

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 13TH DAY OF MARCH 1998

BEFORE

THE HON'BLE MR.JUSTICE A.M.FAROOQ

WRIT PETITION No.38757/1993

Between:

M.K.Suprakash,
S/o Kolluraiah,
aged 34 years,
Agriculturist,
R/o Ganganakoppa,
Post. Kasaba Hobli,
Hosanagar Tq.
Shimoga Dist. ... Petitioner.

(By Sri.B.Rudra Gowda, Adv.,)

And:

1. State of Karnataka,
by its Secretary,
Dept. of Revenue,
M.S.Building, Dr.Ambedkar
Veedhi, Bangalore-1.
2. Regularisation of Unauthorised
Cultivation Committee,
Hosanagar Tq. by its Secretary,
the Tahsildar, Hosanagar.
3. Tahsildar,
Hosanagar Taluk, Hosanagar,
Shimoga Dist. ... Respondents.

(By Sri.S.S.Guttal, HCGP)

This WP is filed under Articles 226 and 227 of the Constitution of India praying to quash the order/endorsement dt.30-8-93 in No.T.T.CR.2247, 2248/91-92 passed by the 2nd respondent at Annex-C & etc.,

This WP coming on for prely. hearing in 'B' Group this day, the Court made the following:-



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ORDER

The petitioner claims to be in unauthorised occupation of 3 acres of Government land in Sy.No.27 of Ganganakoppa Village. According to the petitioner he has made an application to the respondents 2 and 3 for regularisation of his unauthorised occupation and the respondent-2 has rejected the application without giving the petitioner an opportunity to put forth his case and without hearing him. The petitioner has produced a copy of the order passed by respondent-2. The respondent-2 has rejected the application on the ground that the petitioner holds more land than the prescribed limit and therefore, he was not entitled for an order of regularisation of his unauthorised occupancy.

2. The petitioner has stated on oath that ~~apart~~ from the 3 acres of land which is in his unauthorised occupation he owns only 1 acre 22 guntas of land in Sy.No.59/4 and out of which only 22 guntas are rainfed wet land and the rest is dry land. The record produced by the learned HCGP. disclose that



no notice has been issued to the petitioner before considering the application filed by the petitioner. No materialⁱⁿ disclose from the order as to how the 2nd respondent has come to the conclusion that the petitioner is holding more land than the limit prescribed. Therefore, there is much force in the submission made by Smt. Nagashri, learned counsel appearing on behalf of the petitioner. The impugned order is therefore, an arbitrary order, which cannot be sustained.

3. For the above reasons, this writ petition is allowed and the impugned order dt.30-8-1993 in file No.T.T.CR.2247,2248/91-92 on the file of the Regularisation of Unauthorised Cultivation Committee, Hosanagar Tq. is hereby quashed. The respondents 2 and 3 are directed to reconsider the application filed by the petitioner for regularisation of his unauthorised occupation of 3 acres of land in Sy.No.27 of Ganganakoppa Village, The petitioners shall not be dispossessed till the application is disposed of.

Sri.S.S.Guttal, HCGP. is permitted to file his memo of appearance.

Sd/-
JUDGE

