

Karnataka High Court

Prabha Nayak vs Rama Poojary S/O Putta Poojary on 3 July, 2008

Author: V.G.Sabhahit & S.N.Satyanarayana

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DATED THIS THE G3m'fIAY OF JuLy.šeQš "f""

9nns:nx\_W,

an aouvama ua.ausr1é3 v;ešs52šma: '?a'""

3R9. . . .

ran EQN'BLE ma.aus:Iéff\$.x.siézájmhexasa

WRIT APpéga.NQfi2332x2šé5f;LR;

BETWEEN: .-V g""~IjV

'« Jsyfiu, MANGALORE 575 002, 0.x

1 9RABHA5NAŠAK . a\_ , ;. 'W

W/O 9AY3sznnHu'N3xgK\_ , \_

HINDU, A933 ABOUT s5\_¥Rs;

RxA»s:NpHU\*çoTTAG£.

EALKAR}7BAJAL,vKANKANADY 'B' ,

MANGALGRE;fDK; , -- , \_

REP BY HUSBAND AšD"3PA HOLDER

s DAEASZNDHU RAYAK,

5/0 s'nAMAYyA NAYAK

\_;HInDU. Ara 66 YRS.

- "R(0 SAME AS EBOVE

' .2"~ARuNayBHAN3ARI

-3 Bio M Agnmna HEGDE

' . "HINDU; AGED ABOUT 56 YEARS

%\_R/Q'KUDUPADI RGAD;

M.B,CQM?OUND

. . . APPELLANTS

; }sš'éri SANATH KUMAR SHETTY K, ADV)

2 "' paras 3;/3/2005.

. ' :z"\*a:His APPEAL COMING on FOR HEARING THIS DAY,

Tax, DELIVERED ma: FOLLOWING:

1 RAMA POOJARY  
s/o PUTTA POJARY  
ADULT, PUDU VILLGE

BANTWAL TALUK ~"W-

DK

2 MUNBI POOJRRTHI  
W/O KOGGU POOJARY

HINDU, ADULT,  
PUDU VILLAGE  
BANTWRL, DK '

3 THE LAND rRIaufiA:g '"  
BANTRHL, DK \_'.Vv  
REP BY cgA:RMAN""~.;

4 STATE OF<KfIRHATEKn\_"aw~ ¢  
REP BE Ira SECRETARY{\_ V;  
REVEfiUEyDEPfIRTMERT, ""  
M s Buizaigs, =\_ '  
BaN\$ALØRE',v\_ =, '=

\*V" '. ~u< ... RESPONDENTS

(By SR1 p[asann[av%a; ABV FGR R1 & 2 . sax SREEDHARWEIREMATH, AGA FOR R3 AND 4; T'-f\*Ta1\$%iw3:: APPEAL IS FILED U/S 4 OF THE KAR[ATAKA HIGH COURT ACT PRAYING TO 331 ASIDE was oamza PASSED IN THE wnzr PETITION No.9728-29/2095 me This appeal is filed the WP.NoS.9?28-29/2005 being aggrieved hy~\$heebrae: dated 31.3.2065, wherein' the [earxzed has declined to interferet'xefit\_1; the passed by the Land Tribun.e1.,' .T'D.3kshine VfKannada, dated 25.11.2004, whér¢;[£hé,o\$¢\$9\$ncy right has been conferre-zit' in ef.:',t";e:-gpcfntient 1603.1 and 2 on the. by respondent 140.1 and the f\*e3per:¢3uéI1't"V:No.2.

2. \_ epelgtcattions were filed claiming ocengéency rightv ef the land in Sy.No.129/3 Vineeetturilsnicg acres, wherein the 1"" respondent a half acre and the husband of the'---.2""V\_'vree;:endent claimed two and a half acre. writ: petitioners were arraigned as owners in "t\_he\_>\_pplications seeking conferment of occupancy and they contended that the land comprised Sy.No.129/3 is a dry land and uncultivable of We being cultivated and is in personal posses:sione..V'ef the landlords. The Tribunal after the material on record, facts elicited in the cross examinati'on'3ofvtize» regarding the existence':\_o--£ the-- easheerlhAtnut-..t'3:ees'-L' and palm trees and also --.Vrecai;3t',v.' held that the applicants 1§§os;sAes'e.ien'~of the land as tenants on Were.'Qt-'l'entitled to conferment 3-of accordingly. granted 15 of Rama Poojar, the acres 20 cents in favour[of 'the hasband of second responden't«.\_o\_V%%in lE?yl§i5Zo;31~29/3. Being aggrieved by

the...isaid order'~vpa\_ssed by the Land Tribunal dated landlords preferred WP.Nos.9728-learned Single Judge, after cons'«ide.rirag:"" the contentions of the learned ;for the writ petitioners, the learned : "cou.ns§"e1 for respondent Nos.1 and 2 and the doérernment Pleader for respondent Nos.3 and 4, by detailed order held that the order passed by U3

4. 1' .5-

the Tribunal conferring occupancy right of the first respondent and husband respondent is justified and»~does '=:Vcal"1.4.'\_fA.f<§r it interference in the writ T ~ accordingly, dismissed \_\_\_writ ' . peti ..,Being'V . ll aggrieved by the said ordelra\_of--,V\_»the."leernev Single Judge dated t«'\_nei--".As}r'.=Z..t».VLA.pe\_titione::s have Preferred this apPe3r1r:.."\V' 'l it

3. Counsel for the &lC'c\$u'nsel for respondent Nos.12 ASA, who has been directed tail-'re h.o't'j.L\_ee for respondent Nos.3 and : 'AV'j;'he'v~l:i"earned Counsel for the appellants sub□«itt.ed-that the land comprised in Sy.No.129/3 \_ not?' agricultural land capable of being pxAcu.l.ti.£\*ated, the mere existence of cashew nut and palm trees would not make it an uifegricultural land and the rent receipt does not \SiJ~ "Court appeal. Accordingly, the tn ""r§:d/-

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Mangalore. It is not shown that the rent' produced before the Tribunal pertai--ns other land and wherefore, the». by the Tribunal that the laisol land and was being cuiatvivatetit to the extent for which has been conferred, is Single Judge having regard to material on record has itheicirgthatV":«the...V:order passed by the "rioies not call for interfere;nceEj\_;n powers of this Court ufrtit' t The order passed by the learneea..§ingie.\_audgett-nbttdoes not suffer from any '\_VVerror.§;or t'illegua"ié.ty\_\_\_\_\_as to call for interference app.ea}.\_\_\_ is Sd/-3' Judge Sd/-2' Judge