



IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.3956 OF 1998@@  
CCCCCCCCCCCCCCCCCCCCCCCCCCCC

T. Mohd. Haneef

Appellant (s)

versus

The Dy. Commissioner & Ors.

Respondent (s)

O R D E R@@  
CCCCCCCC

.....L.....I.....T.....T.....T.....T.....T.....T.....J.  
.SP2

The disputed land was given by way of grant to one Narasih on 21.11.1961 by the State . The Suguvali Chit was issued to the original grantee on 20.11.1962 and he got possession of the land. The appellant purchased the land in 1966. As per Rule 43-G(4) of the Mysore Land Revenue(Amendment) Rules 1960 where the grant is made free of cost or is made at a price which is less than the full marked value, the grant shall be subject to the condition that it shall not be alienated for a period of fifteen years from the date of the grantee taking possession of the land. The appellant had purchased the land in contravention of the above cited clause. Notice was, accordingly, issued to him under Section 4 of the Karnataka Scheduled Castes and Scheduled Tribes (Prohibition of Transfer of Certain Lands) Act, 1978. The Appellant filed objection before the Assistant Commissioner. The objection of the appellant was that the petitioner Kempamma was not the wife of Narasih, the original grantee and, thus the application was not

2

maintainable. It was specifically mentioned in the ' Saguvali Chit' that the land shall not be alienated by the grantee within a period. The appellant had also contended that the Saguvali Chit was issued on the ground that the grantee was a landless person and not on the basis that he was a member of Scheduled Castes or Scheduled Tribes.

The Assistant Commissioner considered the contention raised by the appellant and held that the alienation was null and void and under Section 4 of the Act, it was liable to be resumed and given back to the wife of the original grantee. Aggrieved by the same, the appellant preferred an appeal to the Deputy Commissioner. The Appeal was dismissed and the appellant preferred writ petition before the High Court. The High Court dismissed the same. The appellant preferred a writ appeal and the same was dismissed. Hence, this appeal by special leave.

We heard learned counsel for both the parties. The counsel for the appellant has raised contention that the provision of the Act does not apply and the appellant perfected his title in respect of the land by way of adverse possession. The counsel for the appellant sought to place reliance on K.T. Huchegowda vs. Deputy Commissioner and Others (1994(3) SCC 536, wherein this Court held that a plea of adverse possession could be raised in the same manner as is prescribed under the provisions of the Limitation Act. It

was stated in paragraph 10 that for the purpose of determining the period of limitation as to whether 12 years or 30 years is applicable, it has to be examined on its own merits and on the materials produced in support of the said claim, especially the deed of grant in favour of the original grantee, for the purpose of recording a finding as to whether the grant was in the nature of absolute transfer of title in favour of the grantee or it was a mere allotment for enjoyment of the lands in question. Such claim shall be examined taking into account whether the claimant had raised this question at the earliest opportunity that is, before the Assistant Commissioner and what material had been produced by the claimant before the Assistant Commissioner in support of such claim.

In the instant case the appellant admittedly did not raise any plea before the Assistant Commissioner or before the Deputy Commissioner. It is true that appellant has raised a plea of adverse possession before the High Court but no material has been placed before the Court to decide the question. Even the grant made in favour of the original grantee is not available to throw light on the question whether the grant made was for enjoyment of the land or whether any absolute title had been transferred to the grantee. In the absence of any specific plea made by the appellant and also in the absence of any material, we do not

-4-

think it is a fit case where the plea of adverse possession can be entertained.

The counsel lastly prayed that the matter be remanded to the High Court to enable the appellant to raise specific plea and produce relevant material before the High Court. We do not think that such a plea could be allowed at this stage.

The counsel for the appellant contended that appellant who has been in possession of the land is entitled to get compensation for value of improvements effected by him.

The learned counsel for the respondent submitted that there is no provision for payment of any compensation in case of unlawful alienation. It is upto the appellant to file any such application before an appropriate forum or authority. If any such application is filed, it may be disposed of in accordance with law.

No costs.

.SP1

.....J  
(K.G.Balakrishnan)

New Delhi,  
February 19, 2003.

.....J  
(P.Venkatarama Reddi)