



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 20TH DAY OF JANUARY, 2026

PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE C.M. POONACHA

WRIT APPEAL NO. 342 OF 2025 (SC-ST)

BETWEEN:

CHIKKAIAH
SINCE DEAD BY LRS.

1. H RAMU
S/O. LATE CHIKKAIAH
AGED ABOUT 82 YEARS
2. SMT. CHIKKAMMA
D/O LATE. CHIKKAIAH
AGED ABOUT 80 YEARS
3. C. RAMU,
S/O LATE CHIKKAIAH
AGED ABOUT 75 YEARS
4. C. MUDALAGIRIYAPPA
S/O LATE CHIKKAIAH
AGED ABOUT 74 YEARS
5. RAJU
S/O LATE CHIKKAIAH
AGED ABOUT 73 YEARS
6. SMT. SARASWATHI
D/O LATE. CHIKKAIAH
AGED ABOUT 72 YEARS

Digitally
signed by
AMBIKA H B
Location:
High Court
of Karnataka



7. SMT. SHANTHA
D/O LATE CHIKKAIAH
AGED ABOUT 51 YEARS

APPELLANTS No.1 to 7 ALL ARE
RESIDING AT OLD NO.24
NEW NO.175, 3RD CROSS, 3RD MAIN
SRINIDHI LAYOUT
CHUNCHUGHATTA MAIN ROAD
KONANAKUNTE CROSS
BENGALURU - 560 062

...APPELLANTS

(BY SRI GEORGE ANTHONY CRUZ, ADVOCATE)

AND:

1. SMT. JAYAMMA
W/O LATE CHENNEGOWDA
@THAMMANNA
AGED ABOUT 76 YEARS
R/AT BYLADAKERE VILLAGE
MANDYA DISTRICT - 571 418
2. SHRI BALU
S/O LATE CHENNEGOWDA
@THAMMANNA
AGED ABOUT 42 YEARS
R/AT BYLADAKERE VILLAGE
MANDYA DISTRICT - 571 418
3. SHRI VIJAYA KUMAR
S/O LATE CHENNEGOWDA
@THAMMANNA
AGED ABOUT MAJOR
R/AT BYLADAKERE VILLAGE
MANDYA DISTRICT - 571 418
4. THE ASSISTANT COMMISSIONER
PANDAVAPURA SUB-DIVISION
PANDAVAPURA
MANDYA DISTRICT - 571 418



5. THE DEPUTY COMMISSIONER,
MANDYA DISTRICT
MANDYA - 571 418

...RESPONDENTS

(SRI SHARATH S. GOGI, ADVOCATE FOR R-1
SMT. NAMITHA MAHESH, AGA FOR R-4 & 5)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE IMPUGNED ORDER PASSED BY THE HON'BLE LEARNED SINGLE JUDGE VIDE ORDER DATED 21.11.2024 IN W.P. No.4993/2015 (SC/ST) & ETC.

THIS APPEAL, COMING ON FOR PRELIMINARY HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE
and
HON'BLE MR. JUSTICE C.M. POONACHA

ORAL JUDGMENT

(PER: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE)

1. For the reasons stated in the application – I.A No.1/2025, the same is allowed. The delay in filing the appeal is condoned.
2. The appellants have filed the present appeal impugning an order dated 21.11.2024 passed by the learned Single Judge in Writ Petition No.4993/2015 (SCST). The said petition was preferred by respondent Nos.1 and 2 impugning an order dated 09.12.2014.



3. The learned Single Judge found that the appeal filed under Section 5A of the Karnataka Scheduled Castes and Scheduled Tribes (Prohibition of Transfer of Certain Lands) Act, 1978 [**PTCL Act**] was not competent. Accordingly, set aside the order dated 09.12.2014 passed by the Appellate Authority (the Deputy Commissioner).

Prefatory facts

4. The appellants claim to be the legal heirs of Sri A.K. Chikkaiah [**the Grantee**]. The Grantee was granted lands to the extent of 4 acres situated at Survey No.85/1 in Yaladahalli Village [**the subject land**] on 03.08.1954.

5. The Grantee sold the subject land by a sale deed dated 10.09.1971 in favour of Chennegowda @ Thammanna (husband of respondent No.1 and father of respondent No.2).

6. Proceedings were initiated by the appellants, claiming to be the legal heirs of the Grantee, for resuming the subject land. The said proceedings culminated in an order dated 09.03.1983, passed by respondent No. 4 [Assistant Commissioner], refusing to accede to the prayer for resumption of the subject lands. The



appellants' predecessors took no steps to challenge the Assistant Commissioner's order for almost 27 years. Thereafter, the appellants preferred an appeal before respondent No.5 [Deputy Commissioner], which was allowed in terms of the order dated 14.06.2011.

7. Aggrieved by the same, the legal heirs of the purchaser of the subject land (Chennegowda @ Thammanna), which was conveyed by virtue of a sale deed dated 10.09.1971, preferred a writ petition, being Writ Petition No.36080/2011. The said petition was allowed by an order dated 13.02.2012, and the appeal was restored before the Deputy Commissioner for deciding afresh. The Deputy Commissioner allowed the said appeal by an order dated 09.12.2014, whereby the delay in filing the appeal was condoned, and the order dated 09.03.1983 passed by the Assistant Commissioner was set aside.

8. Aggrieved by the same, the respondents Nos.1 to 3, being the heirs of the purchaser of the subject land, filed a writ petition (W.P.No.4993/2015), which was allowed in terms of the impugned order.



9. One of the principal questions that fell for the court's consideration was whether the delay of over 27 years would be condoned. Apart from the question of the delay being for an excessively long period, it was also contended that the appeal before the Deputy Commissioner would be incompetent, as at the material time, Section 5A of the PTCL Act was not on the statute book.

10. It is relevant to refer to Section 5A of the PTCL Act. The same is reproduced below:

"5A. Appeal to the Deputy Commissioner.- (1)
Any person aggrieved by an order passed after the commencement of the Karnataka Scheduled Castes and Scheduled Tribes (Prohibition of Transfer of Certain Lands) (Amendment) Act, 1984 by the Assistant Commissioner to take possession of land under clause (a) of sub-section (1) of section 5 or to restore the land under clause (b) of the said sub-section may prefer an appeal to the Deputy Commissioner having jurisdiction within a period of three months from the date on which the order was communicated to him:

Provided that the Deputy Commissioner may admit an appeal preferred against such order after the period referred to in sub-section (1) if satisfied that the appellant had sufficient cause for not preferring the appeal within that period:

Provided further that the Deputy Commissioner shall admit an appeal against an



order passed by the Assistant Commissioner before the date of such commencement if, on the said date, a writ petition preferred against such order or an appeal preferred against the order passed in such writ petition is pending in any court.

(1A) Any person aggrieved by an order passed after the commencement of the Karnataka Scheduled Castes and Scheduled Tribes (Prohibition of Transfer of Certain Lands) (Amendment) Act, 1992, by the Assistant Commissioner under sub-section (1A) of section 5, may prefer an appeal to the Deputy Commissioner having jurisdiction within a period of three months from the date on which the order was communicated to him:

Provided that the Deputy Commissioner may admit an appeal preferred against such order after the period referred to in sub-section (1A), if satisfied that the appellant had sufficient cause for not preferring the appeal within that period:

Provided further that the Deputy Commissioner shall admit an appeal against an order passed by the Assistant Commissioner holding that transfer of any granted land is not null and void before the date of such commencement, if, on the said date, a writ petition preferred against such order or an appeal preferred against the order passed in such writ petition is pending in any court.

(2) The Deputy Commissioner shall dispose of the appeal in the prescribed manner and the order passed by him shall be final"



11. Sub-section (1) of Section 5A of the PTCL Act expressly provides that any person aggrieved by an order passed after the commencement of the Karnataka SCST (Prohibition of Transfers of Certain Lands) (Amendment) Act, 1984, under clause (b) of Sub-section (1) of Section 5 of the PTCL Act may prefer an appeal only to the Deputy Commissioner. Thus, the appellate remedy under Section 5A of the PTCL Act is confined only to the orders that were passed after the said amending enactment came into force.

12. In the present case, the order of the Assistant Commissioner, which was the subject matter of appeal before the Deputy Commissioner, was passed on 09.03.1983. This was prior to the Karnataka SCST (Prohibition of Transfer of Certain Lands) (Amendment) Act, 1984, coming into force. Thus, the appeal before the Deputy Commissioner was incompetent.

13. We find no infirmity with the decision of the learned Single Judge allowing the writ petition on the ground that the order dated 09.12.2014 passed by the Deputy Commissioner was



unsustainable, as it was passed in an appeal that was not competent.

14. The learned counsel has also referred to the order dated 13.02.2012 in Writ Petition No. 36080/2011 (SC & ST), by which the appeal before the Deputy Commissioner was restored. He submits that the learned Single Judge had considered the issue of the appeal being filed after a delay of 27 years, and had remanded the matter to the Deputy Commissioner for consideration afresh. He submits that in view of the said order, the delay of 27 years stood condoned. We find no merit in that contention. The court had not condoned the delay as contended. On the contrary, the court observed that the proceedings must be initiated within a reasonable time, and a party cannot be permitted to sleep over its rights for a considerable time before approaching the authorities to set aside the sale deed.

Paragraphs 5 and 6 are relevant and are set out below:

"5. It is no doubt true a coordinate bench of this Court has explained that the delay should not be a fetter on the period inasmuch as the jurisdiction of the original authority as well as the Appellate Authority is co-extensive.



Undoubtedly, it is so. But however, the Apex Court has also observed that the proceedings are required to be initiated within a reasonable time. Indeed, the party cannot be allowed to sleep over his rights for a considerable period of time and then approach the authorities for setting at naught the sale deed.

6. Indeed, in the case on hand the order was passed by the original authority in the year 1983 and the appeal has been filed after 27 years. Indeed, respondent No.1 cannot allow the purchaser to believe that the said proceedings have attained finality and after lapse of more than quarter of century file an appeal. Nevertheless, I am of the view that the said application is to be considered once again by the Appellate Authority. Indeed the Apex Court in the case of ***Ningappa vs. Deputy Commissioner and Others*** has observed that the matter is required to be agitated at the earliest. The Court would certainly come to the aid of a litigant who is vigilant and not indolent."

15. After having observed as above, the learned Single Judge had remanded the matter to the Deputy Commissioner to consider the application for condonation of delay and to examine whether, in fact, a grant was made in favour of the Grantee. Additionally, the Deputy Commissioner was directed to consider whether the restriction on alienation of the subject land was for 15 or 20 years.



16. Plainly, the order dated 13.02.2012 cannot be read as condoning the 27-year delay in filing the appeal.

17. In terms of Sub-section (1) of Section 5A of the PTCL Act, a person aggrieved by the order passed by the Deputy Commissioner may file an appeal within a period of three months from the date of communication of the order. The Deputy Commissioner is also empowered to admit an appeal preferred beyond the said period if he is satisfied that the appellant has sufficient cause for not preferring the appeal within that period.

18. In the present case, the delay in filing the appeal is enormous. Clearly, the appellants' claim that they were unaware of the Assistant Commissioner's order cannot be accepted as a credible explanation for the 27-year delay.

19. In our view, apart from the appeal before the Deputy Commissioner being incompetent, it is also required to be rejected as being highly delayed.

20. We find no ground to interfere with the impugned order.

21. The appeal is accordingly dismissed.



22. The pending interlocutory application also stands disposed of.

**Sd/-
(VIBHU BAKHRU)
CHIEF JUSTICE**

**Sd/-
(C.M. POONACHA)
JUDGE**

AHB
List No.: 1 Sl No.: 7