

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 5TH DAY OF JUNE, 2026

BEFORE

THE HON'BLE MR. JUSTICE R. DEVDAS

WRIT PETITION NO.10992 OF 2024 (SC-ST)

BETWEEN

SMT ANASUYA
D/O LATE H MUNIYAPPA
AGED ABOUT 41 YEARS,
R/AT NO.105/3, GEDDALAHALLI,
R M V II STAGE
SANJAYANAGAR POST
BENGALURU-560094.

...PETITIONER

(BY SRI. RAGHAVENDRA V, ADVOCATE)

AND

Digitally signed
by JUANITA
THEJESWINI
Location: HIGH
COURT OF
KARNATAKA

1 . THE DEPUTY COMMISSIONER
BENGALURU DISTRICT
BENGALURU-560009.

SRI C ANJINAPPA
SINCE DEAD BY HIS LRS

2 . SMT PADMA
W/O LATE ANJINAPPA
AGED ABOUT 55 YEARS,

3 . SRI NAGARAJA
S/O LATE ANJINAPPA
AGED ABOUT 35 YEARS,

4 . SRI VENUGOPAL
S/O LATE ANJINAPPA

AGED ABOUT 32 YEARS,
RESPONDENTS NO.2 TO 4 ARE
R/AT NO.3, MUNESHWARA NILAYA,
4TH BLOCK, DODDABOMMASANDRA,
VIDYARANYAPURA POST,
BENGALURU-560097.

- 5 . SRI KILARI TIRUPATI NAIDU
S/O VENKATARAYULU
AGED ABOUT 63 YEARS,
R/AT NO.13/245,
OLD MILITARY COLONY,
DARGA MITTA, NELLORE,
ANDHRA PRADESH-524004
 - 6 . SRI GOWRENERI SRINIVASALU
S/O VENKATARAYULU
AGED ABOUT 55 YEARS
R/AT ALLIPURAM
NELLURU TOWN
NELLORE DISTRICT
ANDHRA PRADESH-524001.
 - 7 . SRI BOPPURU PRASAD
S/O VENKATARAYULU
AGED ABOUT 57 YEARS
R/AT NO.16-3/72
RAMALINGAPURAM
NELLORE-524003
ANDHRA PRADESH.
 - 8 . SRI. VELDI VENKATESHWARALU
S/O TIRUPATI NAIDU
AGED ABOUT 43 YEARS,
R/AT B V NAGARA,
NELLORE POST-524001
ANDHRA PRADESH.
- SMT MUNIYAMMA
SINCE DEAD BY HER LRS
- 9 . SRI LAKSHMIPATI @ EAMARAO
S/O LATE MUNIYAPPA

AGED ABOUT 58 YEARS,
R/AT NO.1, RAVIPUTRA NILAYA
DX MAX LAYOUT, SINGAPURA
NEAR SAMBHRAM COLLEGE
VIDYARANYAPURA POST
BENGALURU-560097.

SRI GANGARAJU
SINCE DEAD BY HIS LRS

10 . SMT ANNAPOORNA
W/O LATE GANGARAJU
AGED ABOUT 44 YEARS,

11 . SMT MEGHANA
D/O LATE GANGARAJU
AGED ABOUT 24 YEARS,

12 . KUM GAYATHRI
D/O LATE GANGARAJU
AGED ABOUT 21 YEARS,

RESPONDENTS NO.10 TO 12 ARE
R/AT NO.105/3, GEDDADAHALLI,
R M V II STAGE, SANJAYANAGAR POST,
BENGALURU-560094.

13 . SRI KODANDARAMA
S/O LATE MUNIYAPPA
AGED ABOUT 51 YEARS
R/AT NO.38, DEVINAGARA
KANNURAMMA TEMPLE ROAD,
LOTTEGOLLAHALLI
R.M.V. III STAGE
BENGALURU-560094.

14 . SMT JYOTHI
D/O LATE MUNIYAPPA
AGED BOUT 40 YEARS,
R/AT NO.44, 22ND MAIN,
6TH CROSS KANTEERAVANAGARA,
BENGALURU-560096.

15 . SMT LAKSHMI
D/O LATE MUNIYAPPA
AGED BOUT 60 YEARS,
R/AT NO.44, 22ND MAIN,
6TH CROSS KANTEERAVANAGARA,
BENGALURU-560096.

16 . SMT PARVATHI
D/O LATE MUNIYAPPA
AGED BOUT 55 YEARS,
R/AT NO.46/5, 3RD MAIN ROAD,
6TH CROSS, KANTEERAVANAGARA,
BENGALURU-560096.

SMT HEMAVATHI
SINCE DEAD BY HER LRS

17 . SRI NAGARAJA
H/O LATE HEMAVATHI
AGED ABOUT 66 YEARS

18 . SMT NIRMALA
D/O LATE HEMAVATHI
AGED ABOUT 30 YEARS,

RESONDENTS NO.17 & 18 ARE
R/AT NO.51 RAJATHA NILAYA
NEAR JALAGERAMMA TEMPLE,
R.M.V. II STAGE
BENGALURU-560094.

19 . SMT SUSHEELA PADMANABHA
W/O ANANTAPADMANABHA
AGED ABOUT 59 YEARS,
R/AT NO.49, 3RD MAIN ROAD,
AATMEEYA GELEYARABALAGA
MAHALAKSHMIPURAM
BENGALURU-560086

20 . SRI ANANTAPADMANABHA MADHYASTHA
S/O LATE SHANKAR MADHYASTHA
AGED ABOUT 62 YEARS,
R/AT NO.49, 3RD MAIN ROAD,

AATMEEYA GELEYARABALAGA
MAHALAKSHMIPURAM
BENGALURU-560086.

- 21 . THE ASSISTANT COMMISSIONER
BENGALURU NORTH SUB DIVISION
BENGALURU-560009.
- 22 . SRI PRAVEEN KUMAR RAYANAGOWDAR
S/O LATE VIRUPAKSHA GOWDA
AGED ABOUT 33 YEARS,
R/AT NO.23, 2ND CROSS, 7TH MAIN,
TATA NAGAR, KODIGEHALI
BENGALURU-560092.
- 23 . SRI KHAJA MOHIYUDDEEN
S/O LATE K A RAHIM
AGED ABOUT 66 YEARS,
R/AT NO.6, 2ND STAGE,
KARNATAKA LAYOUT,
KURUBARAHALLI
BENGALURU-560079.
- 24 . SRI MANORANJAN ACHARYA
S/O LATE SRISHA ACHARYA
AGED ABOUT 38 YEARS,
R/AT FFA 1ST FLOOR,
RENUKA RESIDENCY APARTEMNT,
SRINIDHI LAYOUT, SAI GARDEN,
VIDYARANYAPURA
BENGALURU-560097.
- 25 . SRI ABHISHEK MOHANTI
S/O PRABHAKAR MOHANTI
AGED ABOUT 36 YEARS,
R/AT NO.116/3A
BABUREDDY BUILDING,
MARATHHALLI MUNNEKOLALU
BENGALURU-560037.
- 26 . SRI SAANU VASUDEVAN
S/O P U VASUDEVAN

AGED ABOUT 39 YEARS,
R/AT NO.R3, 113, 16TH CROSS,
1ST A MAIN, AECS LAYOUT,
STAGE -1, SANJAYANAGAR
BENGALURU-560097.

- 27 . SMT KAVITHA NATH
W/O SHUBENDHU NATH
AGED ABOUT 39 YEARS,
R/AT NO.73, 2ND CROSS
LAKE SHORE GARDENS, TINDLU
VIDYARANYAPURA
BENGALURU-560097.
- 28 . SRI SURESH NAIR
S/O P K NAIR
AGED ABOUT 52 YEARS,
R/AT NO.506, SREE VIHAR,
M E S ROAD, GOKULA POST
NEAR BALAJI NURSING HOME,
BENGALURU-560054.
- 29 . SRI ANAND PAUL GOMES
S/O LATE PETER POUL GOMES
AGED ABOUT 25 YEARS,
R/AT NO.T1, SAI JYOTHI 28,
D COSTA LAYOUT, 1ST CROSS,
OPP TO ANDHRA BANK COOKE TOWN
BENGALURU-560084.
- 30 . SRI M V VINAY
S/O M K VITTAL MURTHY
AGED ABOUT 38 YEARS,
R/AT NO.2, A C 805, 8TH MAIN
1ST BLOCK, KALYAN NAGAR
BENGALURU-560043.
- 31 . SRI M GANESH
S/O R MOHAN
AGED ABOUT 40 YEARS,
R/AT NO.744, 2ND MAIN
GROUND FLOOR, MATHIKERE
BENGALURU-560054.

- 32 . SRI SIDDANAGOUDA KANDAGAL
S/O BASANAGOUDA KANDAGAL
AGED ABOUT 48 YEARS
R/AT NO.23, SAHANA 7TH MAIN,
2ND CROSS, TATA NAGAR,
KODIGEHALI
BENGALURU-560092.
- 33 . SRI PATIL BALAVANT NARESH
S/O NAGESH PATIL
AGED ABOUT 33 YEARS,
R/AT NO.2, CHIKKABETTAHALLI,
OPP. SAMBHRAM INSTITUTE OF TECHNOLOGY
M S PALYA, VIDYARANYAPURA POST
BENGALURU-560097.
- 34 . SRI YOGESH RATNA SAHU
S/O BALAKRISHNA SAHU
AGED ABOUT 35 YEARS,
R/AT NO.1180, 5TH CROSS,
4TH MAIN, L N COLONY
YESHWANTHPURA
BENGALURU-560022.
- 35 . SRI NARAYAN LAL SIRVI
S/O SHANKAR LAL
AGED ABOUT 30 YEARS,
R/AT NO.23, BORIA GOWDA NIVAS,
KUTTY COLONY, JAYANAGAR 1ST BLOCK
BENGALURU-560011.
- 36 . SRI G HARISH
S/O GOPALAPPA
AGED ABOUT 41 YEARS,
R/AT NO.217, 4TH CROSS,
4TH MAIN, AGRAHARA LAYOUT,
BENGALURU-560064.
- 37 . SMT JAYALAKSHMI
W/O SHASHIKUMAR
CHINTAMANI NAGAR
GUFFUR COLONY
HARIHAR-577601.

- 38 . SRI Y M SHASHIKUMAR
S/O VASUDEVA MEHARWADA
CHINTAMANI NAGAR
GUFFUR COLONY
HARIHAR-577601.
- 39 . THE TAHSILDAR
BENGALURU NORTH (ADDL) TALUK
BENGALURU-560009.
- 40 . THE REVENUE INSPECTOR
RAMACHANDRAPPA CIRCLE
BENGALURU NORTH (ADDL) TALUK
BENGALURU-560009.
- 41 . THE VILLAGE ACCOUNTANT
DODDABETTAHALLI
YELAHANKA HOBLI
BENGALURU NORTH (ADDL) TALUK
BENGALURU-560009.

.....RESPONDENTS

(BY SRI. SHAMANTH NAIK., HCGP FOR R1, R39 TO R41
SRI. S.N.ASWATHANARAYANA., SR. COUNSEL FOR
SRI.S.A.SUDHINDRA., ADVOCATE FOR R5 TO R8
SRI.ANANDARAMA.K., ADVOCATE FOR R9
SRI. H.R.KRISHNA REDDY., ADVOCATE FOR R10 TO R14,
R16 & R18
SRI. SOMASHEKAR NAIDU., ADVOCATE FOR R15
SRI. K.SRIHARI., ADVOCATE FOR R22 TO R28,
R30 TO R33, R35, R37 & R38
SRI. RAVI JAGAN, ADVOCATE FOR R29
SRI. NARENDRA PATAGAR., ADVOCATE FOR R36
V/O/D.01.10.2024, NOTICE TO R2 TO R4 IS H/S
R19 TO R21, R34 SERVED - UNREPRESENTED)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 & 227
OF THE CONSTITUTION OF INDIA PRAYING TO CALL FOR
RECORDS FROM THE R1 AND QUASH THE ORDER DATED
22/02/2024 PASSED IN S.C.S.T. APPEAL NO.24/2006-07 C/W
S.C.S.T. APPEAL NO.25/2006-07, BY THE R1-DEPUTY
COMMISSIONER, BENGALURU DISTRICT, AT ANNEXURE-N, AND
CONFIRM THE ORDER DATED 22/05/2006 PASSED IN S.C.S.T.
NO. 20/2005-06, BY THE R21-ASSISTANT COMMISSIONER,

BENGALURU NORTH SUB-DIVISION, BENGALURU, AT ANNEXURE -J AND ETC.

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED ON 21.04.2026 AND COMING ON FOR PRONOUNCEMENT OF ORDERS, THIS DAY, THIS COURT MADE THE FOLLOWING:

CORAM: HON'BLE MR JUSTICE R DEVDAS

CAV ORDER

(PER: HON'BLE MR JUSTICE R DEVDAS)

The petitioner being a legal heir of the original grantee late Sri H.Muniyappa, is before this Court assailing the impugned order dated 22.02.2024 at Annexure 'N' passed by the respondent-Deputy Commissioner, Bengaluru Urban District, while seeking confirmation of the order dated 22.05.2006 passed by the Assistant Commissioner, Bengaluru North Sub-Division at Annexure 'J'.

2. Facts, in a nutshell are that 3 acres 11 guntas including 10 guntas of kharab land in Old Sy. No.109 new Sy. No.122 of Singapura Village, Yelahanka Hobli, Bengaluru North Taluk, were granted, free of cost, in favour of Sri H.Muniyappa, the father of the petitioner, on 17.10.1977. Grant Certificate/Saguvali Chit was issued on 23.12.1977. It

is the contention of the contesting respondents that the Tahsildar, Bengaluru North (Additional) Taluk, issued a No Objection Certificate on 04.10.2001 permitting Sri H. Muniyappa to transfer the granted lands. Accordingly, Sri H.Muniyappa along with his wife and children executed a registered General Power of Attorney in the office of the Sub-Registrar, Bangalore North Taluk on 04.10.2001. Under the GPA, the Attorney was permitted to sell, lease, gift, mortgage or create any encumbrance on the schedule property. The petitioner contends that Sri H.Muniyappa died on 22.11.2002, immediately after the death of his son Sri Gangaraju, who died on 18.11.2002. Nevertheless, respondent No.19, in whose favour the GPA was executed, proceeded to execute a sale deed dated 31.12.2004 in favour of her husband, respondent No.20, on the strength of the said GPA. Respondent No.20 sold 2 acres 10 guntas in favour of one Anjanappa S/o late Chikkavenkatappa (husband of respondent No.2) under registered sale deed dated 31.12.2004.

3. No sooner the petitioner's mother came to know of the execution of the sale deeds, she filed a petition invoking Sections 4 and 5 of the Karnataka Scheduled Castes and Scheduled Tribes (Prohibition of Transfer of Certain Lands) Act, 1978 (hereinafter referred to as 'the PTCL Act' for short) in proceedings bearing No.K.SC.ST 20/2005-06, seeking cancellation of both the sale deeds. The Assistant Commissioner, having heard respondents No.19, 20 and husband of respondent No.2 herein, proceeded to allow the petition, on the ground that the sale deeds were executed without obtaining prior permission of the Government under Section 4(2) of the PTCL Act. Being aggrieved, respondents No.19 and 20 filed an appeal before the Deputy Commissioner in proceedings bearing No.SC.ST(A) 24/2006-07 and the husband of respondent No.2 filed appeal No.25/2006-07. The other legal heirs of the original grantee late Sri H.Muniyappa, filed impleading applications before the Deputy Commissioner and they were impleaded as respondents No.8 to 19. The Deputy Commissioner accepted the contention of the purchasers/appellants therein that the Tahsildar had issued NOC in terms of the Circular issued by

the Government on 02.08.1999 and concluded that the Tahsildar had rightly issued the NOC, since the period of non-alienation had exhausted. Accordingly, the Deputy Commissioner allowed the appeals while setting aside the orders passed by the Assistant Commissioner. Feeling aggrieved, the petitioner, one of the legal heirs of the original grantee is before this Court, assailing the impugned order passed by the Deputy Commissioner.

4. Learned Counsel Sri V.Raghavendra, appearing for the petitioner contended that it is clear from the chronology of events and the facts narrated hereinabove, that the Assistant Commissioner had rightly concluded that the purchasers had not obtained prior permission of the Government as stipulated in Section 4(2) of the PTCL Act and therefore, the sale deeds were void and were liable to be cancelled. Reliance placed by the Deputy Commissioner on the Circular dated 02.08.1999 cannot be sustained. The said Circular does not do away with the requirement of obtaining prior permission at the hands of the Government. On the other hand, the said Circular only enables the Tahsildar to

issue NOC after verifying the fact that prior permission is already granted by the Government. At any rate, a Circular cannot overrule the statutory law or rules.

5. Per contra, learned Counsel Sri K.Srihari, appearing for respondents No.22 to 28, 30 to 33, 35, 37 and 38, who were all subsequently impleaded in these proceedings on the ground that they are purchasers of individual sites carved out of the land in question, vehemently contended that the petitioner has concealed certain relevant facts. It was contended, as stated in the statement of objections, that Sri H. Muniyappa, filed an application for conversion of the lands for non-agricultural purposes on 12.04.2005 and the order of conversion was passed on 08.11.2005. In that view of the matter, it is submitted that having regard to the decision of the Full Bench of this Court in the case of ***Munnaiah and Others Vs. The Deputy Commissioner, Bangalore and Others***,¹ since the original grantee had got the lands converted to non-agricultural purposes, the lands in question

¹ ILR 2021 KAR. 3169

are no more agricultural lands and therefore, the provisions of the PTCL Act, are not attracted.

6. Learned Counsel further contended that the petitioner or her mother who approached the Assistant Commissioner, have not proved that the original grantee late H.Muniyappa, belongs to SC/ST community, in order to attract the provisions of the PTCL Act. It is contended that the lands were granted to Sri H. Muniyappa, along with several other persons in Sy.No.109 of Singapura Village, Yelahanka Hobli, Bangalore North Taluk, on the ground that they were in unauthorized cultivation of the lands and therefore there was a pre-existing right in favour of the grantees. It is contended that a Full Bench of this Court in the case of ***Mohammed Jaffar and Another Vs. State of Karnataka by Secretary, Revenue Department and Others,***² held that occupancy rights conferred under the provisions of the Karnataka Land Reforms Act, 1961 cannot be termed as 'granted lands' as defined in the PTCL Act, since the rights claimed by the applicants therein as tenants,

² 2002 SCC OnLine Kar 552

shows that there existed a right with the tenants to seek conferment of occupancy rights and therefore, they cannot be treated as granted lands. Learned Counsel submits that this Court should draw a parallel, having regard to the judgment of the Full Bench and conclude that the land granted to late Sri H.Muniyappa cannot be treated as granted land, attracting the provisions of the PTCL Act.

7. It is further submitted that the Deputy Commissioner cannot be faulted for having taken note of the Government Circular dated 02.08.1999. The Circular makes it clear that power is conferred on the jurisdictional Tahsildar to issue NOC for alienation of the lands under the provisions of the Karnataka Land Reforms Act, 1961, and the PTCL Act. Accordingly, NOC has been issued by the Tahsildar, which is admitted by the petitioner. Therefore, the provisions of the PTCL Act are not attracted to the present case and no fault can be found in the impugned order passed by the Deputy Commissioner. The learned Counsel would further submit that the Deputy Commissioner has rightly come to conclusion that for a land granted in the year 1977 the Rule would

prescribe 15 years of non-alienation. The land was granted on 17.10.1977 and 15 years would elapse on 16.10.1992. NOC was issued by the Tahsildar on 04.10.2001, in terms of the Government Circular dated 02.08.1999.

8. It is further submitted that the petitioner along with the other members of the family have entered into an agreement to sell dated 27.02.2023 in favour of respondent No.36 and the agreement has been registered in the office of the Sub-Registrar, Yelahanka, Bengaluru, on 27.02.2023. In the agreement, it is stated that the vendors have obtained sale permission from the concerned authority and they are permitted to register the sale deed within 11 months from the order passed by the Deputy Commissioner. This clearly shows that the petitioner and her family members are in the habit of selling the property and thereafter challenge the same invoking the provisions of the PTCL Act. The conduct of the petitioner should be taken note of.

9. Though learned Senior Counsel Sri.S.N.Ashwathanarayana, appeared for respondents No.5 to 8, at his request and the request of the learned Counsels

for the other respondents, this Court adjourned the matter on 10.04.2026 to 21.04.2026, for further hearing, however, after learned Counsel Sri.K.Srihari addressed his arguments for the other respondents, learned Senior Counsel sought for an adjournment on the ground that he was not fully prepared. This Court declined to adjourn the matter, having heard the learned Counsels for the petitioner and the other respondents. It was indicated that since this was the last week before summer vacations, the arguments have to be concluded. Learned Senior Counsel did not argue the matter. On the other hand, after the matter was heard on 21.04.2026 and the matter was reserved for orders, an application in I.A No 2/2026 was filed on 23.04.2026 seeking to recall the order dated 21.04.2026 and permit the learned Senior Counsel to argue the matter. Such a request is required to be rejected and is accordingly rejected.

10. Learned Counsel Sri.K.Srihari, vehemently contended, while placing reliance of a decision of a co-ordinate Bench in the case of ***Mrs.Mayura Sreeram Vs.***

Deputy Commissioner and Others³, that the mandate of obtaining prior permission under Section 4(2) of the PTCL Act, is not attracted to cases where the period of non-alienation has expired. It is submitted that the co-ordinate Bench has elaborately considered various judgments of this Court and that of the Hon'ble Supreme Court, it has considered the relevant rules, viz., the Karnataka Land Grant Rules, 1969, more particularly, Rule 9 which provide for the conditions of grant and the proviso to the said Rule, read with Section 4(2) of the PTCL Act and has concluded that any alienation of granted lands, made after the commencement of the PTCL Act without obtaining prior permission of the Government, after the period of non-alienation had expired, would not amount to a transfer as defined under the provisions of the PTCL Act and the provisions of the PTCL Act cannot thus be invoked to resume and restore such granted lands. Learned Counsel would therefore submit that in the admitted facts and circumstances of this case, dehors the fact that NOC was obtained from the Tahsildar, since the

³ W.P.No.3093/2022 and connected matters
decided on 02.05.2025

non-alienation period had expired in the year 1992 and the first sale was made in the year 2004, the provisions of the PTCL Act are not attracted in the present case.

11. Heard the learned Counsel Sri Raghavendra .V. for the petitioner, learned Counsel Sri.K.Srihari, appearing for respondents No.22 to 28, 30 to 33, 35, 37 and 38, learned Counsel Sri.Anandarama K., for respondent No.9, Sri.H.R.Krishna Reddy, for respondents No.10 to 14, 16 and 18, learned Counsel Sri.Ravi Jagan, for respondent No.29, learned Counsel Sri.Narendra Patagar, for respondent No.36, learned High Court Government Pleader Sri.Shamanth Naik, for the respondent-State and its authorities and perused the petition papers.

12. Insofar as, the NOC said to have been given by the Tahsildar, while placing reliance on the Government Circular dated 02.08.1999, learned Counsel for the petitioner is right in his submission that a Hon'ble Division Bench of this Court in the case of ***Sri.K.M.Narayanappa Vs. The State of***

Karnataka and Others⁴ has held that the Tahsildar does not have any power to grant NOC under the PTCL Act, having regard to the express provision contained in Section 4(2) of the PTCL Act. Such an NOC cannot be equated to prior permission to be granted by the Government, under Section 4(2). Though the Assistant Commissioner noticed such contentions raised by the contesting respondents, he rightly declined to accept such contentions. On the other hand, the Deputy Commissioner, without application of mind, accepted such contentions.

13. The other contention put forth by learned Counsel Sri.K.Srihari, that the petitioner before the Assistant Commissioner did not place material to show that the original grantee late Sri.H.Muniyappa was belonging to Scheduled Caste community, also cannot be accepted. Serious contentions in that regard were never raised either before the Assistant Commissioner or before the Deputy Commissioner. The Assistant Commissioner has also recorded the fact that Sri.H.Muniyappa belonged to Adi

⁴ W.A.No.16495/2011 dated 23.08.2012

Karnataka community, which is in the list of Scheduled Castes. The contention raised by the contesting respondents is betrayed by the fact that the purchasers/grantee obtained NOC at the hands of the Tahsildar. If the purchasers were of the opinion that Sri.H.Muniyappa did not belong to SC/ST community, then there was no need for them to obtain NOC to transfer the property.

14. This Court should also notice the fact that neither the original grantee nor his legal heirs executed the sale deed in favour of respondents No.19 or 20. This case is a classic example of how unscrupulous elements in the society take advantage of illiteracy and ignorance of the downtrodden and take circuitous route to deprive such grantees of their immovable properties, granted by the Government with an avowed objective. It is while noticing such transactions, that the Hon'ble Supreme Court, in the case of ***Dharma Naika Vs. Rama Naika And Another***⁵, exclaimed as under:

⁵ (2008) 14 SCC 517

"8. A plain reading of the Statement of Objects and Reasons, for which the legislature has introduced this Act, would show that the non-alienation clause contained in the existing Land Grant Rules and the provisions for cancellation of grants where the land was alienated in contravention of the abovesaid provisions were found insufficient to help the Scheduled Castes and Scheduled Tribes grantees. From the objects and reasons of the Act, it is evident that ignorance and poverty of the Scheduled Castes and Scheduled Tribes were exploited by persons belonging to the affluent and powerful sections to get sales or mortgages, either for a nominal consideration or for no consideration at all and on account of this, the Scheduled Castes and Scheduled Tribes had become the victims of circumstances. It is for this reason and to fulfil the purposes of the grant, it was thought fit by the legislature that the land, even if it has been alienated, must be restored to the original grantee or his heirs and legal representatives who are admittedly Scheduled Castes and Scheduled Tribes."

(Emphasis supplied)

15. Further, taking note of such ingenious methods that were adopted by purchasers, it was held at paragraph No.26 as under:

"xxxxxxxxxxxxx We have to keep in mind that in order to protect the right, title and interest of the Scheduled Castes and Scheduled Tribes, this Act was promulgated as it was found that some affluent and influential persons of the society, either by payment of a mere consideration or by no payment at all, sought to get the property transferred in their favour from the Scheduled Castes and Scheduled Tribes community. In our view, it is for this reason and in order to protect the Scheduled Castes and Scheduled Tribes community, "transfer" has been defined to include an agreement for sale under the Act so that even if an agreement for sale is executed by a Scheduled Caste or Scheduled Tribe and possession is delivered to the vendee, it would be open to the authority under Section 5 of the Act to take steps for resumption of the land from the vendee. Otherwise, there can be cases where merely by entering into an agreement for sale, possession of the land is delivered to the vendee and supposing "transfer" as defined in this Act does not include an agreement for sale, then in such cases, it would not be open to the authority under the Act to take steps for the resumption of the granted land as, merely by executing an agreement for sale, no transfer is effected."

(Emphasis supplied)

16. This Court is therefore of the considered opinion that execution and registration of the General Power of Attorney dated 04.10.2001 at the hands of late

Sri.H.Muniyappa, his wife and children would also attract the provisions of the PTCL Act. Such dubious methods of transfer cannot be permitted in law. Moreover, the original grantee died on 22.11.2002 and therefore, the power of attorney also came to an end. The sale deed dated 08.07.2004, was executed by respondent No.19, the power of attorney holder, in favour of her husband on the basis of the GPA, which died a natural death along with the original grantee. Therefore, no right, title or interest would devolve to the purchaser under the said sale deed dated 08.07.2004. Similar consequence will befall all other subsequent transactions.

17. It was contended by learned Counsel Sri.K.Srihari that application was filed by Sri.H.Muniyappa, seeking conversion of the lands for non-agricultural purpose on 12.04.2005. This self-serving statement deserves outright rejection, for the reason that Sri.H.Muniyappa died on 22.11.2002. It is therefore evident that it is either the power of attorney holder or the subsequent purchaser who filed such application for conversion and not the original grantee

or his legal heirs. On this set of facts, the reliance placed by learned Counsel Sri.K.Srihari on **Sri.Munnaiah and Others** (supra), is also rejected, as not applicable to the facts of this case.

18. Now, coming to the decision of the co-ordinate Bench of this Court in the case of **Mrs.Mayura Sreeram** (supra), a plain reading of the said decision, shows that there was no challenge raised by the petitioners therein, either regarding the *vires* of the provisions, Section 4(2) of the PTCL Act or Rule 9 of the Karnataka Land Grant Rules, or to read down the provision. It is noticeable that the Hon'ble Supreme Court has, in two recent decisions, in the case of **Union of India and others Vs. Manjurani Routray and Others**⁶, and **Bihar Rajya Dafadar Chaukidar Panchayat (Magadh Division) Vs. State of Bihar and Others**⁷, have held that it is trite law that for striking down the provisions of law or for declaring any rules as *ultra vires*, specific pleading to challenge the rules and asking of such relief ought to be made. In the absence of such a pleading, the competent

⁶ (2023) 9 SCC 144

⁷ SLP (C) No.18983/2023, dated 02.04.2025

government/legislature did not have opportunity to rebut the same. The other side had no opportunity to bring on record the object, if any, behind the Rules that were brought into force. The Hon'ble Supreme Court therefore held that in a writ petition seeking a writ of certiorari challenging the order of CAT, the High Court ought not to have declared Rule 4(3) as *ultra vires*.

19. Similarly, it was also held in ***Bihar Rajya*** (supra), in paragraph No.33 as follows:

"33. However, a caution needs to be sounded. While not suggesting for a moment that the course of action which the Division Bench adopted in this case can routinely be adopted, we see no reason as to why the power to suo motu declare a subordinate legislation invalid, on the ground of its being manifestly contrary to a Fundamental Right read with binding precedents in terms of Article 141, should not be conceded to be within the vast reserve of powers of the Constitutional Courts. Though exercise of powers, suo motu, in an appropriate case in exercise of jurisdiction under Article 226 of the Constitution cannot be doubted, it is indubitable that such power has to be exercised sparingly and with due care, caution and circumspection. We are minded and do hold that, a

writ court, when it finds its conscience to be pricked in a rare and very exceptional case by the patent unconstitutionality of a subordinate legislation connected with the issue it is seized of, may, upon grant of full opportunity to the State to defend the subordinate legislation and after hearing it, grant a declaration as to unconstitutionality and/or invalidity of such legislation. After all, as the sentinel on the qui vive, it is not only the duty of the writ courts in the country to enforce Fundamental Rights of individuals, who approach them, but it is equally the duty of the writ courts to guard against breach of Fundamental Rights of others by the three organs of the State. ...”

(Emphasis supplied)

20. Therefore, the decision of the co-ordinate Bench, in the case of **Mrs.Mayura Sreeram** (supra) cannot be relied upon, moreso, having regard to the law laid down by the Apex Court in the case of **Dharma Naika** (supra); **Bheemanna Vs. Deputy Commissioner, Chitradurga District⁸**, which is cited before the co-ordinate Bench and reiterated by another Hon’ble Division Bench in the case of **Sri.K.M.Narayanappa** (supra), irrespective of the fact that the period of non-alienation attached to the grant has

⁸ ILR 2010 Kar. 5011 (DB)

expired, nevertheless, prior permission of the government, in terms of Section 4(2) of the PTCL Act is *sine qua non*, before the grantee could transfer the granted lands. It is further required to be stated that question of interpretation of a provision of law would arise only if there is any ambiguity in the provision. This Court does not see any such ambiguity in Section 4(2) of the PTCL Act. The provision is simple and clear – after commencement of the PTCL Act, no person is permitted to transfer granted lands without the prior permission of the Government. The provision does not entertain any ambiguity. On the other hand, if it was the intention of the legislature that prior permission is required only in cases where the period of non-alienation is in force, then the same would have been incorporated in the provision.

21. This Court is also of the considered opinion that if at all anyone is aggrieved of such a provision which mandates obtaining prior permission to transfer granted lands, despite the completion of the period of non-alienation, then it would be the grantee alone, as was noticed by the

Hon'ble Apex Court in the case of **Guntaiah**⁹. On the other hand, a person who has purchased such granted lands, in violation of the express provisions, cannot now seek to contend that the provision should be read differently. It is relevant to notice the decision of the Apex Court in Guntaiah, which reads as follows:

"13. In any case, the High Court failed to take into account the clear language employed in Section 4, according to which 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' shall be null and void (emphasis supplied). The violation of the terms of grant itself gives rise to the action under Section 4 read with Section 5. So long as the terms of the grant prohibiting transfer are not opposed to any specific provision of law, they cannot be violated and the transferee gets no rights by virtue of such invalid transfer. That is the sum and substance of Section 4 which has not been duly considered by the High Court.

14. It is also pertinent to note that the prohibition regarding alienation is a restrictive

⁹ (2005) 6 SCC 228

covenant binding on the grantee. The grantee is not challenging that condition. In all these proceedings, challenge is made by the third party who purchased the land from the grantee. The third party is not entitled to say that the conditions imposed by the grantor to the grantee were void.

As far as the contract of sale is concerned, it was entered into between the Government and the grantee and at that time the third-party purchaser had no interest in such transaction. Of course, he would be entitled to challenge the violation of any statutory provisions but if the grant by itself specifically says that there shall not be any alienation by the grantee for a period of 15 years, that is binding on the grantee so long as he does not challenge that clause, more so when he purchased the land, in spite of being aware of the condition. The Full Bench seriously erred in holding that the land was granted under Rule 43-J and that Authorities were not empowered to impose any conditions regarding alienation without adverting to Section 4 of Act 2 of 1979. These lands were given to landless persons almost free of cost and it was done as a social welfare measure to improve the conditions of poor landless persons. When these lands were purchased by third parties taking advantage of illiteracy and poverty of the grantees,

Act 2 of 1979 was passed with a view to retrieve these lands from the third-party purchasers. When Act 2 of 1979 was challenged, this Court observed in Manchegowda v. State of Karnataka (SCC pp.310-11, para17)”

(Emphasis supplied)

22. Learned Counsel Sri.K.Srihari, made a feeble attempt to contend that the land was granted to late Sri.H.Muniyappa, recognizing the fact that he was in unauthorized occupation of the land, prior to the grant and therefore, the principles enunciated in **Mohammed Jaffer** (supra) should be applied to the present set of facts and it should be declared that the lands in question are not 'granted lands' as defined in the PTCL Act. Such a contention cannot be accepted, for the simple reason that the land was granted under the provisions of the Karnataka Land Grant Rules, 1969, and Saguvali Chit was issued in terms of the provisions of the said Rules. Further, having regard to the definition of the term "granted land" as defined in the PTCL Act, all lands granted under the relevant law, would mean and include the Karnataka Land Grant Rules. Therefore, it

cannot be contended that the lands granted under the Karnataka Land Grant Rules do not come within the purview of the PTCL Act.

23. For the reasons stated above, this Court is of the considered opinion that the first sale transaction dated 08.07.2004 is *void* and all subsequent transactions are also *void*. The decision of the Assistant Commissioner is fully justified and accordingly, while confirming the same, the writ petition is ***allowed*** and the impugned order dated 22.02.2024 in S.C S.T.Appeal No.24/2006-07 clubbed with S.C ST.Appeal No.25/2006-07 passed by the 1st respondent-Deputy Commissioner, Bengaluru District, is hereby quashed and set aside. The directions issued by the Assistant Commissioner for resumption and restoration of the lands in favour of the legal heirs of the original grantee shall be complied as expeditiously as possible and at any rate within a period of three months from the date of receipt of a certified copy of this order.

Ordered accordingly.

All pending I.As. if any, stands disposed of.

**Sd/-
(R DEVDAS)
JUDGE**

JT/-DL
CT: JL