

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 13TH DAY OF NOVEMBER 2000

B E F O R E

THE HON'BLE MR. JUSTICE T.N. VALLINAYAGAM

WRIT PETITION NOS. 25864/1993 & 25865/1993 KLR.A.

Between:

Virupax Shankar Joshi,
Age: Major, Occupation: Nil,
Resident of Block No. A11,
Government Quarters,
Haji Ali, Bombay -11. ...Petitioner
(common in both WPs)

(By Suresh P.Hudedagaddi, advocate)

A n d:

- 1) The Land Tribunal,
Hubli,
By its Chairman.
- 2) The State of Karnataka,
by the Revenue Secretary,
Vidhana Soudha, Bangalore-1.
- 3) Basavaraj Veerabhadrappe Sullad,
Age: Major, Occ: Agriculture,
R/o Ganesh Peth, Hubli.
District: Dharwad.
- 4) Mallikarjun Veerabhadrappe Sullad,
Age: Major, Occ: Agriculture,

R/o Ganesh Peth, Hubli.
District: Dharwad.

...Respondents
(in WP 25864/93)

A n d:

- 1) The Land Tribunal,
Hubli,
By its Chairman.
- 2) The State of Karnataka,
by the Revenue Secretary,
Vidhana Soudha, Bangalore-1.
- 3) Ashok Veerabhadrappa Sullad,
Age: Major, Occ: Agriculture,
R/o Ganesh Peth, Hubli.
District: Dharwad.
- 4) Gangadhar Veerabhadrappa Sullad,
Age: Major, Occ: Agriculture,
R/o Ganesh Peth, Hubli.
District: Dharwad.

...Respondents
(in WP 25865/93)

(By Sri Bharamagouda, HCGP for R1 & R2
Sri S.G. Kulkarni, Advocate for R3 & R4)

These writ petitions are filed under Articles 226 & 227 of the Constitution of India with a prayer to set-aside the orders of the Land Tribunal, Hubli dated 24.10.1981 in No. KLR.SR.BAM.16+21 and in No. KLR.SR.BAM.18+17 in so far as the petition lands are concerned.

These writ petitions coming on for hearing
of this day, the Court made the following:

O R D E R

Learned counsel for respondent Nos.3 and 4 is absent. The learned Government Advocate is directed to take notice for R1 & R2.

These two writ petitions converted from C.P. Nos.8836/91 & 8837/91 are referable to L.R.A. Nos.1170/86 & 1171/86, which were pending on the file of the erstwhile Land Reforms Appellate Authority, Dharwad. As the petitioner was same but two different tenants, two petitions were filed.

2. The facts in respect of W.P. No.25864/93 are as follows:

The petitioner is the owner of Land in dispute bearing Survey No.180/A+2+2, measuring 7 acres 29 guntas, situated at Bommapur village, Hubli Taluk, Dharwad District. The land in dispute is not at all a tenanted land. The said land is never leased out anybody at any point of time. The said land is in actual possession and cultivation of the petitioner. Respondents have filed the Form No.7, before the Land Tribunal, Hubli for grant of occupancy rights in their favour. The said claim of Respondents is

granted by the land tribunal, Hubli on 24.1.1981 in its number KLR SR BM 16 + 21. Against that order the petitioner has filed writ petition No. 1077 of 1983, before this Hon'ble Court. By virtue of Amendment in the year of 1986, to the Karnataka Land Reforms Act, the said writ petition was transferred to the Land Reforms Appellate Authority, Dharwad and it is converted into appeal and the said Appeal is numbered as LRA 1171 of 86, which is pending at the time of Amendment Act No. 18 of 1990, came into force.

3. The facts in respect of W.P. No.25865/93 are as follows:

The petitioner is the owner of Land bearing Survey No. 178/6, measuring 4 acres 15 guntas and Survey No. 179/2, measuring 3 acres 20 guntas, situated at Bommapur village, Hubli Taluk, Dharwad District. The said lands in dispute were not tenanted lands. The said lands are in actual possession and wahiwat of the petitioners. The

Respondents 3 and 4 have filed the Form No.7, before the Land Tribunal, Hubli for grant of occupancy rights in their favour. The land tribunal has granted the occupancy rights on 24.1.1981 to the respondents in its number KLR SR BM 16 + 21. Against that order the petitioner has filed writ petition No. 1076 of 1983, before this Hon'ble Court. By virtue of amendment to the Karnataka Land Reforms Act in the year 1986, the said writ petition was transferred to the Land Reforms Appellate Authority, Dharwad and it is numbered as LRA 1170 of 86, which is pending at the time of Amendment Act No. 18 of 1990, came into force.

4. It is common ground in both petitions in W.P. 1076 & 1077/1983 that no copies of the proceedings were issued to the petitioner. On that ground itself, the petitions require re-consideration.

5. On perusal of the record, it is seen that, in fact no notice was served on the petitioner and the order was passed ex-parte. Expressing the view other than this, impugned order is quashed and the matter is remanded to the Land Tribunal.

Both the writ petitions are allowed.

Sd/- JUDGE

Kps/-