

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE TRIBUNAL

CIVIL APPEAL NO.3621 OF 2018
[Arising out of SLP (C) No. 28906 of 2013]

RAGHUNATH PRASAD PANDE .. Appellant(s)

Versus

STATE OF KARNATAKA & ORS. .. Respondent(s)

O R D E R

—

Despite service, none appears for respondent nos. 2 to 9.

Leave granted.

2. Both the learned Single Judge as well as the Division Bench of the High Court have concluded against the appellant mainly on the ground that the possession, as required under Section 14(5) of the Mysore Land Reforms Act, 1961, as it then existed, was not handed over in favour of the landlord.

3. Before proceeding further it is relevant to note the provisions of Sections 14(1) and 14(5) of Mysore Land Reforms Act, 1961 (now called as Karnataka Land Reforms Act, 1961) as they existed in the year 1961-1970, the relevant years for the purpose of this case:-

"14. Resumption of land from tenants -
(1) Notwithstanding anything contained in Sections 22 and 43, but subject to the provisions of this Section and of Sections 15, 16, 17, 18, 19, 20 and 41, a

landlord may, if he *bona fide* requires land, other than land held by a permanent tenant, -

- (i) For cultivating personally, or
- (ii) For any non-agricultural purpose, file with the Tribunal a statement indicating the land or lands owned by him and which he intends to resume and such other particulars as may be prescribed. On such statement being filed, the Tribunal shall, as soon as may be, after giving an opportunity to be heard to the landlord and such of his tenants and other persons as may be affected, and, having due regard to contiguity, fertility and fair distribution of lands, and after making such other inquiries as the Tribunal deems necessary, determine the land or lands which the landlord shall be entitled to resume, and shall issue a certificate to the landlord to the effect that the land or lands specified in such certificate has been reserved for resumption; and thereupon the right to resume possession shall be exercisable only in respect of the lands specified in such certificate and shall not extend to any other land.

Explanation - Subject to such rules as may be prescribed, the Tribunal within the jurisdiction of which the greater part of the land held by the landlord is situated shall be the Tribunal competent to issue a certificate under this Section.

14(5) Where a certificate is issued in respect of any land under sub-section (1)

- (a) In the case of tenancies existing on the appointed day, the landlord shall make an application to the Tribunal for possession of such lands within twelve months from the date of issue of the certificate, but the tenants shall not be dispossessed before the 31st March of the

calendar year succeeding the calendar year in which the application for possession is made;

- (b) In the case of tenancies created after the appointed day, the landlord shall not be entitled to resume the land before the expiry of five years from the date of creation of the tenancies concerned and the tenants shall not be dispossessed before the 31st March of the calendar year succeeding the calendar year in which the application for possession is made."

From the scheme of afore-mentioned provisions it is clear that the landlord could have filed an application if he needed the land for *bona-fide* use and occupation before the Tribunal seeking resumption of the land from the tenants. The order was to be passed by the Tribunal under Section 14(1) of the Act on such application being filed by the landlord. A certificate would be issued by the Tribunal in case the application of the landlord for resumption was allowed. The landlord would take possession of the property by making further application before the Tribunal with support of the certificate issued as mentioned supra. Pursuant thereto, the tenants would be dispossessed before the 31st March of the calendar year succeeding the calendar year in which the application for possession was made. In the matter on hand the compromise entered into as well as the order accepting the compromise passed by the Tribunal was a composite order made under Sections 14(1) and 14(5) of the Mysore Land Reforms Act, 1961. It is relevant to note

herein itself that the Tribunal during the relevant point of time was to be constituted under Section 111 of the Mysore Land Reforms Act, 1961. Section 111 (as it then existed) reads thus:

"111. Constitution of Tribunal - (1) The State Government may, by notification, constitute for the area specified therein a Land Tribunal consisting of a sole member who shall be a judicial officer of the rank of a Munsiff who shall perform all the functions of the Tribunal under this Act.

(2) For any area for which a Tribunal has not been constituted, the Munsiff having jurisdiction over such area or any other judicial officer authorised in this behalf by the State Government shall exercise all the powers and perform all the duties and functions of the Tribunal under this Act.

Explanation:- For the purpose of this section, a Munsiff means (i) in the Bombay Area, a Civil Judge (Junior Division); and (ii) in the Madras Area, a District Munsiff."

From the afore-mentioned provision it is clear that the Land Tribunal was to be constituted of a sole member who shall be a judicial officer. In the matter on hand also the compromise was entered into before the Munsiff/Tribunal and the same was recorded as per law.

4. Non-compliance of the procedural aspect, as contemplated under Section 14(5) of the Mysore Land Reforms Act, 1961 (as it stood originally), is properly explained by the appellant by drawing the attention of the Court to the

compromise deed entered into between the parties on 02.03.1970. The compromise deed reads thus:-

"The Respondent has no objection for resumption of 4 acres of land southern portion of petition land.

The Respondent has already given the possession of the said resumed land to the petitioner.

The petitioner has no other land except the land in dispute which is less than the ceiling limit."

From the aforementioned, it is clear that it was a composite compromise entered into between the parties keeping in mind Sections 14(1) and 14(5) of the Mysore Land Reforms Act, 1961 (as it then stood) and submitted before the Munsiff/Tribunal, Dharwad in RLC 109/70. The existence of such compromise between the parties is not disputed by the respondents at any stage. However, their only contention is that the procedure as contemplated under Section 14(5) of the Mysore Land Reforms Act was not followed. In the resumption proceedings RLC No. 543/1970 dated 31.10.1970, RLC No. 109 of 1970 dated 02.03.1970, RLC No. 55 of 1970 dated 17.04.1971, a compromise petition was filed before the Munsiff/Tribunal. The Tribunal passed an order in terms of the said compromise. The parties also filed a memo in those proceedings to the effect that the petitioner herein had already been given possession of the resumed lands by the

respondents 2 to 9. On the face of these documents, it would be futile exercise on the part of the petitioner to once again carry out the procedure as contemplated under Section 14(5) of the Mysore Land Reforms Act, that too only in order to fulfil the formalities.

5. Since the composite compromise, mentioned supra, is acted upon by handing over the possession of 4 acres of property in favour of the petitioner by virtue of the order dated 2.3.1970 passed by the Munsiff/Tribunal, Dharwad in RLC No. 109 of 1970, and as handing over of possession in favour of the petitioner in respect of 4 acres of land is undisputed, it can be concluded that the petitioner was in possession of the property to the extent of 4 acres since 02.03.1970, legally. The view of the High Court, in our opinion, is hyper technical and too sophisticated under the facts of the case.

6. It is relevant to note that the land is already acquired by the State Government. The 2nd Additional Senior Civil Judge, Dharwad, while deciding the reference application seeking enhancement of compensation in LAC case no. 82 of 1994 has observed in its judgment dated 30.11.2015 that the beneficiaries under acquisition and the State Government have taken possession of 4 acres of land from the landlord, i.e. the petitioner herein.

7. From the aforesaid undisputed facts, it is amply clear that the petitioner was permitted to resume the land and that the respondent nos. 2 to 9 have surrendered 4 acres of land in favour of petitioner herein by virtue of the compromise deed entered into between the parties before the competent authority as on 02.03.1970.

8. Hence, the impugned judgments are liable to be set aside and the same are set aside.

9. The appeal is, accordingly, allowed.

10. Pending application(s), if any, shall stand disposed of.

11. There shall be no order as to costs.

.....J.
(Mohan M. Shantanagoudar)

.....J.
(Navin Sinha)

New Delhi,
April 6, 2018