

Pillamma (Dead) vs H. Ramaiah Reddy (Dead) on 8 August, 2022

Author: Ajay Rastogi

Bench: C.T. Ravikumar, Ajay Rastogi

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO(S). 10299 OF 2011

PILLAMMA (DEAD)

& ORS.

... APPELLANT(S)

VERSUS

M. RAMAIAH REDDY (DEAD)
THROUGH LRs. & ANR.

... RESPONDENT(S)

JUDGMENT

Rastogi, J.

1. The instant appeal is directed against the judgment dated 15 th September, 2008 passed by the High Court of Karnataka at Bangalore affirming the finding recorded by the Land Tribunal, Anekal, in conferring occupancy rights in respect of the land bearing Sy. No. 184 to an extent of 10 acres 34 guntas and Survey No. 17 to an extent of 1 acre 12 guntas of Halasahalli Village, Anekal Taluk, in favour of the first respondent.

2. Brief facts relevant for the purpose of this appeal are that first respondent had filed an application in Form No. 7 on 3 rd December, 1974 under Rule 19(1) of Karnataka Land Reforms Rules requesting for registration of occupancy rights in his favour under Section 45(A) of the Karnataka Land Reforms Act, 1961(hereinafter referred to as the “Act 1961”).

3. The case of the first respondent was that lands measuring Sy. No. 184, measuring 10 acres and 34 guntas and Sy. No. 17, measuring 01 acre 12 guntas both situated at Halasahally, Thippasandra Village were vested with the Government as on 1 st March, 1974 in terms of Section 44 of the Act, 1961 and he being the tenant in respect of the aforesaid lands was entitled to be registered as an occupant of these lands under Section 45 of the Act 1961.

4. The Tribunal, in the first instance, by an Order dated 18 th November 1981, rejected the application filed by the first respondent but the High Court of Karnataka vide its Order dated 12th March, 1985 remitted the matter to the Land Tribunal for fresh disposal in accordance with law

which came to be further challenged in writ appeal and by Order dated 16 th March 1987, the same was remitted back to the Land Reforms Appellate Authority with a direction to dispose of the same in accordance with law.

5. The Land Reforms Appellate Authority conducted the trial but during pendency of the application, the Land Reforms Appellate Authority was abolished and with the intervention of the High Court, the matter was remitted to the Land Tribunal.

6. The parties filed their documents in support of their claims which were duly exhibited as A□ to A□o(D). In support of the claim, the first respondent examined his power of attorney holder R. Ravindra as PW 1 and one Kamiah as PW 2 and the witnesses were cross□examined by the respective parties and an enquiry was held by the Tribunal in accordance with the procedure prescribed under Section 48□A(5) of the Act, 1961 read with Rule 17 of the Karnataka Land Reforms Rules. After taking into consideration the material on record and noticing the fact as claimed by the appellants before the Tribunal, the subject property was sold by Venkataramaiah to the appellants by a registered sale deed dated 10 th July, 1970 and they were stepped into the shoes of Venkataramaiah.

7. The defence of the appellants was that they had purchased the lands from Venkataramaiah under registered sale deed dated 10 th July, 1970 and became owner of the subject land which was within the purview of Karnataka(Personal & Miscellaneous) Inams Abolition Act, 1954(hereinafter being referred to as the “Act 1954”) and Act, 1961 has no applicability in the instant matter.

8. The further contention of the appellants before the Tribunal was that the first respondent is not a tenant but is a trespasser and there is no relationship of landlord and tenant and the land was in unlawful possession of the first respondent.

9. The appellants also emphasized that in the proceedings earlier initiated, the first respondent failed to establish his tenancy rights under the Act 1954, as such, he was not entitled to claim later occupancy rights under the Act 1961.

10. Taking into consideration the rival claims of the parties, the Land Tribunal recorded a finding that on 1 st March 1974, i.e., the vesting day, the subject land was in possession of the first respondent and his father and that was the admission of the appellants in the earlier proceedings initiated under the Act, 1954(O.S. No. 210 of 1967) and later in subsequent suit filed by the appellants in O.S. No. 1054 of 1974 on the file of the Addl. Second Munsiff at Bangalore and was persuaded that the respondent’s father was in possession as on 1 st March, 1974 and has lawfully cultivated the subject land in question and became a deemed tenant as contemplated under Section 4 of the Act, 1961 and finally disposed of the application after assigning detailed and cogent reasons under its Order dated 16 th December 2002. The relevant part of the order is as under: □“The application filed in Form No. 7 by the applicant for registration of the occupancy rights in respect of lands bearing Sy. Nos. 17 and 184 to an extent of 1 acre 12 guntas and 10 acres 34 guntas respectively situated at Halasahalli Thippasandra Village, Anekal Taluk, Bangalore Urban District is hereby allowed and we hereby unanimously grant occupancy rights in respect of the above said lands in the

name of Sri H. Ramaiah Reddy and ordered accordingly.”

11. The Order of the Land Tribunal came to be challenged by the present appellants by filing of a writ petition before the High Court of Karnataka and the learned Single Judge of the High Court revisited the facts on record and after affording opportunity of hearing to the parties and taking into consideration the material on record, was of the view that no manifest error has been committed by the Tribunal in its Order granting occupancy rights to the first respondent which may call for interference by judgment dated 28 th May, 2008 that came to be further challenged by the appellants in writ appeal before the Division Bench of the High Court of Karnataka.

12. The bone of contention of the learned counsel for the appellants in the writ appeal was that the first respondent has no right to file an application in Form No. 7, more so, when he is not able to justify his right to be the tenant under the Act, 1954 in the earlier proceedings.

13. The second contention was that the first respondent earlier claimed ownership rights over the subject land under the Act, 1954 which he failed to establish and later it is not open to the first respondent to contend that he is the tenant of the subject property under the Act 1961.

14. Both the contentions in the writ appeal before the High Court were rejected after recording a finding that so far as denial of right to the tenant under the Act, 1954 is concerned, it, in no manner, obviates the rights of the incumbent to claim occupancy rights under the Act, 1961 and so far as the second contention is concerned, it was observed that there was no conflicting stand as the occupancy rights under the Act, 1961 were to be looked into on the date of vesting day, i.e., 1 st March, 1974 and not under the Act 1954. As such, the proceedings earlier initiated under the Act 1954, in no manner, has any relationship so far as the occupancy rights which the first respondent has claimed as being in possession as on 1st March, 1974 under the Act, 1961 and taking assistance of the judgment of this Court in Muniyallappa Vs. B.M. Krishnamurthy and Others¹, the High Court dismissed the writ appeal filed at the instance of the appellants.

15. We have heard learned counsel for the parties and with their assistance examined the record.

16. The scope and ambit of the two Acts, namely, Act, 1954 and Act, 1961 has been examined by this Court in Muniyallappa(supra) in paragraph 5 as under: □“5. It may be stated that the purpose and scope of the two Acts are distinct. The Inams Abolition Act was enacted for the purpose of abolition of inam tenures and conversion of such tenures into 1 1992 Supp.(3) SCC 26 ryotwari tenure and in that process, grant of occupancy rights to the inamdars and the three classes of tenants specified in that Act. The purpose of the Land Reforms Act, however, is quite different. The main purpose was to abolish the relationship of landlord and tenant in respect of tenanted lands and to confer occupancy rights on tenants who are personally cultivating the lands. Therefore, the rejection of the claim of the appellant under the Inams Abolition Act does not lead to the inference that he has no claim for occupancy right under the Land Reforms Act. The appellant claims that he is a deemed tenant as provided under Section 4 of the Land Reforms Act. The requirement of deemed tenant, as provided under Section 4 of the Tenancy Act, must be determined by the Land Tribunal. The High Court having come to the conclusion that the procedure adopted by the Land Tribunal was not in

accordance with the rules of natural justice ought to have remitted the matter to the Tribunal for fresh disposal.”

17. Under the scheme of the Act 1954, all lands in Inam villages vested in the State Government. But under the Act 1961, not all agricultural lands vest in the State; only lands held by or in possession of tenants immediately prior to 1st March, 1974 vest in the State Government. The claim of the tenant or tenants for registration of occupancy rights under the Act, 1961 has to be decided with reference to the date of vesting under Section 44, viz., 1st March 1974. Under the Act 1954, the rights of the Inamdars and tenants were decided with reference to the date of vesting, viz, 1st February, 1959 under the said Act.

18. The scope and purport of the two Acts being different, termination of the proceedings under the Act, 1954 in regard to grant of occupancy rights cannot bar an enquiry to establish the claim under Section 45 of the Act, 1961 by the Land Tribunal. What the Tribunal, under the Act, has to inquire into, is whether the lands claimed by the applicant before it, have vested in the State Government under Section 44 of the Act 1961. For that purpose, it has to decide whether the lands were held by or in the possession of any tenant immediately prior to 1 st March, 1974(the date of vesting).

19. This is what has been examined by the Tribunal in extenso and thereafter finding was recorded that the first respondent was in possession and was cultivating the subject land in question immediately prior to 1st March, 1974 (the vesting date) under Section 44 of the Act, 1961 and accordingly declared to confer the occupancy rights to the first respondent under its order dated 16 th December 2002.

20. The appellants challenged the finding of the Tribunal before the High Court in writ petition under Article 226 of the Constitution and further in writ appeal and after due deliberation and revisiting the records, both the Courts affirmed the Order of the Land Tribunal upholding occupancy rights to the first respondent.

21. After we have heard learned counsel for the parties, find no manifest error been committed in the findings recorded by the Tribunal in conferring the occupancy rights in favour of the first respondent and needs no further interference of this Court.

22. Consequently, the appeal fails and accordingly dismissed. No costs.

23. Pending application(s), if any, shall stand disposed of.

.....J. (AJAY RASTOGI)J. (C.T. RAVIKUMAR) NEW DELHI
AUGUST 08, 2022.