned Single Judge.

14. This addition by way of a correction made by the learned Single Judge vide order dated 19.01.2016 was assailed by the respondents herein before the Division Bench of the High Court. No doubt, the Division Bench has sought to clarify what the import of the Tribunal's order was and what the learned Single Judge was trying to say in this order. Subsequently, on the basis of what was argued before the Division Bench, 'paragraph 6' as extracted above was observed by the Division Bench. The said 'paragraph 6' is a subject matter of controversy in these appeals filed by the appellant herein who had sought for a correction being made by way of "for being spoken to" three years after the learned single Judge has disposed of the matter.

15. We find that the confusion and controversy in these appeals has arisen solely on account of the procedure adopted by the appellant herein in seeking a modification of an earlier order passed by the learned Single Judge in the High Court on the basis of an oral submission "for being spoken to" being made three years after the order dated 25.02.2013 passed by the learned Single Judge in W.P. No.1331/2008. We deprecate such a practice adopted by the appellant herein. Consequently, the lis between the parties has remained inconclusive and more confounded which has constrained the appellant to file this appeal.

16. In the circumstances, we set aside the judgment of the Division Bench of the High Court passed in the W.A.No.683/2018 as well as the order passed in the Review Petition No.535/2019 in W.A.No.683/2018 as well as the order of the learned Single Judge dated 25.02.2013 in W.P. No.1331/2008 as well as the corrected order dated 19.01.2016 in W.P.No.1331/2008. Consequently, W.P. No.1331/2008 is restored on the file of the High Court.

It is needless to observe that the said Writ Petition would now be heard in accordance with law and as expeditiously as possible.

We clarify that we have not made any observations on the merits of the matter. All contentions on both sides are left open to be advanced before the learned Single Judge.

These appeals are allowed and disposed of in the aforesaid terms.

Having regard to the course adopted by the appellant in this case in seeking a modification to the order dated 25.02.2013 passed in W.P. No.1331/2008, we think that the ends of justice would be met if we allow these appeals with costs of Rs.1,00,000/- (Rupees One Lakh Only) to be paid by the appellant to the private respondent Nos.1 to 5.

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(B.V. NAGARATHNA) . . . . . J.

(SATISH CHANDRA SHARMA) NEW DELHI;

FEBRUARY 11, 2025