



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 9TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.G.S. KAMAL

WRIT PETITION NO. 29655 OF 2018 (KVOA)

BETWEEN:

M/s.RENAISSANCE HOLDINGS
AND DEVELOPERS (P) LTD.,
A COMPANY INCORPORATED UNDER THE
COMPANIES ACT, 1956
HAVING ITS REGISTERED OFFICE AT,
NO.12, 18TH CROSS, 6TH MAIN,
MALLESHWARAM, BANGALORE-560 055
REP. BY ITS DIRECTOR
SRI.N.S.RAMANJ.

...PETITIONER

(BY SRI. SRINIVASA RAGHAVAN, SENIOR ADVOCATE FOR
SRI. SIDDHARTH SUMAN, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
BY ITS PRINCIPAL SECRETARY,
REVENUE DEPARTMENT,
M.S.BUILDING,
VEEDHANA VEEDHI,
BANGALORE -560 001.
2. THE TAHSILDAR
DEVANAHALLI TALUK
DEVANAHALLI - 562 110
BANGALORE RURAL DISTRICT.
3. SMT. MUNINARASAMMA
W/O KALAPPA,
SINCE DECEASED REPRESENTED BY HER LRS



3(a) SRI. NANJAPPA,
S/O LATE MUNI THIRUMALLAPPA,
AGED ABOUT 56 YEARS,

3(b) SMT. RATNAMMA
D/O LATE MUNI THIRUMALLAPPA,
AGED ABOUT 42 YEARS,

3(c) SRI. MUNI ANJAPPA
MAJOR IN AGE
S/O MUNI THIRUMALLAPPA

ALL RESIDING AT
KULAVARAYANAHALLI
HESSARGHATTA HOBLI
KAKOLU (POST)
BANGALORE NORTH TALUK
BANGALORE-560089

4. SRI. GIDDAPPA
SINCE DECEASED,
REPRESENTED BY LRS,

4(a) SMT. ANKONAMMA
W/O GIDDAPPA
SINCE DECEASED REPRESENTED BY LR

4(a)(1) SMT. MUNIYAMMA
AGED ABOUT 50 YEARS,
D/O ANKONAMMA @ CHIKKOLLAMMA

4(b) SRI. ANKONAPPA @ ANKANAPPA
MAJOR IN AGE,
S/O DODDAIAH

BOTH ARE RESIDING AT
KEMPALINGANAPURA VILLAGE,
KASABA HOBLI,



DEVANAHALLI TALUK - 562 110.

- 5 SMT. GUNDAMMA
W/O BYRAPPA,
SINCE DECEASED
REPRESENTED BY HER CHILDREN AND LRS
- 5(a) SMT. AKKAYAMMA
MAJOR IN AGE,
D/O BYRAPPA,
- 5(b) SMT. BYAMMA
SINCE DECEASED REPRESENTED BY LRS
- 5(b)(a) SMT MUTHAMMA
MAJOR IN AGE,
D/O LATE BYAMMA
RESIDING AT YELAHANKA TOWN
NEAR AIRPORT,
BENGALURU-560 064.
- 5(b)(b) SMT. NETRA
W/O RAYANNA
MAJOR IN AGE,
D/O LATE BYAMMA
RESIDING AT HUTHANAHALLI VILLAGE,
JALA HOBLI,
BENGALURU NORTH TALUK-562157.
- 5(b)(c) SMT. AMBIKA
W/O VIJAY
MAJOR IN AGE,
D/O LATE BYAMMA
RESIDING AT BETTAHALASURU
VILLAGE AND POST, JALA HOBLI,
BENGALURU NORTH TALUK-562 157.
- 5(b)(d) SMT. SHOBA
W/O NARAYANA
MAJOR IN AGE,
D/O LATE BYAMMA



RESIDING AT HITTA KALLUPURA VILLAGE,
RAJANAKUNTE POST,
DODDABALLAPURA TALUK,
BENGALURU RURAL DISTRICT-560 064.

5(b)(e) SMT. SUMALATHA
W/O MURTHY
MAJOR IN AGE,
D/O LATE BYAMMA
RESIDING AT NEAR CARMEL SCHOOL,
DEVANAHALLI TOWN,
BENGALURU RURAL DISTRICT-562 110

5(c) SMT MUNITHAYAMMA
MAJOR IN AGE,
D/O BYRAPPA,

RESPONDENTS 4 & 5 ARE
R/AT THIMMAGOWDANA HOSAHALLI
KASABA HOBLI
DEVENAHALLI TALUK
BANGALORE - 562 110.

6. M/s.SHOBA DEVELOPERS LIMITED.,
NO.106, SUNRISE CHAMBERS,
NO.22, ULSOOR ROAD,
BANGALORE-42
REP. BY ITS AUTHORISED SIGNATORY.

...RESPONDENTS

(BY SRI. BHOJE GOWDA KOLLER, AGA FOR R1 AND R2;
SRI. ASHOK B. PATIL., ADVOCATE FOR R3 (a TO c)
SRI. KASHINATH J.D.,ADVOCATE FOR R4 (a)(1);
SRI. SRIKANTH B., ADVOCATE FOR R4(b)
SRI. N. PRAVEEN KUMAR., ADVOCATE FOR R5(a), R5[b-(a-
d)] AND R5(c)
NOTICE TO R5[b -(e)] IS HELD SUFFICIENT V/O DATED
27.05.2019; R6 SERVED AND UNREPRESENTED)



THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH/SETTING ASIDE THE ORDER DATED 25.07.2013 PASSED BY THE R-2/TAHSILDAR IN CASE NO.H.O.A.CR 9/2012-13 VIDE ANNEXURE-X IN SO FAR AS IT RELATES TO THE LANDS IN SY NO.33, MEASURING 5 ACRES 30 GUNTAS OF THIMMEGOWDANAHOSAHALLI VILLAGE, KASABA HOBLI, DEVANANHALLI TALUK, DEVANAHALLI, BANGALORE RURAL DISTRICT.

THIS PETITION, COMING ON FOR FINAL HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE M.G.S. KAMAL

ORAL ORDER

This petition is filed seeking following reliefs:

(i) the order dated 25.07.2013 passed by the 2nd respondent/Tahsildar in Case No.H.O.A. CR/9/2012-13 i.e., Annexure-X in so far as it relates to the lands in Sy.No.33, measuring 5 acres 30 guntas of Thimmegowdanahosahalli Village, Kasaba Hobli, Devanahalli Taluk, Devanahalli, Bangalore Rural District and

(ii) the order dated 03.07.2018 passed by the Hon'ble Court of the V Addl. District and Sessions Judge, Devanahalli in M.A.No.15010/2013 i.e. Annexure-AB as arbitrary, illegal and unjust.

(iii) to award costs and grant such other relief as this Hon'ble Court deems fit and expedient in the circumstances of the case in the interest of justice and equity".

2. Brief facts:

(a)The present petition concerns land in Sy.No.33 measuring 5 acres 30 guntas situated at Thimmegowdanahosahalli Village, Kasaba Hobli,



Devanahalli Taluk, which is subject matter of a regrant made by the Tahsildar under the Provisions of Karnataka Village Officers' Abolition Act, 1961 (Act, 1961) in Case No.H.O.A.4/1979-80 vide order dated 09.10.1980.

- (b)Originally, the said land was attached to Thotti Inamthi's Talwari office held by one Nagaiah Talwar. Said Nagaiah Talwar stated to have passed away leaving behind three sons namely (i)Thimmarayappa (ii) Giddappa (iii)Byrappa.
- (c)Aforesaid Thimmarayappa in turn had two sons namely Doddaiiah and Giddappa (claimant No.1). Doddaiiah, first son of Thimmarayappa had two sons, namely Muddarappa and Akkannappa (claimant No.2).
- (d)Giddappa, second son of Nagaiah Talwar and his wife, as seen in the order dated 09.10.1980 are stated to have passed away without any issues.
- (e) Gundamma (claimant No.3) is the wife of Byrappa, third son of Nagaiah Talwar.
- (f) Upon the application made by the aforesaid claimants 1 to 3, the descendants of Nagaiah Talwar in H.O.A.No.4/1979-80, the Tahsildar passed the order dated 09.10.1980 as per Annexure-A to the writ petition, re-granting lands in Sy.No.20,



measuring 21 guntas and Sy.No.33, measuring 5 acres of 30 guntas, equally between the said claimants.

- (g) By Official Memorandum dated 02.11.1995 issued by the Deputy Commissioner, Bangalore Rural District, the aforesaid land in Sy.No.33 measuring 5 acres 30 guntas is permitted to be used for non-agricultural purposes.
- (h) Thereafter Gundamma, wife of Byrappa, executed deeds of sale dated 27.01.1997, 30.01.1997, 21.02.1997, 27.02.1997 conveying her undivided one fourth share right, title and interest in the said land in Sy.No.33 in favour of M/s.Scotts India Private Limited.
- (i) Similarly Giddappa and Akkanappa, the descendants of Thimmarayappa, executed Deeds of Sale dated 26.02.1997 and 27.02.1997, conveying their undivided half share in Sy.No.33 in favour of said M/s. Scotts India P. Ltd.
- (j) It appears one Muninarasamma, claiming to be the daughter of Giddappa, the second son of Nagaiah Talwar, had preferred a miscellaneous appeal in M.A.No.57/1995 before the District Court seeking to set aside the re-grant order dated 19.10.1980 passed by Tahsildar. Purchaser M/s.Scotts India Pvt. Ltd. was not made a party to the said proceedings.



The said Misc. appeal was allowed on 11.08.1997 setting aside the re-grant order dated 09.10.1980 and remanding the matter to Tahsildar for reconsideration.

- (k) Thereafter, M/s.Scotts India P. Ltd. sold the entire extent of 5 acres 30 guntas of land in Sy.No.33 in favour of the petitioner herein in terms of deed of sale dated 01.06.2004.
- (l) Petitioner had caused issuance of a public notice on 19.12.2006, notifying the general public regarding proposed development of the aforesaid land. Objections to the said public notice were received on 02.01.2007 from said Muninarasamma as well as respondent Nos.5(a) to (c) herein stating that appeal proceedings were initiated by Muninarasamma against the order of grant made by Tahsildar.
- (m) On 05.02.2007, Tahsildar had passed an order re-granting the land in Sy.No.33, conferring one third share each in favour of three branches of original office holder Nagaiah Talwar.
- (n) Being aggrieved by the same petitioner herein had preferred a miscellaneous appeal in M.A.No.13/2007 before the District Court. The said appeal came to be allowed on 23.10.2010, remanding the matter to the Tahsildar for reconsideration after issuing notice to all the parties.



- (o) As against the said order of remand, Muninarasamma represented by her legal representatives had filed writ petition in W.P.No.1565/2011, which was dismissed by order dated 24.09.2012 confirming the order of remand dated 23.10.2010 passed in M.A.No.13/2007.
- (p) In the meanwhile, legal representatives of Muninarasamma had also approached this Court by filing another writ petition in W.P.No.23216/2010, questioning the layout plan which was sanctioned by Bangalore International Airport Area Planning Authority. Taking note of the suit in O.S.No.543/2008 filed by Muninarasamma for substantive reliefs, the writ petition was disposed of.
- (q) On remand of the matter to the Tahsildar in terms of the order dated 23.10.2010, Tahsildar passed the order dated 25.07.2013 reaffirming the re-grant conferring one third share to Muninarasamma represented by legal representatives. Being aggrieved by the said order dated 25.07.2013 petitioner herein preferred the miscellaneous appeal in M.A.No.15010/2013 before the District Court which by the impugned order dated 03.07.2018 dismissed the miscellaneous appeal, confirmed the order passed by Tahsildar.



(r) It is these two orders which have been put in question in this writ petition.

3. Objection statements has been filed by the respondent No.2-State, denying the petition averments and justifying the order passed by the respondent-Tahsildar. It is contended that petitioner which has purchased the property during the pendency of the proceedings has not derived any valid right, title and interest over the land in question and is thus in illegal and unauthorised possession of the land. The petitioner has not justified its claim over the land and therefore the order passed by the Tahsildar cannot be found fault with. Hence, sought for dismissal of the petition.
4. Respondent Nos.3(a) to (c) being the legal representatives of Muninarasamma have filed statement of objections claiming that when the order initially passed by the Tahsildar in HOA No.4/1979-80, a false representation was made before the Tahsildar regarding Giddappa son of Nagaiah having died without any issues. That on the basis of the said false representation, order had been passed. That on learning about the said order, Muninarasamma had challenged the order passed by Tahsildar by filing M.A.No.57/1995. That during the pendency of the said appeal, the sale deeds were executed. As such, they were hit by provisions of Section 52 of the Transfer of Property Act and are thus null and void. Any subsequent sale made by M/s.Scotts India P.



Ltd., in favour of the petitioner herein is also without any subsisting valid right, title and interest over the land. As such the petitioner has no locus standi to question the grant made by the Tahsildar in favour of Muninarasamma.

5. Respondent No.4(b) has also filed statement of objections reiterating the averments and the stand taken by respondent Nos.3(a) to (c).
6. An application in I.A.No.1/2018 is filed seeking production of additional documents. Same are taken on record.
7. Learned Senior Counsel appearing for the petitioner taking this Court extensively through the records submits:
 - (a) that the order dated 09.10.1980, which was passed by the Tahsildar at an undisputed point in time, had taken note of the genealogy of Nagaiah, the original holder of office which indicate that his second son Giddappa and his wife had died issueless. The sale deeds were executed by the grantees namely Gundamma (claimant No.3) on the one hand and Giddappa (claimant No.1) and Akkannappa (claimant No.2) on the other hand being the descendants of two surviving branches of Nagaiah Talwar between January 1997 and February 1997 in favour of M/s.Scotts India P. Ltd. There was no prohibition or any legal impediment for the grantees to



execute the said deeds of sale which were thus valid and subsisting in the eyes of law.

(b) He refers to the order passed by the Co-ordinate Bench of this Court in Writ Petition No.23216/2010 dated 10.08.2011 which was filed at the instance of Muninarasamma, by her legal representatives challenging the sanction plan that was issued in favour of the petitioner herein. Referring to paragraphs 6 to 8 of the said order he contended that the issue with regard to application of provision of Section 52 of the Transfer of Property Act has been dealt with and the same has been negated by the Co-ordinate Bench of this Court and the contention of the deeds of sale executed between 27.01.1997 to 26.02.1997 in favour of M/s.Scotts India P. Ltd., being null and void has been rejected. However it was observed that any right of the petitioner herein would be subject to outcome of the suit filed by the said Muninarasamma seeking substantive relief in the nature of declaration of validity or otherwise of said sale deeds.

(c) He also refers to another order of the Co-ordinate Bench of this Court passed in W.P.No.1565/2011 dated 24.09.2012 wherein taking note of contentions raised by Muninarsamma regarding locus standi of the petitioner herein for petitioner having purchased the property during pendency of miscellaneous appeal in M.A.No.57/1995, at paragraph 5 the Co-ordinate Bench of this Court had observed that the re-grant made



subsequently would enure to the benefit of family of the original vendors on principles of feeding the grant by estoppel and grounds urged with regard to invalidity of the sale deeds consequent upon setting aside of the original grant order also has been negated.

- (d) He then refers to the contents of order passed by the Tahsildar and submits that the Tahsildar has sought to impose a negative burden on the petitioner to prove that Muninarasamma was not the daughter of Giddappa which is impermissible under law. It was for Muninarasamma or her legal representative to have proved and established they being the descendants of the holder of office and they not having discharged their burden, the Tahsildar was not justified in imposing or casting the said burden on the petitioner.
- (e) That in any event even by the impugned order the Tahsildar has merely altered/modified the original grant order by which he has in effect partitioned the property into three shares one each in favour of three sons of original holder of the office.
- (f) Relying upon the judgment of the Co-ordinate Bench of this Court in the case of **Patel Veerabasappa Vs Basamma** reported in **ILR 1996 Karnataka 1435** which is confirmed by the Apex Court in the case of **Basamma(dead by Lrs) Vs Patel Veerabasappa(dead) by Lrs and anr** reported in



(2003) 12 SCC 190 he submits that it was not for the Tahsildar under the provisions of Karnataka Village Offices Abolition Act, 1961 to determine the shares of the parties. It was to have been effected in the manner known to law by a competent Court of Civil Jurisdiction.

- (f) Therefore he submits that rights if any being claimed by Muninarasamma and after her demise by her legal representatives required to be proved and established in the suit filed by Muninarasamma in O.S.No.543/2008.
- (g) He also relies upon the judgment of the Division Bench of this Court, in the case of **V.Channanarasimhaiah Vs Additional Tahsildar, Bangalore North Taluk and others** reported in **ILR 1997 Karnataka 924**, and specifically referring to paragraphs 14, 17, 18, 20 and 24 submits that in the fact situation of the matter, the vendors and the petitioner having purchased the subject property in accordance with law cannot under any circumstances be considered as unauthorised occupants of the land, as otherwise contemplated under Section 7 of the Act, 1961 and that the Tahsildar could not have invoked the provisions of Section 7 of the Act, 1961 directing them to vacate and hand over the subject land.
- (h) On these counts, he vehemently submits that the order passed by the Tahsildar confirmed by the District Court requires to be quashed.



8. Sri.Ashok B. Patil learned counsel appearing for respondents 3(a) to (c) justifying the orders impugned submitted:

(a)That in the light of setting aside of the grant order dated 09.10.1980, execution of deeds of sale in favour of M/s.Scott India P. Ltd., between January 1997 and February 1997, have become null and void. The subsequent execution of deed of sale by said M/s.Scott India P. Ltd. in favour of the petitioner was during the pendency of proceedings that too after respondents having responded to the public notice issued by the petitioner. Thus, these transactions having been entered into during the pendency of these appeals and even before determination of the re-grant orders would not enure to the benefit of the petitioner as the petitioner has no locus standi to sustain the petition.

(b)That once the re-grant order passed by the Tahsildar was set aside, it shall be construed that land having been resumed by the State and no party until regrant was made could deal with the same, conferring any title. Therefore, Section 7 of the Act, 1961 becomes applicable. He refers to the judgment of the Division Bench of this Court in the case of **Lakshmana Gowda and others Vs State of Karnataka by its Secretary to Government Department of law and Parliamentary Affairs, Bangalore and others** in justification of his submissions.



- (c) He also refers to the order passed in M.A.No.57/1995 to point out that notices were served on the other family members of Muninarasamma and they had no objection in allowing the said appeal. That apart the said persons had also not denied Muninarasamma being the legal representative of the original office holder. Petitioner therefore being an outsider and stranger to the family cannot dispute the lineage of Muninarasamma.
- (d) That the sale which was effected between M/s.Scotts India P. Ltd. and the petitioner in the year 2004 was during the period when there was no grant and the re-grant was effected only in the year 2007 by which time the Act, 1961 was amended and in view of amendment to the Act, 1961 and the sale having been made by the person who had no authority, the principles of re-grant enuring to the benefit of the transferor would not apply. As the provision prohibiting alienation for period of 15 years would come into force only after the re-grant of 2007.
- (e) He refers to the contents of the order passed by the Tahsildar, confirmed by the District Court impugned in this petition to submit that all legal and factual aspects of the matter has been taken note of by the Tahsildar as well as the District Court, which are in accordance with law and the precedents applicable. Therefore, no error or illegality can be found with the same.



(f) He relies upon the following judgments:

- (i) (2012) 2 SCC 628 -Jagan Singh (Dead) through Lrs)
Vs Dhanwanti and another -para 31 and 32, 33 and 34
- (ii) AIR 1992 Kar 71 = ILR 1991 Kar 3288 - Goudappa
Appayya Patil Vs Shivari Bhimappa Pattar - para 14
- (iii) ILR 1989 Kar 3125 - Dyna Foods Private Ltd. Vs
Fakirappa
- (iv) ILR 1993 Kar 1482 - Chowdappa Vs State of
Karnataka

Hence, seeks for dismissal of the petition.

9. Heard and perused the records.

10. Point that arises for consideration in this petition is:

"Whether on facts and in law, the impugned order dated 25.07.2013 passed by respondent No.2-Tahsildar, confirmed by V Additional District Judge, Devanahalli, vide order dated 03.07.2018 passed in M.A.No.15010/2013, holding Muninarasamma-respondent No.3 herein being entitled for 1/3rd share in land bearing Sy.No.33 and further holding petitioner herein to be unauthorised occupant of the said land is justified?"

11. There is no dispute of the fact that Nagaiah Talwar was the holder of Thotti Inamthi Talwari office. There is also no dispute of the fact the original claimants 1 to 3 namely Giddappa, Akkanappa and Gundamma are the descendants of said Nagaiah Talwar.



12.By order dated 09.10.1980, the Tahsildar in Case No.HOA.4/1979-1980, on consideration of the facts made available, had re-granted lands in Sy.Nos.20 and 33 measuring 21 guntas and 5 acres 30 guntas respectively equally in favour of aforesaid Giddappa and Akkanappa both sons of Doddaiiah on the one hand and Smt.Gundamma being wife of Byrappa on the other hand.

13.There is also no dispute about the fact that the deeds of sale were executed on 01.01.1997 and 02.02.1997 by the aforesaid grantees in favour of vendor of the petitioner herein, which is beyond 15 years from the date of the said grant.

14. The dispute seemed to have cropped up in the light of claim made by Muninarasamma claiming to be daughter of Giddappa, second son of Nagaiah Talwar, by she filing the appeal in M.A.No.57/1995.

15. Perusal of the appeal memo and the order furnished by the learned counsel for the parties indicate that the said appeal was filed much prior to execution of the



deeds of sale and though notice was issued but however the said appeal has been allowed on 11.08.1997, that is, after execution of deeds of sale by the original grantees. The order also indicates though notices were issued on the respondents, they remained absent. On remand, the Tahsildar by order dated 05.02.2007 had conferred one third share on all the three branches of Nagaiah's family.

16. Even though the aforesaid order dated 05.02.2007 was set aside subsequently, by the order dated 23.10.2010 passed in M.A.No.13/2007 at the instance of petitioner herein, remanding the matter for reconsideration, yet again the Tahsildar by order dated 25.07.2013 has reaffirmed the order dated 05.02.2007.

17. Upon demise of Nagaiah, the original holder of office his legal representatives as noted above become entitled for re-grant of the land which was indeed granted in their favour. It is settled law that the order of regrant of the land made in favour of alienor



subsequent to sale would enure to the benefit of alienee under principles of grant of feeding the estoppel. Therefore the subsequent orders passed by the Tahsildar on 05.02.2007 and 25.07.2013 have merely confirmed and reaffirmed the right, title and interest of the original grantees namely Giddappa, Ankannappa and Gundamma which would enure to the benefit of the alienee.

18.The contention emphatically being urged by the respondents in this writ petition regarding sale having been made during pendency of proceedings is hit by the provisions of Section 52 of the Transfer of Property Act as well as the sale made by M/s.Scotts India P. Ltd. in favour of petitioner during the period when no grant was in place has been considered by the Co-ordinate Bench of this Court in W.P.No.23216/2010 and W.P.No.1565/2011.



19. Relevant paragraphs 6, 7, 8 and 9 of the order passed
in W.P.No.23216/2010 read as under:

"6. With regard to the aspect as to whether the sale transactions between 27.01.1997 and 27.02.1997 are hit by the principle of lis pendens as provided under Section 52 of the Transfer of Property Act in view of the pendency of the appeal in M.A.No.57/1995 which was filed on 11.07.1995 and was disposed on 11.08.1997. It would be appropriate to notice Section 52 of Transfer of Property Act, which reads as hereunder:

"52. Transfer of property pending suit relating thereto - During the (pendency) in any Court having authority (within the limits of India excluding the State of Jammu and Kashmir) or established beyond such limits) by (the Central Government) of (any) suit or proceedings which is not collusive and in which any right to immovable property is directly and specifically in question, the property cannot be transferred or otherwise dealt with by any party to the suit or proceeding so as to affect the rights of any other party thereto under any decree or order which may be made therein, except under the authority of the Court and on such terms as it may impose.

Explanation. - For the purposes of this section, the pendency of a suit or proceeding shall be deemed to commence from the date of presentation of the plaint or the institution of the proceeding in a Court of competent jurisdiction, and to continue until the suit or proceeding has been disposed of by a final decree or order and complete satisfaction or discharge of such decree or order has been obtained, or has become unobtainable by reason of the expiration of any period of limitation prescribed for the execution thereof by any law for the time being in force.)

7. As contended by the learned senior counsel, the provision contained therein would indicate that a transaction is hit by the said principle only if the pendency is in a Court and if such suit or proceeding is not collusive. In the instant case, the proceeding in M.A. No.57/1995 was filed in view of the provision contained in Section 3(2) of KVOA Act, wherein an appeal is provided to the District Judge of the District. This



Court, while considering the said provision, though for a different purpose, in the case of **Ramachandra Govind Jadhav-vs-Rama Bala Patil and Another (1974 (1) Kar.L.J.393)** and **Doddarangaiah and Another -vs-Smt. Lakshamma and others (1974 (1) Kar. L.J. 396)** has held that the District Judge acts as persona designata for the purposes of the Act and not as Court. Therefore, the first requirement contained in Section 52 itself is not satisfied. Further even though it is contended by the learned senior counsel that the said proceedings is also collusive and this is evident from the observations made in the order a dated. 23.10.2010 in M.A.No.13/2007. I deem it appropriate not to express any opinion on that aspect in fringe proceedings as there are certain other substantial proceedings pending between the parties where the consideration would be more comprehensive and finding therein would be based on evidence available on record.

8. In that regard, the undisputed position is also that the petitioner has instituted a civil suit in OS No. 543/2008 before the Civil Judge (Senior Division at Devanahalli. In the said suit, the subject land is the 'B' schedule property and the sale deeds executed between 27.01.1997 to 26.02.1997 in favour of M/s. Scotts India Pvt. Ltd., and the sale deed dated 01.06.2004 executed by M/s Scotts India Pvt. Ltd., to the second respondent herein have all been sought to be declared as null and void. In the said suit, the petitioner has not been granted any interim order despite seeking for the same. The second respondent and their vendor have several defenses to be put forth in the said suit regarding the ownership to the property. Therefore, the same being more comprehensive proceedings and until the petitioner succeeds therein, the sale transactions cannot be considered as null and void.

9. In the backdrop of the above, though the petitioner has questioned the sanction order dated 12.03.2007, the order produced at Annexure-R-1 to the objection statement of first respondent authority would Indicate that the same is dated 07.07.2007. The same has reference to the earlier Government Orders of the year 2004. The first respondent has relied on the subsisting documents as on the date of consideration and grant of sanction leading to approval. Further, the approval granted in 2007 is questioned in a petition in the year 2010 and that too, after having filed a civil suit in the year 2008. That apart. as noticed, there are several aspects of the matter to be considered in the other proceedings and more particularly in a civil suit. In that



regard, Section 42 (3) of the Karnataka Town and Country Planning Act, 1961, itself provides the remedy depending on the result in the civil suit. Therefore, when there are several disputed facts involved which would be resolved in the appropriate and relevant proceedings, the relief sought herein cannot be granted."

20.Relevant paragraphs 3 and 5 of the order passed in

W.P.1565/2011 read as under:

"3. The learned counsel for the petitioners contends that the short question that would arise for consideration in the present writ petition is whether respondent no.2 had locus standi to challenge the order of regrant made in favour of the petitioner and respondents 4 and 5. He would submit that admittedly, the sale deed in favour of respondent no.2 was after the order of grant was set aside in appeal in MA 57/1995. Therefore, respondent no.2 had no right or interest, as the sale deed, if any, in respect of the land in question was rendered a nullity. It is further pointed out that the second sale by M/s Scott India Private Limited in favour of respondent no.2 was made after the regrant order dated 11.10.1990 was set aside in appeal as on 11.8.1997. Therefore, respondents 4 and 5 did not have any exclusive right to convey the property and any title derived by respondent no.2 under the sale deed was imperfect and invalid. Hence, respondent no.2 would have no vested right to prefer an appeal to challenge the order of regrant. Yet another reason to hold that the sale deed was null and void is in view of the public policy declared by the Government of Karnataka, as per Notification dated 14.2.1994, wherein it was declared that any registration of a sale deed in violation of the KVOA Act was declared to be void. Therefore, the sale deed executed in favour of respondent no.2 by M/s Scott India Private Limited was void. It is also contended that in effect, the regrant order, made in favour of the petitioner along with respondents 4 and 5, is the regrant order which is validly made, as any earlier regrant was invalid for non-joinder of the petitioner and therefore, the non-alienation period would run from the date the order of regrant is made in favour of the petitioner and respondents 4 and 5, namely, 5.2.2007 and therefore, the sale would also run counter to the prohibition of non-alienation for a period of 15 years from the date of regrant. For all the above reasons, the appeal



was not maintainable as respondent no.2 had no locus standi to question the order of regrant made.

It is contended that in the light of the admission made by respondents 4 and 5 as to the non-inclusion of the petitioner in the first instance is no longer in dispute and hence, the order of remand is a futile exercise, as the claim of the petitioner cannot be denied. The learned counsel would submit that the order of remand is therefore liable to be quashed.

5. In the light of the above contentions – the only point that arises for consideration is whether or not the second respondent, at whose instance an order of remand has been made in an appeal filed by it, had locus standi to seek such relief.

On facts, it is not in dispute that the said respondent was a subsequent purchaser of the property in question. Further, it is also not in dispute that apart from the petitioner other members of the petitioner's family, who were the original vendors, had the benefit of the order of regrant along with the petitioner, which has now been set aside and the matter remanded.

Reference may be made to the judgment of the apex court in the case of Maharaj Singh v. State of U.P. (1977) 1 SCC 155, wherein it is held thus:

"20. The classical concept of a 'person aggrieved' is delineated in Re Sidebotham ex p. Sidebotham. But the amplitude of 'legal grievance' has broadened with social compulsions. The State undertakes today activities whose beneficiaries may be the general community even though the legal right to the undertaking may not vest in the community. The State starts welfare projects whose effective implementation may call for collective action from the protected group or any member of them. New movements like consumerism, new people's organs like harijan or mahila samajams or labour unions, new protective institutions like legal aid societies operate on the socio-legal plane, not to beat 'their golden wings in the void' but to intervene on behalf of the weaker classes. Such burgeoning of collective social action has, in turn, generated gradual processual adaptations. Test suits, class actions and representative litigation are the beginning and the horizon is expanding, with



persons and organisations not personally injured, but vicariously concerned being entitled to invoke the jurisdiction of the court for redressal of actual or imminent wrongs.

21. In this wider perspective, who is a 'person aggrieved'? Dhabolkar gives the updated answer:

The test is whether the words 'person aggrieved' include a person who has a genuine grievance because an order has been made which prejudicially affects his interests'. (p.315).

American jurisprudence has recognised, for instance, the expanding importance of consumer protection in the economic system and permitted consumer organisations to initiate or intervene in actions, although by the narrow rule of 'locus standi', such a course could not have been justified (See P.807 – New York University Law Review, Vol. 46, 1971). In fact, citizen organisations have recently been campaigning for using legal actions for protection of community interest, broadening the scope of 'standing' in legal proceedings (see p.403 – Boston University Law Review, Vol.51. 1971). In the well-known case of Attorney- General of the Gambia v. Peirra Sarr N. 'Jie 1961 A.C. 617), Lord Denning observed about the Attorney-General's standing thus:

"... The words 'person aggrieved' are of wide import and should not be subjected to a restrictive interpretation. They do not include, of course, a mere busy body who is interfering in things which do not concern him; but they do include a person who has a genuine grievance because an order has been made which prejudicially affects his interests." (p.324-325)".

Therefore, in the facts of the case on hand, it can be said that the second respondent, who is said to be the purchaser in possession of the land, is certainly a person aggrieved who was entitled to invoke the jurisdiction of the appellate authority.

Further, it is also to be noticed that the petitioner cannot be said to be aggrieved by the order of regrant in favour of the other members of her family who are said to be the vendors of the property who had conveyed the



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property in favour of the vendor who had in turn conveyed the property in favour of the second respondent. The said circumstance would also enable the second respondent to claim a vested interest on the principle of feeding the grant by estoppel. In this regard the decision of the apex Court 16 in the case of Renu Devi v. Mahendra Singh, (2003)10 SCC 200, may be referred to. The principle is discussed thus:

"13. The rule of feeding the estoppel, as recognized in English law and set out in Rajapakse v. Fernando, (1920) AC 892, 897 is, 'where a grantor has purported to grant an interest in land which he did not at the time possess, but subsequently acquires, the benefit of his subsequent acquisition, goes automatically to the earlier grantee, or as it is usually expressed, feeds the estoppel.' Mulla states in the work on Transfer of Property Act (Ninth Edition, 2000, at p.310). The Principle is based partly on the common law doctrine of estoppel by deed and partly on the equitable doctrine that a man who has promised more than he can perform must make good his contract when he acquires the power of performance. In Tilakdhari Lal v. Khedan Lal, Lord Buckmaster stated the rule of estoppel by deed as follows- "If a man who has no title whatever to property grants it by a conveyance which in form would carry the legal estate, and he subsequently acquires an interest sufficient to satisfy the grant, the estate, the instantly passes".

14. Though there is some doubt expressed by Indian scholars and authorities if the common law doctrine of 'the estate instantly passes' is applicable in India but there is no doubt that the doctrine of feeding the estoppel applies in India. The rule is that if a man, who has no title whatever to the property, grants it by a conveyance which in form carries the legal estate, and he subsequently acquires an interest sufficiently to satisfy the grant, the estate instantly passes.(See:Mulla, ibid.p.312). Equity treats that as done which ought to be done. The doctrine may not apply if the deed of transfer itself was invalid or if the third party has acquired title bona fide, for consideration and without notice."



In the light of the above legal position the writ petition stands dismissed."

21. These orders have attained finality as there is no challenge to the same. The Co-ordinate Bench of this Court in W.P.No.23216/2010, as extracted herein above, has even adverted to the rights of Muninarasamma and in unequivocal term held, that her rights would be subject to outcome of the suit in O.S.No.543/2008 filed by her which is pending consideration.

22. On a query by this Court, it is submitted that said suit is still pending consideration and is at the stage of recording of further evidence of the plaintiffs.

23. Reliance placed on by learned counsel for respondents 3(a) to (c) on the judgment in the case of the **Lakshmana Gowda** *supra* in the considered view of this Court is not applicable to the facts of the instant case. Inasmuch as the issue involved in the said case was violation of the provisions of Karnataka Village Offices Abolition Act, 1961 in alienating the property and the



purchaser/alienee therein being considered as an unauthorised occupant under Section 7 of the Act, 1961.

24. In the instant case, the original re-grant order of the year 1980 was sought to be interfered not on the ground of violation of provisions of the Act, 1961 or on the ground of petitioner or vendor of the petitioner being unauthorised occupant. But in view of the claim made by Muninarasamma, respondent No.3 herein claiming herself to be legal heir of Giddappa, the second son of Nagaiah Talwar, resulting in granting and recognizing her one third share in the property. Though it is vehemently disputed by the petitioner regarding the claim of Muninarasamma being legal heir of Giddappa, the second son of Nagaiah Talwar, the Tahsildar, as seen at page No.10 of the impugned order, has proceeded to hold that the petitioner has not produced any documents to prove that she is not the daughter of Giddappa. This, as rightly pointed by the learned Senior counsel, cannot be countenanced as no negative burden can be casted.



25. Learned counsel for respondents however submits that Tahsildar in order to come to the conclusion of Muninarasamma being the legal representative of Giddappa, has referred to the records of the year 1980 which according to Tahsildar has not been disproved by the petitioner.

26. It is settled position of law that should there be a dispute with regard to claim of legal heirship, it is only a competent Court of law which has jurisdiction to adjudicate and determine such dispute. Jurisdiction in any case vested with Tahsildar and in the appeal before the designated Court is only with regard to validity or otherwise of the grant or violation of any provisions of the Act, 1961 and nothing else.

27. It is also necessary to note that by virtue of the impugned order passed by the Tahsildar on 25.07.2013, apart from recognizing and reconfirming the rights of the original vendors, he has granted one third share in favour of Muninarasamma. This approach by the Revenue Authority has been deprecated by this Court in the case of



Basamma *supra* which is confirmed by the Apex Court. Legal position in this aspect of the matter is also well settled namely, person as that of Muninarasamma claiming any share in the land, has to prove and establish her right before a competent Court of law, which aspect of the matter has been lost sight of by the Tahsildar as well as by the District Court.

28. Learned counsel for respondent however insists that the ruling of **Basamma's** case *supra* is inapplicable to the instant case inasmuch as the subject matter of the said case was amongst the family members, not with the strangers as in the present case.

29. In any event, Muninarasamma, since deceased by her legal representatives is prosecuting the suit claiming to be the daughter of Giddappa, wherein a substantial relief in the nature of declaration to the deeds of sale executed by original grantee in favour of M/s.Scotts India Pvt. Ltd., and thereafter in favour of the petitioner being null and void is also sought, which fact as already noted has been adverted to by this Court. Therefore this Court do not



find any reason to differ from the opinion and the conclusion arrived at by the Co-ordinate Benches of this Court. The reliance placed on by learned counsel for respondents on to the Judgments in the case of *Dhanwanti and Goudappa supra* are of no avail.

30.As regards the order passed by the Tahsildar directing petitioner to vacate and hand over the land considering the petitioner to be unauthorised occupant, reliance placed on by learned counsel for petitioner to the Judgment of Division Bench of this Court in the case of ***V.Channanarasimhaiah Vs Additional Tahsildar, supra*** wherein the Division Bench of this Court at paragraphs 13, 14, 18, 19, 20 and 24 has held as under:

"13.'Authorised Holder' and 'unauthorised holder' are defined under the Act under Section 2(b) and 2(m) of the Act, which reads:

"2(b) 'authorised holder' means a person in whose favour a land granted or continued in respect of, or annexed to a village office by the State or a part thereof has been validly alienated permanently, whether by sale, gift, partition or otherwise under the existing law relating to such village Offices:"

"2(m) 'unauthorised holder' means a person in possession of a land granted or continued in respect of or annexed in a village office by the State without any right, or under any lease, mortgage sale, gift or any other kind of alienation thereof, which is null and void under the existing law relating such village office:"



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14. From the aforesaid provisions, it is clear that the object of enactment is to abolish the Village Offices and to resume the lands in possession of such holders, to whom lands were granted as inam for the service. After resuming the land, provision is also made under Sections 5 to 7 to re-grant the land practically in favour of the original holders or in some cases to the authorised holders. A reading of Sections 5, 6 and 7 would make it dear that those provisions are to be applied taking into account the situation as existed as on the date of commencement of the Act viz., 1.2.1963. Section 5 of the Act provides for re-grant of the land to holders of the Office and it specifically makes a provision that it shall not apply to cases falling under Sections 6 and 7. So, if a land is in the occupation of an unauthorised holder as on the date of the commencement of the Act, no re-grant shall be made under Section 5 of the Act. If the land is in possession of authorised holder, re-grant shall be made to him under Section 6 of the Act. It is clear from a reading of Section 7 itself that it would apply only if a person is an 'unauthorised holder' as defined under the Act, on the date of coming into force of the Act. The definition of 'unauthorised holder' itself makes it clear that, he is a person in possession of land without any right or under an alienation which is null and void under the existing law relating to such Village. The existing law relating to a Village Office, can refer only to a law, Rule, Notification etc., which may be in force immediately before the appointed date, viz., 1.2.1963. The scheme of the Act makes it clear that the provisions of Sections 5, 6 and 7 have to be applied taking into account the possession of the land as on the date of commencement of the Act, viz. 1.2.1963.

18. We have held that Section 7 of the Act cannot have any application in respect of persons, who, comes into possession of land after 1.2.1963 after considering the scope and effect of Sections 4 to 7 of the Act.

19. Now, we shall consider the decisions of this Court on this aspect. The question came up before this Court and in some cases, it was assumed that an alienee with an imperfect title (during the period 1.2.1963 to 7.8.1978) is an unauthorised holder who could be evicted under Section 7. This assumption was made in the case of HANUMAIAH v. STATE OF KARNATAKA , CHIKKANARASAI AH v. TIRUPATAIAH , ADIVEPPA SHIVAPPA MATTUR v. TAHSILDAR. This question was not specifically considered in those decisions but it was assumed that Section 7 would apply even to such cases but it has to be stated that this question was specifically considered by a Full Bench of this Court in SYED BHASHEER AHAMED AND ORS. v. STATE OF KARNATAKA . In paragraphs 18 and 19, it has been held:



"18. The definitions of the terms 'holder', 'authorised holder' and 'unauthorised holder' in the Act have one thing in common. They are all with reference to the appointed date, namely, 1.2.1963. While 'holder' refers to holder of a village office, the terms 'authorised holder' and 'unauthorised holder' do not refer to holders of Village Office, but alienees from holders of Village Office or persons in possession of Service Inam Land. A 'holder' is a person having an interest in a Village Office, under an existing law relating to such village office.

An 'authorised holder' is a person in whose favour, a land granted or continued in respect of or annexed to a Village Office had been validly and permanently alienated, under the existing law relating to such Village Office. An 'unauthorised holder' is a person in possession of a land granted or continued in respect of or annexed to a Village Office, without any right, or under an alienation, which is null and void under the existing law, relating to such Village Office. The term 'existing law relating to a village office' refers to a law, Rule, Notification etc., which may be in force immediately before the appointed date, that is immediately prior to 1.2.1963 or upto the expiry of 31.1.1963. A holder has a right to re-grant of his Service Inam Land in his holding or possession as at the end of 31.1.1963 (under Sub-section (1) of Section 5). This is evident from the words land resumed under Section 4(3), not falling under Section 6 and 7'. An authorised holder is a person having the right to re-grant of the Service Inam Land validly alienated to him before 1.2.1963 (under Section 6). An alienee in possession of a service Inam land, in pursuance of an alienation between 1.2.1963 and 7.8.1978, is not a person without any right, but a person who gets an imperfect title with possession on the date of alienation and whose title gets perfected on re-grant of in favour of the alienor. Further an alienation of a Service Inam Land between 1.2.1963 and 7.8.1978, is not an alienation which is null and void under the existing law relating to the village office, that is, laws in force immediately before 1.2.1963. It therefore follows that a person in whose favour, a Service Inam Land is alienated during the period 1.2.1963 to 7.8.1978 by a 'holder' or an 'authorised holder', before re-grant to such holder or authorised holder under Section 5(1) or 6, will neither be a 'holder' or an 'authorised holder' or an 'unauthorised holder'. Such a person will be an 'alienee from a holder authorised holder with imperfect title (hereinafter referred to as 'ALIENEE' with IMPERFECT TITLE or 'ALIENEE between 1.2.1963 and 7.8.1978').



19. The Act contemplated eviction by the State only in the following four situations:

(a) Where a holder or an authorised holder to whom the land is re-granted under Section 5(1) fails to pay the occupancy price - (vide Sections 5(2) and 6 of the Act).

(b) Where a holder or an authorised holder to whom the land is re-granted under Section 5(1) or 6 transfers the land within 15 years from 7.8.1978 (vide Section 5(3) and 6 read with Section 5(4) of the Act).

(c) Where an unauthorised holder is in possession of a land resumed under Section 4(3) (vide Section 7(1) of the Act).

(d) Where a grantee of a land re-granted under Section 5(4) or Section 7(3) of the Act after summary eviction of the unauthorised holder or occupant under Section 5(4) or 7(1) transfers the land within 15 years from 7.8.1978 - (vide Section 7A of the Act).

There is no provision in the Act for summary eviction of an alienee with imperfect title, that is an alienee between 1.2.1963 and 7.8.1978. In the cases of Hanumaiah and Chikkanarasiah (respectively) it has been assumed, without basis, that an alienee with imperfect title (that is alienee during the period 1.2.1963 to 7.8.1978) is an 'unauthorised holder' who could be evicted under Section 7. We have already seen that under Section 7, only an 'unauthorised holder' could be evicted and not an alienee between 1.2.1963 and 7.8.1978 as he is not an "unauthorised holder".

20. On a plain reading of Section 7 and on the basis of the aforesaid Full Bench Decision, we hold that the provisions of Section 7 for summary eviction of the persons in possession of the lands, can be invoked only as against "unauthorised holders" as defined under Section 2(m) of the Act and it cannot be invoked as against persons who come into possession of the land after the coming into force of the Act, even though their possession may not be lawful, for which, other legal remedies will have to be invoked. We also hold that the provisions of Section 7, at any rate, cannot be invoked after an order of re-grant is made, for, by the re-grant, the State is divested of its title and thereafter, it cannot resume the land from any person even though his possession may be unlawful.

24. As stated earlier, the object of the Act is fully achieved by the re-grant order in favour of eligible persons. The State is divested of its title by the re-grant and the provisions of the Act cannot thereafter be invoked to settle the rights of parties for all



times to come in the guise of an ancillary power. By the re-grant the authorities under the Act becomes functus-officio and the settlement of rights between the parties thereafter has to be done in the ordinary manner by the ordinary Civil Courts. In that view of the matter, we do not find our way to agree with the contention raised by the learned Counsel for the respondent that de hors the power under Section 7 the authorities can resume the land from persons who are in possession of the land without any title even after re-grant of the land is ordered."

31. In view of the aforesaid position of law, order dated 25.07.2013 passed by the Tahsildar as per Annexure-X conferring 1/3rd share to Munirasamma-respondent No.3 and further directing the petitioner to vacate the subject land also cannot be sustained. Confirmation of the said order made by District Court in its order dated 03.07.2018 passed in M.A.No.15010/2013 as per Annexure-AB is equally unsustainable.

32. Point raised above is answered accordingly.

33. In view of the above reasons and analysis, following:

ORDER

(i) Petition is ***partly allowed***.

(ii) The order dated 25.07.2013 passed by Tahsildar as per Annexure-X to the extent of conferring and allotting 1/3rd share in the subject land in favour of



Muninarasamma and consequent direction to the petitioner to vacate and hand over the subject land which is in its possession is quashed. Consequently order dated 03.07.2018 passed by the District Court in M.A.No.15010/2013 to the said extent stands quashed.

(iii) It is made clear this Court has not expressed any view, opinion or reason with regard to right, title and entitlement of Muninarsamma or her legal representatives which they are entitled to prove and establish in the pending suit in O.S.No.543/2008.

(iv) The alienation subject matter of the deeds of sale dated 02.01.2007, 02.02.2007 and 2004 to the extent of share of Muninarasamma or her legal representatives shall be subject to outcome of the said suit in O.S.No.543/2008.

**Sd/-
(M.G.S. KAMAL)
JUDGE**