

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.2847-2849/2020

(Arising out of S.L.P.(Civil) Nos.9140-9142/2020

@ SLP (Civil) Diary No.34425 of 2017)

THE STATE OF KARNATAKA & ORS.

... APPELLANT(S)

VERSUS

NARASIMHAIAH (DEAD) BY LRS. & ORS.

...RESPONDENT(S)

O R D E R

Leave granted.

We have heard learned counsel for parties.

The land in question is alleged to have been allotted to the predecessor-in-interest of the original petitioners (respondents before us) in the year 1927. In the year 1967, the land was declared as *Phada* as land revenue was not paid in time and it is the case of the respondents that they cleared all the dues thereafter along with penalty and requested the Deputy Commissioner to release the land in their favour. The permission, as sought for, was granted on 22nd September, 2012 but the same was subsequently revoked on 6th October, 2012.

The revocation was challenged before the High Court and the learned Single Judge in terms of the order dated 30th September, 2015, allowed the Writ Petition. A perusal of the order of the

learned Single Judge shows that it is solely based on a concession of the counsel for the Government that the Deputy Commissioner did not have a power of review under the Karnataka Land Revenue Act, 1964 and thus the order was without competence and jurisdiction. The Government, thereafter, preferred an appeal to the Division Bench. The Division Bench did not go into the issue which formed the basis of the order of the learned Single Judge but observed in para 6 that they are not examining that issue in view of the fact that on merits they take a view that since the owner got the property in 1927 and the mutation was changed only on account of paltry amount towards rent not being paid, the said amount being cleared, the land had been released by the Deputy Commissioner and there was no need to review that order.

We have heard learned counsel for the parties at length keeping in mind the fact that the issue on which the order was passed by the learned Single Judge is different from the reason given by the Division Bench. The result is that no Court has really examined the issue whether the power of review exists or not as is sought to be contended before us by learned senior counsel for the appellants claiming that since it is a case of the alleged fraud, Section 25 of the Karnataka Land Revenue Act, 1964 would include the power of review.

We would not like to opine one way or the other on the aforesaid controversies in view of the manner in which these proceedings have been dealt with. We have no doubt that there has

been lack of proper assistance on the part of the Government authorities in canvassing the case with the result that all the factual matrix is sought to be canvassed before us. Thus, neither the validity of the power of the Deputy Commissioner to review an order nor the merits of the same has been adjudicated by either the learned Single Judge or the Division Bench.

The aforesaid does not leave us with much option but to remit the matter for proper adjudication and given the facts and circumstances of the case, we consider it appropriate that the matter should go back to the learned Single Judge at the first instance. The learned Single Judge will, by reasons, opine whether such a power of review does or does not exist and learned counsel for both the parties will have their full say on the same. In case the learned Single Judge comes to the opinion that the review power does not exist even if the allegations are false, nothing further survives but were the learned Single Judge to come to the conclusion that the power did exist, he would have to delve in the facts of the case. It is appropriate that both these aspects are examined by the learned Single Judge simultaneously.

It appears that the learned senior counsel for the appellants seeks to now rely on some additional documents to plead not only was there no mutation in favour of the predecessor-in-interest of the respondents but that the respondents do not really exist, at least at the given address.

In view thereof, we permit the appellants before us to file

additional documents before the learned Single Judge within a period of four weeks from today and the learned counsel for the respondents would also be entitled to file any documents in rebuttal within a period of four weeks thereafter. Thereafter the learned Single Judge will proceed to hear and decide the matter and naturally any aggrieved party would have the remedy before the Division Bench.

Since the matter has been pending for some time, we may request the learned Single Judge to consider the matter as expeditiously as possible taking into consideration the roster burden of the learned Single Judge.

Both the orders of the learned Single Judge and of the Division Bench are set aside and the appeals are allowed leaving the parties to bear their own cost.

.....J.
(SANJAY KISHAN KAUL)

.....J.
(AJAY RASTOGI)

.....J.
(ANIRUDDHA BOSE)

New Delhi,
Dated 4th August, 2020.

ITEM NO.3 Court 7 (Video Conferencing)

SECTION IV-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

SPECIAL LEAVE PETITION (CIVIL) Diary No(s). 34425/2017

(Arising out of impugned final judgment and orders dated 30-09-2015 in WP No. 50129/2012, dated 07-11-2016 in WA No. 178/2016 and dated 06-03-2017 in RP No. 507/2016 passed by the High Court Of Karnataka At Bengaluru)

THE STATE OF KARNATAKA & ORS.
 VERSUS

Petitioner(s)

NARASIMHAIAH (DEAD) BY LRS. & ORS.

Respondent(s)(IA)

No. 114839/2017 - CONDONATION OF DELAY IN FILING

IA No. 114844/2017 - EXEMPTION FROM FILING O.T. IA No. 114843/2017 -
 PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 04-08-2020 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL
 HON'BLE MR. JUSTICE AJAY RASTOGI
 HON'BLE MR. JUSTICE ANIRUDDHA BOSE

For Petitioner(s) Mr. Basavaprabhu S.Patil, Sr. Adv.
 Mr. V. N. Raghupathy, AOR

For Respondent(s) Mr. A.N.Venugopala Gowda, Sr. Adv.
 Mr. Nishanth AV, Adv.
 Mr. Balaji Srinivasan, AOR
 Ms. Pallavi Sengupta, Adv.
 Ms. Lakshmi Rao, Adv.

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

Delay condoned.

Leave granted.

The appeals are allowed in terms of the signed order

Pending applications shall also stand disposed of.

(ASHA SUNDRIYAL)
 AR-CUM-PS

(ANITA RANI AHUJA)
 ASSISTANT REGISTRAR

[Signed order is placed on the file]