



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 20TH DAY OF DECEMBER, 2024

BEFORE

THE HON'BLE MR JUSTICE N S SANJAY GOWDA

WRIT PETITION NO. 32202 OF 2024 (SCST)

BETWEEN:

ANNAYAPPA., S/O LATE MUNIYAMMA,
AGED ABOUT 56 YEARS,
R/AT KUDUVATHI VILLAGE,
NANDI HOBLI,
CHIKKABALLAPUR TALUK,
CHIKKABALLAPUR DISTRICT-562 101.

...PETITIONER

(BY SMT. JAYNA KOTHARI., SENIOR COUNSEL FOR
SRI. V.NAVEEN CHANDRA., ADVOCATE)

AND:

1. THE STATE OF KARNATAKA,
DEPARTMENT OF REVENUE,
M.S.BUILDING,
AMBEDKAR VEEDHI,
BENGALURU-560 001
REPRESENTED BY ITS
PRINCIPAL SECRETARY.
2. THE DEPUTY COMMISSIONER,
CHIKKABALLAPUR DISTRICT,
CHIKKABALLAPUR-562 101.
3. THE ASSISTANT COMMISSIONER,
CHIKKABALLAPUR SUB-DIVISION,
CHIKKABALLAPUR-562 101.
4. THE TAHSILDAR,
CHIKKABALLAPUR TALUK OFFICE,

Digitally
signed by
KIRAN
KUMAR R
Location:
HIGH
COURT OF
KARNATAKA



CHIKKABALLAPUR-562 101.

5. RAVI AGARWAL,
S/O LATE SURESH CHANDRA GUPTA,
AGED ABOUT 58 YEARS,
No.1581/C, BELLARY ROAD,
OPPOSITE TO STANDARD BRICKS
AND TILED, YELAHANKA.,
BENGALURU-560 064.
6. SATHISH HEGDE,
S/O RAMANNA HEGDE,
AGED ABOUT 68 YEARS,
R/AT No.11, PALACE ORCHIDS APARTMENTS
9TH CROSS, SADASHIVNAGAR,
BANGALORE-560 080.

...RESPONDENTS

(BY SMT.SAVITHRAMMA., AGA FOR R-1 TO R-4;
SRI. H.N.SHASHIDHARA., SENIOR COUNSEL FOR
SRI.SUHAS., ADV., FOR C/R-5

THIS WRIT PETITION IS FILED UNDER ARTICLES 226
AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO
QUASH AND SET ASIDE THE ORDER DATED:21.10.2024
PASSED BY THE R-2 IN RA/SC ST/15/2023-24 WHICH IS
MARKED AS ANNEXED HEREIN AS ANNEXURE-K, ETC.

THIS PETITION HAVING BEEN HEARD AND RESERVED
FOR ORDERS ON 02.12.2024, COMING ON FOR
PRONOUNCEMENT THIS DAY, THE COURT MADE THE
FOLLOWING:

CORAM: THE HON'BLE MR. JUSTICE N. S. SANJAY GOWDA



CAV ORDER

1. The undisputed facts, as could be ascertained from the pleadings and the synopsis filed by the caveator, are as follows.
2. On 28.04.1983, three acres of land in Sy.No.168 of Kuduvathi village, Nandi Hobli, Chikkaballapura Taluk and District was granted to Muniyamma alias Pillakkamma w/o Narayanappa.
3. On 10.06.2005, Anniyappa—the son of late Muniyamma, and his brother executed an agreement of sale in favour of Suresh Chandra Gupta—the father of the 5th respondent herein. It may be pertinent to state here that the period of 15 years prescribed for non-alienation had expired by then.
4. An application was made seeking prior approval of the Government as contemplated under Section 4(2) of the Karnataka Scheduled Castes and Scheduled Tribes (Prohibition of Transfer of Certain Lands) Act, 1978 ("**The PTCL Act**") for the sale of 2 acres 20



guntas of land, which was the subject matter of the sale agreement.

5. The Government by an order dated 31.08.2006 accorded its permission for alienating of 2 acres 20 guntas of Sy.No.168 (new Sy.No.268) of Kuduvathi village, i.e., the granted land. The order of the Government granting permission was in the following terms:

“ಡಿ 51 ಎಲ್‌ಜಿಕೆ 2006

ಕರ್ನಾಟಕ ಸರ್ಕಾರದ ಸಚಿವಾಲಯ
ಬಹುಮಹಡಿಗಳ ಕಟ್ಟಡ
ಬೆಂಗಳೂರು, ದಿನಾಂಕ 31.08.2006

ಯಿಂದ,

ಸರ್ಕಾರದ ಪ್ರಧಾನ ಕಾರ್ಯದರ್ಶಿಗಳು
ಕಂದಾಯ ಇಲಾಖೆ
ಬೆಂಗಳೂರು.

ಇವರಿಗೆ,
ಜಿಲ್ಲಾಧಿಕಾರಿಗಳು
ಕೋಲಾರ ಜಿಲ್ಲೆ
ಕೋಲಾರ.

ಮಾನ್ಯರೆ,

ವಿಷಯ:- ಚಿಕ್ಕಬಳ್ಳಾಪುರ ತಾಲ್ಲೂಕು ನಂದಿ ಹೋಬಳಿ ಕುಡವತಿ
ಗ್ರಾಮದ ಸ.ನಂ.168 ರ ಪೈಕಿ [ಹೊಸ ನಂ. 268] 2-20
ಎಕರೆ ಜಮೀನ್ನು ಮಾರಾಟ ಮಾಡಲು ಶ್ರೀ
ಅಣ್ಣಯ್ಯಪ್ಪರವರು ಅನುಮತಿ ಕೋರಿರುವ ವಿಚಾರ.

ಉಲ್ಲೇಖ:- ತಮ್ಮ ಪತ್ರ ಸಂ.ಎಲ್ ಎನ್ ಡಿ/ಸಿ.ಆರ್/185/05-06
ದಿನಾಂಕ 14-03-2006



ಮೇಲ್ಕಂಡ ವಿಷಯಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ ಉಲ್ಲೇಖಿತ ನಿಮ್ಮ ಪ್ರಸ್ತಾವನೆಯನ್ನು ಪರಿಶೀಲಿಸಲಾಯಿತು ಚಿಕ್ಕಬಳ್ಳಾಪುರ ತಾಲ್ಲೂಕು ನಂದಿ ಹೋಬಳಿ ಕುಡವತಿ ಗ್ರಾಮದ ಸ.ನಂ.168 [ಹೊಸ ನಂ. 268] ರ ಪೈಕಿ 2-20 ಎಕರೆ ಜಮೀನ್ನು ಕರ್ನಾಟಕ ಪರಿಶಿಷ್ಟ ಜಾತಿ /ಪರಿಶಿಷ್ಟ ಪಂಗಡಗಳ [ಕೆಲವು ಜಮೀನುಗಳ ಪರಭಾರೆ ನಿಷೇಧ] ಕಾಯ್ದೆ 1978 ರ ಕಲಂ 4[2] ರನ್ವಯ ಹಾಗೂ ಈ ಕೆಳಗೆ ನಮೂದಿಸಿದ ಷರತ್ತುಗಳನ್ನು ವಿಧಿಸಿ, ಸದರಿ ಜಮೀನ್ನು ಶ್ರೀ ಸುರೇಶ್ ಚಂದ್ರಗುಪ್ತ ಇವರಿಗೆ ಮಾರಾಟ ಮಾಡಲು ಶ್ರೀ ಅಣ್ಣಯ್ಯಪ್ಪ ಇವರಿಗೆ ಸರ್ಕಾರದ ಸರ್ವಾನುಮತಿಯನ್ನು ನೀಡಿದೆ ಎಂದು ತಿಳಿಸಲು ನಿರ್ದೇಶಿತನಾಗಿದ್ದೇನೆ.

ಷರತ್ತುಗಳು:-

- 1) ಈ ಜಮೀನನ್ನು ಕೊಳ್ಳುವವರು ಭೂ ಸುಧಾರಣೆ ಕಾಯ್ದೆಯಡಿ ಅರ್ಹರಿರಬೇಕು.
- 2) ಅರ್ಜಿದಾರರು ಈ ಜಮೀನನ್ನು ಇತ್ತೀಚಿನ ಮಾರುಕಟ್ಟೆ ಬೆಲೆಗೆ ಮಾರಾಟ ಮಾಡಬೇಕು
- 3) ಅರ್ಜಿದಾರರು ಈ ಜಮೀನನ್ನು ಮಾರಾಟ ಮಾಡಿ ಬಂದ ಹಣದಿಂದ ಬೇರೆ ಕಡೆ ಜಮೀನನ್ನು ಕೊಂಡುಕೊಳ್ಳಬೇಕು

“ವಿಶಿಷ್ಟ ಕಡತ ಇದರ ಜೊತೆಗೆ ಲಗತ್ತಿಸಿದೆ”

ತಮ್ಮ ನಂಬುಗೆಯ

ಸಹಿ/-

[ಇ.ಈಶ್ವರನಾಯಕ್]

ಸರ್ಕಾರ ಅಧೀನ ಕಾರ್ಯದರ್ಶಿ

ಕಂದಾಯ ಇಲಾಖೆ [ಭೂ.ಮಂ]

ಸಹಿ/-

ತಹಸೀಲ್ದಾರ್

ಚಿಕ್ಕಬಳ್ಳಾಪುರ ತಾಲ್ಲೂಕು

6. As could be seen from said order, the Government had accorded permission to Annayappa—the husband of the grantee to



alienate the land in favour of Suresh Chandra Gupta.

7. On the basis of this permission accorded by the Government, the Deputy Commissioner proceeded to issue an official memorandum dated 28.09.2006 in the following terms:

ನಂ. ಎಲ್‌ಎನ್‌ಡಿ ಸಿಆರ್:185:05-06

ಜಿಲ್ಲಾಧಿಕಾರಿಗಳವರ ಕಾರ್ಯಾಲಯ
ಕೋಲಾರ ಜಿಲ್ಲೆ
ಕೋಲಾರ, ದಿನಾಂಕ:28-9-2006

ವಿಷಯ:- ಚಿಕ್ಕಬಳ್ಳಾಪುರ ತಾಲ್ಲೂಕು ಕುಡವತಿ ಗ್ರಾಮದ ಸ.ನಂ.168
(ಹೊಸ ನಂ. 268) ರಲ್ಲಿನ 2-20 ಎಕರೆ ಜಮೀನನ್ನು ಮಾರಾಟ
ಮಾಡಲು ಶ್ರೀ ಅಣ್ಣಯ್ಯಪ್ಪ ರವರಿಗೆ ಅನುಮತಿ ನೀಡುವ ವಿಚಾರ.

ಉಲ್ಲೇಖ:- 1) ಸರ್ಕಾರದ ಪತ್ರ ನಂ ಅರ್‌ಡಿ 51 ಎಲ್‌ಜಿಕೆ 2006
ದಿ:31-6-2006

2) ಸಹಾಯಕ ಕಮೀಷನರ್ ಚಿಕ್ಕಬಳ್ಳಾಪುರ ಉಪ ವಿಭಾಗ ರವರ
ಪ್ರಸ್ತಾವನ ನಂ. ಎಲ್‌ಎನ್‌ಡಿ ಸಿಆರ್:95:05-06 ದಿ: 26-9-
2005

3) ತಹಸೀಲ್ದಾರ್ ಚಿಕ್ಕಬಳ್ಳಾಪುರ ತಾಲ್ಲೂಕು ರವರ ವರದಿ ನಂ.
ಎಲ್‌ಎನ್‌ಡಿ ಸಿಆರ್:56-05-06 ದಿನಾಂಕ:5-9-2005

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ಆಧಿಕೃತ ಜ್ಞಾಪನ

ಚಿಕ್ಕಬಳ್ಳಾಪುರ ತಾಲ್ಲೂಕು ನಂದಿ ಹೋಬಳಿ, ಕುಡವತಿ ಗ್ರಾಮದ ಸ.ನಂ.168
ರಲ್ಲಿನ 2-20 ಎಕರೆ ಜಮೀನನ್ನು ಮಾರಾಟ ಮಾಡಲು ಶ್ರೀ. ಅಣ್ಣಯ್ಯಪ್ಪ ಬಿನ್ ಮುನಿಯಮ್ಮ
ರವರು ಕೋರಿರುವ ವಿಚಾರದಲ್ಲಿ ಅಧೀನ ಅಧಿಕಾರಿಗಳು ಪರಿಶೀಲಿಸಿ ಉಲ್ಲೇಖ (2) ಮತ್ತು
(3) ರಂತೆ ಪ್ರಸ್ತಾವನೆಯನ್ನು ಸಲ್ಲಿಸಿರುತ್ತಾರೆ. ಅರ್ಜಿದಾರರಿಗೆ ಕುಡವತಿ ಗ್ರಾಮದ ಸ.ನಂ.168
ರಲ್ಲಿ 2-20 ಎಕರೆ ಜಮೀನನ್ನು ಕ್ರಮಾಂಕ: ಎಲ್‌ಎನ್‌ಡಿ: 2168:72-73 ರಂತೆ ಮಂಜೂರು



ಮಾಡಿ ದಿನಾಂಕ:28-4-83 ರಂದು ಸಾಗುವಳಿ ಚೀಟಿಯನ್ನು ನೀಡಿರುತ್ತಾರೆ. ಸದರಿ ಪ್ರಕರಣದಲ್ಲಿ ಅರ್ಜಿದಾರರು ಪರಿಶಿಷ್ಟ ಜಾತಿ : ಪರಿಶಿಷ್ಟ ವರ್ಗಕ್ಕೆ ಸೇರಿದವರಾಗಿರುತ್ತಾರೆ. ಅದ್ದರಿಂದ ಸರ್ಕಾರದ ಪೂರ್ವಾನುಮೋದನೆ ಕೋರಿ ಪ್ರಸ್ತಾವನೆಯನ್ನು ಸರ್ಕಾರಕ್ಕೆ ಶಿಫಾರಸ್ಸು ಮಾಡಲಾಗಿತ್ತು. ಸರ್ಕಾರವು ಸದರಿ ಪ್ರಸ್ತಾವನೆಯನ್ನು ಪರಿಶೀಲಿಸಿ ಉಲ್ಲೇಖ (1) ರಂತೆ ಪೂರ್ವಾನುಮೋದನೆ ನೀಡಿರುತ್ತದೆ.

ಮೇಲ್ಕಂಡ ಅಂಶಗಳ ಹಿನ್ನೆಲೆಯಲ್ಲಿ ಹಾಗೂ ಕರ್ನಾಟಕ ಪರಿಶಿಷ್ಟ ಜಾತಿ : ಪರಿಶಿಷ್ಟ ವರ್ಗಗಳ (ಹಲವು ಜಮೀನುಗಳ ಪರಿಭಾರೆ ನಿಷೇಧ) ಕಾಯ್ದೆ 1978 ರಲ್ಲಿನ ಕಲಂ 4(2) ರಂತೆ ಈ ಕೆಳಕಂಡ ಷರತ್ತುಗಳನ್ನು ವಿಧಿಸಿ ಕುಡುವತಿ ಗ್ರಾಮದ ಸ.ನಂ.168 (ಹೊಸ ನಂ.268) ರಲ್ಲಿನ 2-20 ಎಕರೆ ಜಮೀನನ್ನು ಮಾರಾಟ ಮಾಡಲು ಶ್ರೀ. ಅಣ್ಣಯ್ಯಪ್ಪ ರವರಿಗೆ ಅನುಮತಿ ನೀಡಿದೆ.

ಷರತ್ತುಗಳು:-

- 1) ಅರ್ಜಿದಾರರು ಈ ಜಮೀನನ್ನು ಇತ್ತೀಚಿನ ಮಾರುಕಟ್ಟೆ ಬೆಲೆಗೆ ಮಾರಾಟ ಮಾಡಬೇಕು.
- 2) ಅರ್ಜಿದಾರರು ಪ್ರಶ್ನಿತ ಜಮೀನನ್ನು ಭೂ ಸುಧಾರಣೆ ಕಾಯ್ದೆಯನ್ವಯ ಅರ್ಹರಿರುವವರಿಗೇ ಮಾರಾಟ ಮಾಡಬೇಕು
- 3) ಅರ್ಜಿದಾರರು ಈ ಜಮೀನನ್ನು ಮಾರಾಟ ಮಾಡಿದ ಮೇಲೆ ಬಂದ ಹಣದಿಂದ ಬಳ್ಳಗೆರೆ ಗ್ರಾಮದ ಸ.ನಂ.32 ರಲ್ಲಿನ 2-14 ಎಕರೆ ಜಮೀನನ್ನು ಖರೀದಿಸಬೇಕು.

ತಹಶೀಲ್ದಾರ್, ಚಿಕ್ಕಬಳ್ಳಾಪುರ ತಾಲ್ಲೂಕು ರವರು ಮೇಲ್ಕಂಡ ಅದೇಶದಂತೆ ಷರತ್ತುಗಳಿಗೆ ಬದ್ಧನಾಗಿರುವ ಬಗ್ಗೆ ಅರ್ಜಿದಾರರಿಂದ ಸೂಕ್ತ ಮುಚ್ಚಳಿಕೆ ಪಡೆದ ನಂತರ ಪರಿಭಾರೆ ಮಾಡುವ ಕುರಿತು ಸೂಕ್ತ ಹಿಂಬರಹ ನೀಡಲು ಸೂಚಿಸಿದೆ.

ಸಹಿ/-
ಜಿಲ್ಲಾಧಿಕಾರಿಗಳು
ಕೋಲಾರ ಜಿಲ್ಲೆ.”

8. As could be noticed from this official memorandum, the same was issued pursuant to the prior approval granted by the Government on 31.08.2006.



However, while issuing this official memorandum, the permission that had been accorded by the Government for alienation in favour of Suresh Chandra Gupta (the 5th respondent's father) was not mentioned in the official memorandum.

9. On the basis of this official memorandum, an endorsement dated 01.02.2007 was issued by the Tahsildar in the following terms:

ನಂ. ಎಲ್‌ಎನ್‌ಡಿ:ಸಿಆರ್:56/2005-06 ತಹಸೀಲ್ದಾರವರ ಕಾರ್ಯಾಲಯ
ಚಿಕ್ಕಬಳ್ಳಾಪುರ ತಾಲ್ಲೂಕು
ಚಿಕ್ಕಬಳ್ಳಾಪುರ, ದಿನಾಂಕ:1-2-2007

ವಿಷಯ:- ಚಿಕ್ಕಬಳ್ಳಾಪುರ ತಾಲ್ಲೂಕು ನಂದಿ ಹೋಬಳಿ ಕುಡವತಿ
ಗ್ರಾಮದ ಸ.ನಂ.168 [ಹೊಸ ನಂ. 268] 2-20 ಎಕರೆ
ಜಮೀನನ್ನು ಮಾರಾಟ ಮಾಡಲು ಶ್ರೀ ಅಣ್ಣಯ್ಯಪ್ಪ ಬಿನ್
ಮುನಿಯಮ್ಮ ರವರಿಗೆ ಅನುಮತಿ ನೀಡುವ ವಿಚಾರ.

ಉಲ್ಲೇಖ:- ಜಿಲ್ಲಾಧಿಕಾರಿಗಳು, ಕೋಲಾರಜಿಲ್ಲೆ, ಕೋಲಾರರವರ ಅಧಿಕೃತ
ಜ್ಞಾಪನ ಸಂಖ್ಯೆ ಎಲ್‌ಎನ್‌ಡಿ:ಸಿಆರ್ 185:05-06:
ದಿನಾಂಕ:28-9-06

ಹಿಂಬರಹ

ಚಿಕ್ಕಬಳ್ಳಾಪುರ ತಾಲ್ಲೂಕು ನಂದಿ ಹೋಬಳಿ ಕುಡವತಿ ಗ್ರಾಮದ ವಾಸಿಯಾದ ಶ್ರೀ
ಅಣ್ಣಯ್ಯಪ್ಪ ಬಿನ್ ಮುನಿಯಮ್ಮರವರಿಗೆ ಈ ಮೂಲಕ ತಿಳಿಯಪಡಿಸುವುದೇನೆಂದರೆ
ನಂದಿಹೋಬಳಿ ಕುಡವತಿ ಗ್ರಾಮದ ಸ.ನಂ 168 (ಹೊಸ ನಂ. 268)ರಲ್ಲಿನ 2-20 ಎಕರೆ
ಜಮೀನನ್ನು ಜಿಲ್ಲಾಧಿಕಾರಿಗಳು, ಕೋಲಾರ ಜಿಲ್ಲೆ, ಕೋಲಾರವರು ಉಲ್ಲೇಖ ಪತ್ರದಲ್ಲಿ
ಸೂಚಿಸಿರುವಂತೆ ಈ ಕೆಳಕಂಡ ಷರತ್ತುಗಳಿಗೆ ಒಳಪಟ್ಟು ಸದರಿ ಜಮೀನನ್ನು ಪರಬಾರೆ



ಮಾಡಲು ಅನುಮತಿ ನೀಡಿರುತ್ತೆ. ಸದರಿ ಜಮೀನಿಗೆ ಚೆಕ್ಕು ಬಂದಿ ಈ ಕೆಳಕಂಡಂತೆರುತ್ತೆ.
ಚೆಕ್ಕುಬಂದಿ: ಪೂರ್ವಕ್ಕೆ ಸ.ನಂ. 269 ಪಶ್ಚಿಮಕ್ಕೆ ಸ.ನಂ 168
ಉತ್ತರಕ್ಕೆ ಸ.ನಂ168: ದಕ್ಷಿಣಕ್ಕೆ ಸ.ನಂ:1638

ಷರತ್ತುಗಳು:-

- 1) ಅರ್ಜಿದಾರರು ಈ ಜಮೀನನ್ನು ಇತ್ತೀಚಿನ ಮಾರುಕಟ್ಟೆ ಬೆಲೆಗೆ ಮಾರಾಟ ಮಾಡಬೇಕು
- 2) ಅರ್ಜಿದಾರರು ಪ್ರಶ್ನಿತ ಜಮೀನನ್ನು ಭೂ ಸುಧಾರಣೆ ಕಾಯ್ದೆ ಅನ್ವಯ ಅರ್ಹರಿರುವವರಿಗೆ ಮಾರಾಟ ಮಾಡಬೇಕು
- 3) ಅರ್ಜಿದಾರರು ಈ ಜಮೀನನ್ನು ಮಾರಾಟ ಮಾಡಿದ ಮೇಲೆ ಬಂದ ಹಣದಿಂದ ಬಳ್ಳಗೆರೆ ಗ್ರಾಮದ ಸ.ನಂ.32 ರಲ್ಲಿನ 2-14 ಎಕರೆ ಜಮೀನನ್ನು ಖರೀದಿಸಬೇಕು.
- 4) ಸದರಿ ಜಮೀನನ್ನು ಮಾರಾಟ ಮಾಡಲು ಅನುಮತಿ ನೀಡಿದ ದಿನಾಂಕದಿಂದ 4 ತಿಂಗಳ ಒಳಗೆ ಮಾರಾಟ ಮಾಡದಿದ್ದಲ್ಲಿ ಅನುಮತಿ ಪತ್ರ ರದ್ದಾಗುತ್ತಿದೆ. ಎಂದು ಪರಿಗಣಿಸುವುದು.

ಸಹಿ/-
ತಹಸೀಲ್ದಾರ್
ಚಿಕ್ಕಬಳ್ಳಾಪುರ ತಾಲ್ಲೂಕು

ಶ್ರೀ ಅಣ್ಣಯ್ಯಪ್ಪ ಬಿನ್
ಮುನಿಯಮ್ಮ
ಕುಡುವತಿ ಗ್ರಾಮ
ನಂದಿ ಹೋಬಳಿ”

10. The above-extracted endorsement also did not reflect the fact that the State Government had accorded permission to Annayappa to sell the land to Suresh Chandra Gupta. In other words, though the permission was accorded specifically for alienation of the granted land to Suresh Chandra Gupta, the



subsequent orders of the Tahsildar and the Deputy Commissioner did not reflect this particular fact.

11. Annayappa, instead of alienating the said property to Suresh Chandra Gupta, proceeded to execute a sale deed in favour of T. R. Sathish Hegde—the 6th respondent herein. In this sale deed, there is a specific recital to the fact that permission for the sale had been accorded by the Government *vide* the letter dated 31.08.2006 bearing number RD:51:LGK:2006 and as per the Tahsildar's endorsement in LND:CR:56:2005-06 dated 01.02.2007.
12. It may be pertinent to state here that this reference is actually to the order of the Tahsildar and not the order of the Government.
13. Two months after the execution of the sale deed in favour of T. R. Sathish Hegde, Suresh Chandra Gupta proceeded to institute a suit in O.S. No. 203/2007 against Annayappa, his brother and also against T. R.



Sathish Hegde. Apart from seeking execution of the sale deed, Suresh Chandra Gupta also sought a declaration that the sale deed executed on 19.04.2007 in favour of T. R. Sathish Hegde was null and void.

14. In this said suit, Suresh Chandra Gupta categorically stated that Annayappa and his brother had agreed to obtain the sale permission from the Government of Karnataka, but, subsequently, they became negligent and, thereafter, he along with Annayappa and his brother went to the Government and obtained permission on 01.02.2007. Thus, the fact that permission was sought and accorded by the Government on 01.02.2007 was clearly stated by Suresh Chandra Gupta in the suit filed against Annayappa and T. R. Sathish Hegde.
15. Annayappa and his brother entered appearance and contested the suit. They denied the assertion that Suresh Chandra Gupta was an agreement holder.



They also denied that a joint application was made to the Government in the year 2005. However, it was admitted that the Government had permitted the plaintiff to alienate the suit property. In fact, they stated as follows:

"The defendants are intending to sell the property, hence they obtained sale permission from the government on 1.2.2007. Upon the sale permission the defendants entered into agreement of sale dated 5.1.2005 agreeing to sell the property in favour of one T.R. Sathish Hegde S/o late T.G Ramanna Hegde, 51 years, residing at G-8, Palace Orchard Apartment, 9th main, Sadashivanagar, Bangalore. After getting the sale permission, the defendants have executed the regd. Sale deed in favour of Satish Hegde on 19.03.2007 as per the recitals of sale agreement dated 5.1.2005 and delivered the possession to him. Now the said T.R Satish Hegde is in actual possession and enjoyment of the suit schedule property who has acquired the right by virtue of regd. Sale deed dated 19.3.2007. "



16. As could be seen from the above averments in the written statement, Annayappa admitted that permission had been granted by the Government on 01.02.2007 and, on the basis of this permission, they had entered into an agreement of sale with T. R. Sathish Hegde and had also executed a sale deed in his favour.
17. As noticed above, the permission dated 01.02.2007 was, in reality, the endorsement issued by the Tahsildar on the basis of the official memorandum issued by the Deputy Commissioner which was in turn issued on the basis of the permission accorded by the Government on 31.08.2006 under which the Government had accorded permission for sale of the granted land to Suresh Chandra Gupta. Thus, Annayappa and his brother basically utilized the permission granted by the Government to sell the land to Suresh Chandra Gupta to execute a sale deed in favour of T. R. Sathish Hegde and they just took



advantage of the fact that the official memorandum and the Tahsildar's endorsement did not bear the name of Suresh Chandra Gupta.

18. This suit filed by Suresh Chandra Gupta, after contest, was ultimately decreed in his favour by a judgment and decree dated 28.06.2016. The Trial Court directed that a sale deed be registered in favour of Suresh Chandra Gupta within three months and also declared that the sale deed dated 19.04.2007 which had been executed by Annayappa and his brother in favour of T. R. Sathish Hegde was null and void, and was not binding on Suresh Chandra Gupta. An order of injunction was also granted in favour of Suresh Chandra Gupta.
19. An appeal was also preferred as against the said judgment and decree for specific performance only by T. R. Sathish Hedge, who had purchased the property under the sale deed dated 19.04.2007 in



R.A.No.70/2016. This appeal was also dismissed by the judgment dated 16.10.2017. It is stated that as against this dismissal, a regular second appeal in RSA No.1384/2021 has been filed and is pending adjudication before this Court.

20. In the interregnum, Annayappa filed an application seeking resumption of the lands and to declare the alienation that he had made in favour of T. R. Sathish Hegde to be null and void. This application was made in the year 2015-16. It may be pertinent to state here that in these proceedings before the Assistant Commissioner, the son of Suresh Chandra Gupta i.e., the 5th respondent herein was also arraigned as the 2nd respondent.

21. During the pendency of these proceedings before the Assistant Commissioner, the son of Suresh Chandra Gupta sued for the execution of a decree that had been passed in O.S.No.203/2007 and confirmed in R.A.No.70/2016. The Executing Court proceeded to



execute a sale deed in favour of Ravi Agarwal on 05.10.2020. It may be pertinent to state here that in the sale deed, the Civil Court clearly stated that the alienation was being made pursuant to the order of the Government dated 31.08.2006 and also the endorsement issued by the Tahsildar dated 01.02.2007.

22. The Assistant Commissioner by an order dated 03.03.2023 proceeded to accept the said application and ordered resumption of the land. The reason given by the Assistant Commissioner was that the alienation of the granted land was without securing prior approval of the Government under Section 4(2). The operative portion of the order reads as follows:

“ಆದೇಶ

ಚಿಕ್ಕಬಳ್ಳಾಪುರ ತಾಲ್ಲೂಕು, ನಂದಿ ಹೋಬಳಿ, ಕುಡುವತಿ ಗ್ರಾಮದ ಸ.ನಂ.168 ಹೊಸ ಸ.ನಂ.268 ರಲ್ಲಿ 2-20 ಎಕರೆ/ಗುಂಟೆ ಜಮೀನಿಗೆ ಸಂಬಂಧಿಸಿದಂತೆ ಮಂಜೂರಿದಾರರು ಸರ್ಕಾರದಿಂದ ಪೂರ್ವಾನುಮತಿ ಪಡೆದಿರುವುದಿಲ್ಲವಾದ್ದರಿಂದ ಕಲಂ 4(2) ರ ಅನ್ವಯ ಪರಿಶಿಷ್ಟ ಜಾತಿ (ಆದಿ



ಕರ್ನಾಟಕ) ವ್ಯಕ್ತಿಗಳಿಗೆ ಮಂಜೂರಾದ ಜಮೀನನ್ನು ಸರ್ಕಾರದ ಪೂರ್ವಾನುಮತಿ ಪಡೆಯದೆ ಮಾರಾಟ ಮಾಡುವಂತಿಲ್ಲ. ಈ ಪ್ರಕರಣದಲ್ಲಿ ಇಂತಹ ಅನುಮತಿಯನ್ನು ಪಡೆದಿರುವುದಿಲ್ಲ. ಆದುದರಿಂದ ಸದರಿ ಕ್ರಯದ ವಹಿವಾಟು ಕಲಂ 4(2) ಉಲ್ಲಂಘನೆ ಆಗಿರುತ್ತದೆ. ಇದರ ಅನ್ವಯ ಈ ಜಮೀನಿನ ಸಂಬಂಧ ಆಗಿರುವಂತಹ ಕ್ರಯಪತ್ರದ ಎಲ್ಲಾ ವಹಿವಾಟುಗಳನ್ನು ಅಸಿಂಧು ಮತ್ತು ಶೂನ್ಯ ಎಂಬುದಾಗಿ ಘೋಷಿಸಿದೆ.

ಕಲಂ 5(1)(a) ರಂತೆ ನನಗೆ ದತ್ತವಾಗಿರುವ ಅಧಿಕಾರವನ್ನು ಬಳಸಿ ಈ ಜಮೀನನ್ನು ಋಣಭಾರ ರಾಹಿತವಾಗಿ ಸರ್ಕಾರದ ವಶಕ್ಕೆ ಪಡೆಯಲಾಗಿದೆ.

ಕಲಂ 5(1) ಅನ್ವಯ ಸದರಿ ಜಮೀನು ಮೂಲ ಮಂಜೂರಿದಾರರ ವಾರಸ್ಸುದಾರರ ಹೆಸರಿಗೆ 25 ವರ್ಷಗಳ ಕಾಲ ಪರಭಾರೆ ಮಾಡಬಾರದೆಂಬ ಷರತ್ತಿಗೆ ಒಳಪಟ್ಟು ಮರುಮಂಜೂರು ಮಾಡಿದೆ.

ಹಾಗೂ ಕ್ರಯದಾರರನ್ನು ನಿಯಮನುಸಾರ ಜಮೀನಿನಿಂದ ಹೊರದೂಡಿ ಮೂಲ ಮಂಜೂರಿದಾರರಿಗೆ ಸದರಿ ಜಮೀನಿನ ಸ್ವಾಧೀನನುಭವ ಬಿಡಿಸಿಕೊಡಲು ತಹಶೀಲ್ದಾರ್, ಚಿಕ್ಕಬಳ್ಳಾಪುರ ತಾಲ್ಲೂಕು ಇವರಿಗೆ ಸೂಚಿಸಿದೆ.”

23. The Deputy Commissioner, on consideration of the appeal filed before him, came to the conclusion that the alienation made in favour of Ravi Agarwal could not be the subject matter of a proceeding under the PTCL Act since the Government had accorded permission under Section 4(2) of the PTCL Act. He accordingly proceeded to allow the appeal.



24. Being aggrieved by this order of the Deputy Commissioner rejecting the application for resumption, the present writ petition has been filed.
25. Smt. Jayna Kothari, learned Senior counsel appearing for the petitioner, contended that the order of the Deputy Commissioner could not be sustained in view of the fact that the entire claim of Suresh Chandra Gupta and, subsequently, his son Ravi Agarwal was on the basis of an agreement of sale dated 10.06.2005 and since Section 3(e) of the Act prohibited the transfer which included an agreement to sell, the entire transaction leading up to the sale in favour of the Ravi Agarwal was null and void. She sought to highlight the fact that the provisions of the Act would stand attracted even if there was an agreement of sale, and since there was an agreement of sale dated 10.06.2005, the subsequent permission allegedly obtained by Suresh Chandra Gupta would be of no avail.



26. She also sought to put forth arguments that there were circulars which would indicate that the permissions granted were for a limited period and if alienation was not made within the limited period, the same would lapse. Learned Senior counsel submitted that since the initial transfer i.e., the agreement of sale was hit by the provisions of Section 4 of the PTCL Act, the Deputy Commissioner could not have rejected the application for resumption.
27. *Per contra*, Sri. H. N. Shashidhara, learned Senior counsel appearing for the respondent, submitted that the order of the Deputy Commissioner could not be found fault with. He submitted that the application for resumption filed by Annayappa was to nullify the sale deed that had been executed in favour of T. R. Sathish Hegde and there was no challenge whatsoever to the agreement of sale. He submits that it was nobody's case that the application for



resumption was made on the ground that the agreement of sale amounted to a transfer as defined under the Act and, therefore, the land was to be resumed.

28. He submitted that the sale in favour of T. R. Sathish Hegde was admittedly with the prior permission of the Government as could be seen from the sale deed which, in fact, referred to the permission dated 01.02.2007. He submitted that if the sale deed executed in favour of T. R. Sathish Hegde was with the prior approval of the Government, the entire proceedings seeking resumption by Annayappa would have to be considered to be one without jurisdiction. He submitted that as on the date of the application being made for resumption, there was no sale deed executed in favour of Ravi Agarwal, and Annayappa was only keen on getting the sale deed executed in favour of T. R. Sathish Hegde to be declared as null and void.



29. Learned Senior counsel also submitted that in reality, Annayappa and T. R. Sathish Hegde had misutilised the order of permission granted by the Government under Section 4(2), which was specifically granted for an alienation to be made in favour of Suresh Chandra Gupta. He submitted that once permission was granted for sale of the land to Suresh Chandra Gupta, necessarily, the sale ought to have been made only in favour of Suresh Chandra Gupta. Since Annayappa had not come forward to sell the land, he had no other option but to enforce the agreement of sale, in which he ultimately succeeded.
30. He further submitted that the order of the Government according permission under Section 4(2) of the PTCL Act was specifically brought forth by Suresh Chandra Gupta in the suit that he had filed, to which not only Annayappa but also T. R. Sathish Hegde had been arraigned as defendants. The factum of permission being granted is clearly



admitted by Annayappa and in light of this admitted fact, it would not be permissible for Annayappa to seek resumption of the lands.

31. In light of the arguments advanced above, the only question that would arise for consideration in this writ petition is:

Whether the Deputy Commissioner was justified in dismissing the application for resumption filed by Annayappa.

32. As narrated above, it is an admitted fact that Suresh Chandra Gupta had instituted a suit in O.S.No.203/2007 seeking to enforce the agreement of sale that he had entered into with Annayappa and in this suit, he categorically stated that permission had been accorded by the Government for sale of the land in his favour. This assertion that permission had been accorded by the State Government for sale of the land was admitted by Annayappa, but it was stated that on the basis of this permission dated



01.02.2007, they had sold the land to T. R. Sathish Hegde.

33. At the outset, it is to be stated here that if this was the admitted position that there was prior permission obtained for the sale of land in favour of T. R. Sathish Hegde, the proceedings initiated before the Assistant Commissioner seeking a declaration — that the sale deed executed in favour of T. R. Sathish Hegde was null and void and that the land was to be resumed — would be wholly without jurisdiction and would thus have to necessarily fail. This is because if the State has accorded permission for sale of a granted land, it is obvious that proceedings under the PTCL Act would not be maintainable if alienation had been made on the strength of such permission.
34. As could be seen from Section 4(1)¹, proceedings for resumption would be maintainable only if the land

¹ **Prohibition of transfer of granted lands:** (1) Notwithstanding anything in any law, agreement, contract or instrument, any transfer of granted land made either before or after the commencement of this Act, in contravention of the terms of the grant of such land or the law providing for such grant, or sub-section (2) shall be



has been sold in contravention of the terms of the grant or under Section 4(2) if the land has been alienated without the prior approval of the Government.

35. In this case, as already stated above, the State Government had granted permission for alienation of the land and, therefore, the initiation of the proceedings under the PTCL Act was itself without jurisdiction.

36. The petitioners have themselves produced the permission that was accorded by the Government for alienation of the land as per Annexure-L. This permission granted by the Government specifically permits Annayappa to sale the granted land in favour of Suresh Chandra Gupta. This approval dated 31.08.2006 was the reason for the Deputy Commissioner to issue an official memorandum on 28.09.2006. In fact, in the reference to the said

null and void and no right, title or interest in such land shall be conveyed or be deemed ever to have conveyed by such transfer.



official memorandum, this permission of the Government dated 31.08.2006 is referred to and so also in the body of the official memorandum.

37. Merely because in this consequential official memorandum issued by the Deputy Commissioner, the name of the Suresh Chandra Gupta is omitted, this cannot lead to an inference that Annayappa had been accorded permission to alienate the land in favour of any person of his choice. Annayappa chose to accept the permission accorded by the Government on 31.08.2006, which was specifically for alienation in favour of Suresh Chandra Gupta and, therefore, Annayappa was bound by this order more so when he had chosen not to challenge the same. The subsequent endorsement issued by the Tahsildar is also based on the official memorandum of the Deputy Commissioner dated 28.09.2006. It is therefore clear that both the official memorandum of the Deputy Commissioner dated 28.09.2006 and the



endorsement dated 01.02.2007 by the Tahsildar are relatable only to the permission granted to Annayappa to sell the granted land in favour of Suresh Chandra Gupta and it leaves no room for doubt that permission had been accorded for the sale of land specifically to Suresh Chandra Gupta.

38. If Annayappa had not agreed to act upon the said permission and had chosen to alienate the land to T. R. Sathish Hegde, it is obvious that Suresh Chandra Gupta had the legal right to seek enforcement of the agreement of sale that had been executed in his favour. As already noticed above, Suresh Chandra Gupta went to the Civil Court with the specific plea that permission had been accorded by the State to alienate the land in his favour and despite this permission, Annayappa was not forthcoming to execute the sale deed. Thus, way back in the year 2007 when O.S.No.203/2007 was instituted, both Annayappa and Sathish Hegde were aware of the



fact that Suresh Chandra Gupta had contended that he had secured permission to purchase the land. Neither T. R. Sathish Hegde nor Annayappa had chosen to challenge the permission granted by the Government to the effect that the permission could not be limited for alienation in favour of only Suresh Chandra Gupta and this acceptance of the plea of Suresh Chandra Gupta estopped them from contending that Suresh Chandra Gupta had no power to purchase the property.

39. Since, there was permission accorded for alienation of the property in favour of Suresh Chandra Gupta, the Trial Court proceeded to decree the suit in which T. R. Sathish Hegde and Annayappa were parties. Annayappa chose to accept the decree granted in favour of Suresh Chandra Gupta by not preferring an appeal. This would therefore indicate that Annayappa basically accepted that the execution of sale deed in favour of Suresh Chandra Gupta as ordered by the



Civil Court was correct and since the Trial Court executed the sale deed on the basis of the permission that had been accorded by the State Government under Section 4(2) of the PTCL Act, neither the Assistant Commissioner nor the Deputy Commissioner could assume jurisdiction to initiate the proceedings under the PTCL Act for resumption. Consequently, the order passed by the Deputy Commissioner to the effect that the alienation made in favour of the son of Suresh Chandra Gupta could not come within the purview of the PTCL Act and he has rightly dismissed the proceedings that had been initiated by Annayappa for resumption.

40. Smt. Jayna Kothari, however, sought to lay great emphasis on the judgment rendered by the Apex Court in the case of ***Dharma Naika***² to contend that the agreement of sale entered into in favour of Suresh Chandra Gupta would itself be hit by the

² Dharma Naika Vs. Rama Naika – (2008) 14 SCC 517



provisions of the PTCL Act and a subsequent sale would be null and void. It is to be stated here that there can be no quarrel with the proposition that an agreement of sale would also come within the meaning of transfer as defined under the Act and a grantee can approach the Assistant Commissioner for resumption even if he has executed an agreement of sale.

41. However, as in the instant case, if the purchaser and the grantee had entered into an agreement of sale and thereafter sought permission of the Government to secure permission, it is obvious that the agreement of sale, by itself, would actually stand ratified by the Government and the Government was, in effect, granting permission to conclude this transaction. It cannot be in dispute that the grantee can enter into an agreement to sell the granted land subject to the Government according permission. If the Government accepts the request of the grantee



and accords permission, the agreement of sale would stand ratified by the Government and the subsequent execution of the sale deed by the grantee in favour of a purchaser can never attract the provisions of the PTCL Act.

42. The matter can be looked at from another angle. The sale in favour of T. R. Sathish Hegde was the cause for Annayappa to approach the Assistant Commissioner under the provisions of the PTCL Act for resumption. The proceedings against T. R. Sathish Hegde would be without jurisdiction, as already stated above, since there was permission to alienate the land as per the endorsement dated 01.02.2007 executed by the Tahsildar. If Suresh Chandra Gupta had approached the Civil Court seeking to enforce an agreement of sale in his favour and in the said suit, T. R. Sathish Hegde and the grantee were parties — where the Civil Court ultimately proceeded to decree the suit in favour of



Suresh Chandra Gupta and also held that the sale deed in favour of T. R. Sathish Hegde was not binding on Suresh Chandra Gupta — it is obvious that the sale in favour of T. R. Sathish Hegde would actually enure to the benefit of T. R. Sathish Hegde.

43. It is to be noticed here that if it is the case of the grantees that the permission of the Government dated 01.02.2007 was not specific to any person, the alienation made in favour of T. R. Sathish Hegde would be valid and consequently, the decree passed in the Civil Court, to which T. R. Sathish Hegde was a party, would also bring the granted land outside the purview of the PTCL Act. Thus, viewed from any angle, it cannot be said that the alienation made in favour of the petitioner herein on the basis of the decree of the Civil Court can be illegal, since it was based on the permission accorded by the Government under Section 4(2) of the PTCL Act.



44. An argument was also advanced by the learned Senior counsel Smt. Jayna Kothari that the permissions granted by the Government under Section 4(2) of the PTCL Act was limited by time and, therefore, the alienation made in favour of T. R. Sathish Hegde was illegal. This argument cannot be accepted for the following reason.
45. Section 4(2) of the PTCL Act merely states that there cannot be an alienation of a granted land after the commencement of the Act, without the previous permission of the Government. The said provision does not permit of any conditions to be imposed for granting of permission.
46. It is to be noticed here that under Section 4(2) of the PTCL Act, even a person who chooses to acquire the land can secure the permission and at the same time a grantee can also secure permission for transfer. The provision does not permit does not contemplate the imposition of any conditions by the Government



for granting the permission either for transfer or acquisition of a granted land.

47. In this view of the matter, the argument that the circulars had indicated a timeline within which a transfer should take place cannot be accepted. It may also be noticed here that permission is specific to a particular transaction and the order of granting permission should indicate conditions, if any. In the instant case, the order of the Government according permission on 31.08.2006 did not lay down any conditions with reference to a time limit for going ahead with the transfer. The order granting permission was only subject to three conditions and since there was no condition imposed that the transfer should be completed within a particular time limit, this argument of the learned Senior counsel cannot be accepted.



48. In light of the above, and in my view, there is no merit in this writ petition and the same is thus ***dismissed.***

Sd/-
(N S SANJAY GOWDA)
JUDGE

GSR
List No.: 1 Sl No.: 53