

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

I.A. NO.62796 OF 2020

IN

SPECIAL LEAVE PETITION (C) NO.5467-5468 OF 2019

Hanumappa (Since Deceased) by His Lrs. & Ors.
Appellant(s)

Versus

The State of Karnataka & Ors. Respondent(s)

ORDER

1. The respondent No.4 to this petition has filed the instant application seeking modification/vacation of the interim order dated 15.02.2019 passed by this Court. Through the order dated 15.02.2019 this Court had directed the parties to maintain status-quo as it existed on that date.

2. The facts in brief limited to the consideration of this application would indicate that the respondent No.3 herein was originally the owner of the property bearing Survey Nos. 91 and

92, Chikkagubbi Village. The respondent No.4 herein had purchased the same under a registered Sale Deed dated 26.04.1978. The petitioner herein claiming to be an agricultural tenant in respect of the said property as also certain other properties and further claiming to be in possession and cultivation of the same as on 01.03.1974; which is the appointed date under the Karnataka Land Reforms Act, 1961 had filed an application in Form No. 7 claiming occupancy rights in respect of the property. The Land Tribunal, Bengaluru, South Taluk considered the same in case bearing No. LRF(B)CJ;126674-75.

3. At the first instance, the Land Tribunal through its order dated 26.12.1981 allowed the application and granted the occupancy right in favour of the petitioner herein. The respondent No.4 herein claiming to be aggrieved by the said order as he was not made a party to the proceedings before the Land Tribunal, assailed the order of the Land Tribunal by filing a writ petition before the High Court of Karnataka at Bengaluru in Writ Petition No.30301/1982. The High Court through its order dated 23.09.1997 quashed the order passed the Land Tribunal and remanded the matter for fresh consideration after

providing opportunity to the respondent No.4. Subsequent thereto evidence was tendered by the parties and the Land Tribunal having considered the matter; through a detailed order dated 16.09.1998 rejected the application dated 31.12.1974 filed by the petitioner.

4. The petitioner herein claiming to be aggrieved by the order had assailed the same before the High Court in W.P.No.30602/1998. The High Court through the order dated 14.10.1998 upheld the order of the Land Tribunal and dismissed the writ petition. The petitioner filed an intra-court appeal in W.A.No.1818/2008. The Division Bench, by its order dated 03.12.2015 dismissed the appeal. The petitioner thereafter belatedly filed a Review Petition in the year 2017 in Review Petition No.28/2017 which came to be dismissed through the order dated 21.06.2017. It is in that circumstance the petitioner has filed the special leave petition before this Court. This Court while directing notice to the respondent had granted the ad-interim order of status-quo. The respondent No.4 having appeared has filed a counter-affidavit to the Writ Petition and this application seeking modification/vacation of the interim order.

5. In the above background we have heard Mr. Sajan Poovayya, learned senior counsel for the applicant/respondent No.4 and Mr.S.N. Bhat, learned counsel for the respondent to this application who is the petitioner in the special leave petition.

6. The short issue for consideration at this point is as to whether the petitioner has made out a case for continuation of the order of status-quo during the pendency of the Special Leave Petition. As noticed, the claim of the petitioner is that he was a tenant in cultivation of the property as on 01.03.1974. Such claim is sought to be justified by contending that his name is indicated in the cultivator's Column of the RTC and that such tenancy was on crop sharing basis. The respondent No.4 who has filed the instant application has however disputed the claim. Though the respondent No.4 purchased the property on 26.04.1978 i.e. subsequent to the appointed date, the interest in the property as claimed by the respondent No.4 has been accepted by the High Court in Writ Petition No.30301/1982 through the order dated 23.09.1997 and the matter had been remanded to the Land Tribunal for fresh

consideration after providing opportunity to the respondent No.4/applicant.

7. If that be the position, all that is to be taken note at this juncture is as to whether the claim of the petitioner that he was a tenant of the land in question is to be accepted as unassailable and whether the continuation of the status-quo as contended by the petitioner in special leave petition merits consideration. For the limited purpose, a perusal of the order dated 16.09.1998 passed by the Land Tribunal would *prima facie* disclose that a detailed consideration of the evidence and the analysis of rival contentions has been made. It is in that light the application in Form No.7 has been rejected. The contention of Mr. S.N. Bhat, learned counsel is that the RTC extracts indicates the name of the petitioner as a cultivator in Column No.12(2) thereof. We notice that the Land Tribunal in fact has referred to this aspect in detail and has noted that the RTC extracts from 1971-72 to 1977-78 indicates the name of the respondent No.3 i.e. that the predecessor in title to respondent No.4 as a cultivator. The Tribunal has also referred to certain stray entries in the name of the petitioner in the year 1974-75 and 1975-76 in the cultivator's column. In that light

the Tribunal has proceeded further to consider the other evidence available on record and has arrived at the conclusion that the said entries are not supported by any other evidence, more particularly the petitioner had not produced any documentary evidence for having given Rs.3000/- to the respondent No.3, being 50 per cent of the value of Eucalyptus trees which was claimed to be sold by him for Rs.6000/- to establish the claim of tenancy being on crop sharing basis. Further no other document was produced to indicate that there was an arrangement on crop sharing basis. Such conclusion reached by the Land Tribunal has been concurrently upheld by the learned Single Judge of the High Court in W.P. No.30602/1998 by the order dated 14.10.1998 and by the Division Bench in Writ Appeal No.1818/2008(LR) through the order dated 03.12.2015. The Review Petition filed against the same in Review Petition No.28/2017 was also dismissed on 21.06.2017.

8. No doubt Mr. S.N.Bhat, learned counsel sought to contend that the petitioner had the benefit of the order of status-quo during the pendency of the proceedings before the High Court and as such the same benefit be continued. Even if

that be the position; as rightly pointed out by Mr. Sajan Poovayya, learned senior counsel, the Writ Appeal filed by the petitioner herein in Writ Appeal No.1818/2008(LR) was dismissed as early as on 03.12.2015 and the interim order if any had ceased to exist. The instant Special Leave Petition was filed only in the year 2017 with a delay of 546 days. True it is that the Review Petition had been filed in the meanwhile. However, the said Review Petition itself was filed with a delay of 380 days from the date of disposal of the Writ Appeal and in any event the petitioner herein cannot claim benefit of an interim order from the date of disposal of the Writ Appeal on 03.12.2015. In such event, though this Court has condoned the delay, the grant of an order of status-quo at that juncture was without reference to all these aspects.

9. That apart, the petitioner had also filed a Civil Suit in O.S. No.333/2017 in the Court of the Principal Civil Judge, Bengaluru Rural District seeking for decree of permanent injunction. In the suit an application seeking temporary injunction was also filed but no interim order had been granted therein. This conduct of the petitioners would also disclose that the petitioners having not agitated the matter after disposal of

the Writ Appeal on 03.12.2015 had begun to reagitate the matter only when the respondent No.4 was taking steps to develop the property. In that regard, the documents produced by respondent No.4 in its reply statement along with an application would disclose that the respondent No.4 having entered into a Joint Development Agreement dated 27.06.2016 (Annexure A2); the developer was taking further steps for securing Environment Impact Assessment Certificate and appropriate registration before the Real Estate Regulatory Authority. The said proceedings would also indicate that the property at this point has lost its character as agricultural property. If that be the position, the petitioner continuing to cultivate the property or being in possession thereof cannot be accepted at this juncture to continue the order of status-quo. Be that as it may, even if on assessment of the entire case while considering the Special Leave Petition on merits if the right claimed to be a tenant as on 01.03.1974 is accepted, the interest of the petitioner would lie in the developed property and can be appropriately compensated. Thus even on applying the tripod test, the balance of convenience to vacate the order of status-quo is in favour of the respondent No.4. Needless to

mention that the change in the nature of the land and the development made therein would therefore remain subject to the result of the Special Leave Petition.

10. In that view, the order dated 15.02.2019 passed herein is modified and the direction issued to the parties to maintain status-quo shall stand vacated. The application is accordingly allowed with no order as to costs.

.....CJI.
(S. A. Bobde)

.....J.
(A. S. Bopanna)

.....J.
(V. Ramasubramanian)

October 13, 2020
New Delhi