

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 31st DAY OF MAY 1999

BEFORE

THE HON'BLE MR.JUSTICE P.VISHWANATHA SHETTY

Writ Petition No.15534/1993

Smt. Subbamma D/o late Archick Nagappa,
Resident of Devaramallur,
Sidlaghatta Taluk, Kolar District,
since deceased by his L.Rs:

- a) A.R.Nanjappa
S/o Subbamma,
 - b) A.R.Somanarayana Rao,
 - c) Sri A.R.Padmanabharao
 - d) Sri A.R.Ananda
 - e) A.R.Venkatesh
 - f) A.R.Sheshanna
 - g) A.R.Sujatha
 - h) Smt.A.R.Nagarathnamma
 - i) Smt. A.R.Sudha,
- .. Petitioners
all are majors, residents of
Devaramallur,
Sidlaghatta Taluk,
Kolar District.

(By Smt.Sona G.Vakkund,
Advocate)

Vs.

1. The State of Karnataka
by its Secretary,
Revenue Department,
Vidhana Soudha, Bangalore.

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2. The Land Tribunal,
Sidlaghatta
represented by its
Chairman,
Sidlaghatta Taluk,
Kolar District.
3. Anjaneya Devaru,
Gummana Hally
by its Muzrai Officer-
cum-Tahsildar,
Sidlaghatta Taluk,
Kolar District.
4. Chikkapillappa
S/o Chinnappa,
major, resident of
Devaramallur,
Sidlaghatta Taluk,
Kolar District,
since deceased by L.Rs:
 - a) Smt. Thimmakka
W/o Late Pete Nagappa,
aged about 55 years.
 - b) Sri Nanjappa
S/o Late Pete Nagappa,
aged about 28 years.
 - c) Sri Shivanna
S/o Late Pete Nagappa,
aged about 22 years.
 - d) Smt. Parvathamma
D/o Late Pete Nagappa,
aged about 32 years.
 - e) Smt. Nanjamma
D/o late Pete Nagappa,
aged about 28 years.
 - f) Smt. Laxmidevi
D/o Late Pete Nagappa,
aged about 25 years,
 - g) Kum. Saraswathi
D/o Late Pete Nagappa,
aged about 19 years.

.. Respondents

All are residing at
Varahunusenahalli,
Kasaba Hobli,
Devaramallur post,
Sidlaghatta Taluk,
Kolar District.

(By Sri S.N.Hatti,
Addl. Govt. Advocate
for Respondents 1 to 3;
Sri P.N.Nanja Reddy,
Adv. for Respondent-5;
Sri Chikkapillappa,
Adv. for Respondent-4;
Sri B.V.Gangi Reddy,
Adv. for LRs. for R-5)

Writ Petition filed under Articles 226 and 227 of the Constitution of India with an affidavit praying for the quashing of the order dated 2-12-1991 passed by the second respondent vide Annexure-E, etc.

This petition coming on for hearing before Court this day, the Court made the following:

O R D E R

In this petition, the petitioner has called in question the correctness of the order dated 2nd of December 1991, copy of which has been produced as Annexure-E, passed by the Land Tribunal, Sidlaghatta (hereinafter referred to as "the Tribunal"), rejecting the claim of the petitioner to register him as an occupant of the land in question. The Tribunal, on the basis of the statement made by the petitioner that neither she nor her son was in possession and

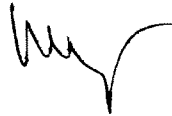


cultivation of the land in question for a period over 12 years on the date on which she made the statement, rejected her claim.

2. Smt. Sona Vakkund, learned Counsel appearing for the petitioner, strongly contended that the petitioner had not made any statement as observed by the Tribunal and, therefore, the impugned order is liable to be quashed.

3. I am unable to accede to the submission of the learned Counsel for the petitioner. From the records made available, it is seen that the petitioner had made a statement stating that she has not been in possession of the land in question[✓] observed by the Tribunal. The Tribunal has recorded the statement of the petitioner on 2nd of December 1991. It is useful to extract the said statement, which reads as hereunder:

“ದೇವರ ಮಕ್ಕಳಾರು ಗ್ರಾಮದ ಸ.ನಂ.143,85, 18, 110, 117, 42, 116, 19 ಮತ್ತು ಗುಮ್ಮನಳ್ಳಿ ಸ.ನಂ.10 ಕುತುಲಡಹಳ್ಳಿ 14 - 52 ದೂಹಾರ ನಿಗಂಯ್ಯ ನನ್ನು ಸ.ನಂ.21 ಮತ್ತು ಮಾದಕುಣಸೇನಹಳ್ಳಿ ಗ್ರಾಮ ಸ.ನಂ.49 ಶ್ರೀ ರಾಮದೇವರು ಅಂಜನೇಯ ದೇವರು,

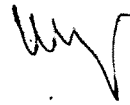


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ಗೋಪಾಲಸ್ವಾಮಿ, ಮಳಸಾಳು ಸೋಮೇಶ್ವರ ದೇವರು
ಇವರ ಜಮೀನಾಗಿದ್ದು ನನ್ನ ಹೆಸರಿಗೆ ಮಂಜೂರಾಡಬೇಕೆಂದು
ಅರ್ಜಿ ಕೊಟ್ಟಿದ್ದು ಸರಿಯುಷ್ಟೆ. ನಮ್ಮ ತಂದೆ ಶ್ರೀನಿಂಗಪ್ಪ
ಸದರಿ ದೇವಸ್ಥಾನದ ಅರ್ಜಿ ಕರಾಗಿರುತ್ತಾರೆ. ತಂಟೆ ಜಮೀನು
ಗಳನ್ನು ಈಗ್ಗೆ ಸುಮಾರು 12 ವರ್ಷಗಳ ಹಿಂದೆ ನಮ್ಮ
ಬೇಸಾಯದಲ್ಲಿದ್ದು ಕಳೆದ ಹನ್ನೆರಡು ವರ್ಷಗಳಿಂದ ಹಲವಾರು
ರೈತರು ಬೇಸಾಯ ಮಾಡುತ್ತಿರುತ್ತಾರೆ. ತಂಟೆ ಜಮೀನು
ಗಳನ್ನು ನಾವಾಗಲೀ ನನ್ನ ಕಡೆಯವರ ಇತರ ಸದಸ್ಯರಾಗಲೀ
ಬೇಸಾಯ ಮಾಡುತ್ತಿಲ್ಲ. ಆದ್ದರಿಂದ ತಂಟೆ ಜಮೀನನ್ನು
ಮಂಜೂರಾಡಬೇಕೆಂದು ಕೋರುತ್ತೇನೆ. **

If the Tribunal has acted upon the statement made by the Petitioner and rejected her claim, I do not find any justification to interfere with the said order. Nothing has been placed before me to show that the statement of the petitioner has not been properly recorded by the Tribunal.

4. In the light of the discussion made above, this petition is liable to be rejected. Accordingly, it is rejected. Rule issued is discharged.



S/D

5. Sri S.N.Hatti, learned Additional Government Advocate, is permitted to file his memo of appearance within four weeks from today.

Sd/-
JUDGE

ANB.