

IN THE HIGH COURT OF KARNATAKA

CIRCUIT BENCH AT DHARWAD

DATED THIS THE 28TH DAY OF OCTOBER, 2010

BEFORE

THE HON'BLE MR.JUSTICE B.S.PATIL

W.P.No.60059/2010 (LR)

BETWEEN:

Gousemoddinsab,
S/o Babasab Buddanavar,
Age: 57 years,
Occ: Agriculture,
R/o Kargudari,
Tq: Hangal,
Dist: Haveri.

...PETITIONER

(By Sri Dinesh M.Kulkarni, Adv.)

AND:

1. The Land Tribunal,
Hangal, Dist: Haveri,
By its Chairman.
2. The State of Karnataka,
Rep. by its Secretary,
Department of Revenue,
M.S.Building,
Dr. Ambedkar Road,
Bangalore.
3. Jaffarsab,
S/o Gaffar Khan Uppin,
Age: about 68 years,
Kanchagare Oni,
At Post: Hangal,
Dist: Haveri.

4. Muragewwa,
W/o Murigeppa Sharnarthi,
Age: Major,
R/o Dundasi,
Tq: Shiggon,
Dist: Haveri.

...RESPONDENTS

(R-4 Deleted vide order dated 28.10.2010)

**(By Sri P.H.Gotkhindi, HCGP for R-1 & 2;
Sri Mahesh Wodeyar, Adv. for R-3)**

This writ petition is filed under Articles 226 and 227 of the Constitution of India, praying to quash the order Annexure-H passed by respondent No.1 dated 26.06.2009 bearing No.LRM/SR/130/282 as null and void.

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

ORDER

1. Challenge in this writ petition is to the order dated 26.06.2009 passed by the Land Tribunal, Hangal, granting occupancy rights in favour of respondent No.3 in respect of 2 acres 33 guntas of land comprised in R.S.No.37 situated at Karagudari village in Hangal Taluk of Haveri District.

2. Petitioner has challenged the order contending inter alia that the land was not vested with the State Government, as it is not a tenanted land. He has placed reliance on the revenue entries namely, the record of rights with effect from the year



1961-62, which are stated to be standing in the name of the owner disclosing self occupation by him.

3. This is second round of litigation. The parties with the help of elders in the village have arrived at a settlement, where under the owner of the land – petitioner herein, in order to put an end to the litigation has offered to give 1 acre 21 guntas and 10 guntas of phut kharab portion located on the southern side of the survey number, in favour of respondent No.3 who claims to be the tenant. Respondent No.3 has agreed to take the said portion, conceding the fact that he does not wish to press the application in respect of the remaining portion.

4. Both the parties are present before the Court and are identified by their Counsel. They have filed a compromise petition under Order XXIII Rule 3 of the Code of Civil Procedure duly signed by them. They agree to the terms of compromise.

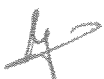
5. I have gone through the entire records and the order passed by the Tribunal. Several legal contentions are urged by the learned Counsel for the petitioner in the petition. As respondent No.3 has come up with an assertion that he has cultivated only the southern portion and he is willing to confine



his claim in respect of the southern portion being 1 acre 21 guntas of land and 10 guntas of phut kharab land, I do not find any impediment in accepting this compromise petition. Instead of allowing the parties to continue to litigate endlessly, it is in the ends of justice to allow them to settle their disputes and live peacefully.

6. Having regard to the nature of controversy raised and the infirmities in the proceedings of the Land Tribunal, without going into the merits of the case, I find it just and proper to permit the parties to settle the matter in terms of the compromise petition filed.

7. Accordingly, the compromise petition is accepted. Occupancy rights claimed by respondent No.3 is confined to the southern portion of 1 acres 21 guntas and 10 guntas of kharab, totaling to 1 acres 31 guntas. The rest of the portion in the survey number shall be retained by the owner. The application filed by respondent No.3 claiming the remaining portion shall stand rejected. Occupancy rights conferred by the Land Tribunal shall stand modified and be restricted to the southern portion being 1 acre 31 guntas, which includes 10 guntas of phut kharab. The Land Tribunal shall issue occupancy



certificate in favour of respondent No.3 as directed herein above. Writ petition stands disposed of accordingly.

Sd/-
JUDGE

KK

BSPJ:
28.10.2010

W.P.No.60059/2010

Learned Counsel for the petitioner has filed a memo seeking deletion of respondent No.4 from the array of parties stating that deceased husband of respondent No.4 had already sold the property during his life time in favour of the writ petitioner and respondent No.4 was made a formal party. It is further submitted that respondent No.4 is also no more.

In the light of the memo filed stating that respondent No.4 was impleaded as a formal party, the memo is allowed. Respondent No.4 is ordered to be deleted from the array of parties.

Sd/-
JUDGE

KK