

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 334 OF 2003

NARAYANAGOWDA & ORS.

.....Appellants

VERSUS

A.B. NANJAPPA 'DEAD' & ORS.

.....Respondents

O R D E R

This appeal has been preferred against the judgment and order dated 9th October, 2001 passed by the High Court of Karnataka at Bangalore in Land Reforms Revision Petition No. 5101 of 1988 by which the High Court has reversed the findings of fact recorded by the Land Reforms Appellate Authority, Hassan District, Hassan as well as of the Land Tribunal, Arkalgud.

Facts and circumstances giving rise to the case are as under:

A. That the land in dispute had been granted to the present appellants and it is claimed by them that they had been in actual and physical possession of the land throughout.

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B. Predecessors-in-interest of respondent nos. 1 & 2 had manipulated the entry in the revenue record only for the years of 1972-1973, 1973-1974 and 1974-1975 and thus, they claimed the rights/protection under the Karnataka Land Reforms Act, 1961 (hereinafter referred to as 'the Act').

C. The Land Tribunal vide judgment and order dated 19.10.1981 dismissing the case No. LRF:ML:3:74-75 rejecting the claim of the said respondent nos. 1 & 2 after appreciating the documentary as well as depositions of witnesses examined by the parties and reached the conclusion that the revenue entries had been made undoubtedly for a certain period but had been the cut-off date for the period before, that is, 1st March, 1974 as required under Section 5 of the Act.

D. The said respondents were neither in possession nor their names were shown in the revenue record on the cut off date.

E. Aggrieved by the order dated 19.10.1981 of the Land Tribunal, the said respondents approached the High Court by filing the writ petition no. 32393 of 1981. During the pendency of the said writ petition, the Land Reforms Appellate Authority came into existence. Therefore, the writ petition was disposed of transferring the case before the Appellate Authority.

F. The matter was examined by the Land Reforms Appellate Authority and vide judgment and order dated 14th June, 1988, the Authority rejected their appeal observing that there was discrepancy in the evidence of the claimants. The Appellate Authority disbelieved the evidence of the witnesses and entries

found in the revenue records. -

The Appellate Authority held that the entries had been manipulated and the said respondents were not in possession of the suit land.

G. The order dated 14.6.1988 was challenged before the High Court by filing the revision under Section 120A of the Act.

H. The said revision has been allowed by the High Court after re-appreciating the entire facts and considering the documentary as well as oral evidence.

Hence, this appeal.

We have heard learned counsel for the appellants Mr. Shekhar G. Devasa and Mr. Raghupathy, learned counsel appearing for the State. In spite of notice, none entered appearance on behalf of the said respondents.

Learned counsel for the appellants has submitted that revisional power of the High Court under Section 120A of the Act is limited only to examine the legality of the order or regularity of the proceedings in the case. In the instant case, the judgments of the statutory authorities have been reversed by the High Court without recording any finding as to whether there was any illegality in the order or there has been any irregularity in the proceedings. In fact, the Land Tribunal as well as the Appellate Authority has dealt with all the issues in detail and recorded the specific findings of fact. The relevant part of the order of the Appellate Authority reads as under:

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"In the column mode of cultivation it is mentioned as wara. For the year 1970-71 in the cultivator's column we find the names of Nanjappaiah, Siddalingegowda, Subbegowda, Chandrapaiah and Thammaiah and the first four each of them are shown to have cultivated 1 acres 20 guntas and in respect of Thammaiah he is shown to have cultivated 1 acre 20 guntas and in respect of Thammaiah he is shown to have cultivated 1 acres 34 guntas. In the column mode of cultivation it is mentioned as wara. For the year 1971-72 in the cultivator's column we find the names of Nanjappaiah, Siddalingegowda, Subbegowda, Chandraiah and Thammaiah and the mode of cultivation is shown as wara. From 1972-73 to 1974-75 in the cultivator's column we find the name of B.R. Puttappa."

"The appellants have failed to offer any explanation as to why their names are not to be found in the cultivator's column in the R.T.C. and pahani records in respect of the lands in dispute from 1972-73 onwards. Simply because the names of the appellants are to be found for some years in the cultivator's column showing that they have cultivated some portions of the lands, we cannot rely on these entries of which the 1st appellant was the author and come to the conclusion the appellants were tenants in possession of the lands in dispute as on an immediately prior to 1.3.1974. Further more, the appellants have not taken any action for rectification of the entries in the R.T.C. and pahani records of the lands in dispute for the period 1972-73 onwards for the reasons best known to them. The only piece of evidence is the 3rd respondent before the Land Tribunal has stated that earlier to the sale the appellants were cultivating the lands in dispute on wara

basis."

The said findings have been reversed by the High Court only on the basis of presumption that in case the said respondents had been in possession and their names entered into revenue record, in the years prior to the cut off date, they should have been in possession till the cut off date as provided under Section 5 of the Act. However, the High Court did not spell as on what basis, the presumption had been drawn which warranted the reversal of the findings of fact recorded by the statutory authorities.

In view of the above, impugned judgment is not sustainable in the eyes of law. The appeal is allowed. The impugned order of the High Court dated 9.10.2001 is hereby set aside. There shall be no order as to costs.

.....J.
(Dr. B.S. CHAUHAN)

.....J.
(FAKIR MOHAMED IBRAHIM KALIFULLA)

New Delhi;
September 6, 2012.

ITEM NO.106

Court No.9

SECTION IVA

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS
CIVIL APPEAL NO(s). 334 OF 2003

NARAYANAGOWDA & ORS.

Appellant (s)

VERSUS

A.B. NANJAPPA 'DEAD' AND ORS

Respondent(s)

(With office report)

Date: 06/09/2012 This Appeal was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE B.S. CHAUHAN
HON'BLE MR. JUSTICE FAKKIR MOHAMED IBRAHIM KALIFULLA

For Appellant(s) Mr. Shekhar G. Devasa, Adv.
for Mr. Adarsh Upadhyay, Adv.

For Respondent(s) Mr. V.N. Raghupathy, Adv.
Mr. Ananthanarayana M.G., Adv.
Mr. Sanjay R. Hegde, Adv.

UPON hearing counsel the Court made the following
O R D E R

The appeal is allowed in terms of the signed order.

| (DEEPAK MANSUKHANI)
| Court Master

| (M.S. NEGI)
| Court Master

(The signed order is placed on the file)