



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST DAY OF FEBRUARY, 2026

PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

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

WRIT APPEAL NO. 1334 OF 2024 (SCST)

BETWEEN:

HANUMAKKA
W/O. CHIKKATHIMMARAYAPPA,
SINCE DECEASED BY HER LRS.,

VIJAYAMMA. J
W/O. THIMMARAYAPPA,
AGED ABOUT 51 YEARS,
R/AT HULIMANGALA VILLAGE,
JIGANI HOBLI,
ANEKAL TALUK,
BANGALORE-562 106.

ALSO R/AT NO. 215,
24TH MAIN ROAD, 25TH CROSS,
NEAR PARANGIPALYA,
HSR LAYOUT,
BANGALORE-560 102.

...APPELLANT

(BY SRI. PRAKASHA K V, ADVOCATE)

AND:

M. NAGARAJU
S/O LATE MUDDAIAH SHETTY

Digitally
signed by
NIRMALA
DEVI

Location:
HIGH COURT
OF
KARNATAKA



SINCE DECEASED BY HIS LEGAL
REPRESENTATIVES

1. SMT N LAKSHMI
W/O. LATE M. NAGARAJU,
AGED ABOUT 65 YEARS,
2. SRI. N. ABHILASH
S/O. LATE M. NAGARAJU,
AGED ABOUT 43 YEARS,

BOTH ARE R/AT NO. 27/8,
MARUTHI NILAYA, 3RD MAIN ROAD,
HANUMANTHNAGARA,
BANGALORE-560 019.

3. SMT. M. B. ANUPAMA
D/O. LATE M. NAGARAJU,
W/O. SRI. M.B. BALAJI,
AGED ABOUT 41 YEARS,
R/AT NO. 259, KAMADHENU,
NARYANAPILLAI STREET,
SHIVAJINAGAR,
BENGALURU-560 001.
4. STATE OF KARNATAKA
REP BY ITS SECRETARY,
REVENUE BUILDING,
MS. BUILDING,
DR. AMBEDKAR VEEDHI,
BENGALURU-560 001.
5. THE DEPUTY COMMISSIONER
BANGALORE URBAN DISTRICT,
KANDAYA BHAVANA,
K.G. ROAD,
BANGALORE-560 009.
6. THE ASSISTANT COMMISSIONER
BANGALORE SOUTH



SUB-DIVISION,
KANDAYA BHAVAN,
K.G. ROAD,
BANGALORE-560009.

...RESPONDENTS

(BY MISS. NILOUFER AKBAR, AGA FOR R4 TO R6
SRI. S.K. MITHUN, ADVOCATE FOR R2
R1 AND R3 ARE SERVED AND UNREPRESENTED)

THIS WRIT APPEAL IS FILED U/S 4 OF THE KARNATAKA
HIGH COURT ACT PRAYING TO CALL FOR RECORDS IN
RESPECT OF WP No. 23797/2017 (SC-ST), SET ASIDE THE
IMPUGNED ORDER DATED 1.08.2023 PASSED BY THE
HONBLE SINGLE JUDGE IN WP No. 23797/2017 (SC-ST)3.
PASS ANY SUCH OTHER ORDER OR DIRECTION THAT THIS
HONBLE COURT DEEMS FIT AND PROPER UNDER THE
CIRCUMSTANCES OF THE PRESENT PETITION.

THIS APPEAL, COMING ON FOR ORDERS, 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. JUSTICE C.M. POONACHA)

1. The present appeal is filed by the legal representative
of one Smt. Hanumakka, who was arrayed as respondent No.4 in
the writ petition calling in question the order dated 01.08.2023
passed in Writ Petition No.23797/2017 (SCST), whereunder the
writ petition was allowed and the orders dated 27.03.2012 passed



by the Assistant Commissioner and the order dated 29.11.2016 passed by the Deputy Commissioner, were set aside.

2. The relevant facts are that an extent of 2 acres of land bearing No.155/27 (New No.323) situated at Hulimangala Village, Jigani Hobli, Anekal Taluk, **[subject property]** was granted to one Sri Chikkathimmarayappa **[original grantee]** vide order dated 06.12.1940 in case No.13/1940-41. The original grantee sold the subject property to one Smt. Giddamma vide registered Sale Deed dated 13.05.1974. Smt. Giddamma sold 1 acre of the subject property to one Smt. Fathima Bi and another 1 acre to one Smt. Neelamma under two separate Sale Deeds dated 28.06.1974. The said Smt. Neelamma sold the land she had purchased to one Sri M. Nagaraju vide registered Sale Deed dated 13.11.1995. Smt. Fathima Bi sold 1 acre of the subject property to one Sri. K.M. Poovaiah, who in turn sold to one Smt. Bhagyalakshmi.

3. The original grantee filed an application [case No.K.SC.ST.48/1987-88] for restoration of possession before the Assistant Commissioner under Section 5(1) of the Karnataka Scheduled Castes and Scheduled Tribes (Prohibition of Transfer of Certain Lands) Act, 1978 **[PTCL Act]**. However, the said



proceedings were dropped by an order dated 27.08.1992. This order was neither challenged by the original grantee nor by anybody else.

4. Subsequently, one Smt. Hanumakka, daughter of the original grantee, filed an application under the PTCL Act in respect of the entire extent of the subject property before the Assistant Commissioner, which was allowed by order dated 27.03.2012. Being aggrieved, Sri M. Nagaraju filed an appeal (case No.SC/ST(A)8/2012-13) before the Deputy Commissioner. Smt. Bhagyalakshmi also preferred an appeal (in case No.SC/ST(A)13/2012-13) before the Deputy Commissioner. The Deputy Commissioner vide common order dated 29.11.2016 dismissed the appeal filed by Sri M. Nagaraju and allowed the appeal filed by Smt. Bhagyalakshmi. Being aggrieved, the legal representatives of Sri M. Nagaraju preferred Writ Petition No.23797/2017, challenging the orders passed by the Assistant Commissioner and Deputy Commissioner.

5. The learned Single Judge noticed that the proceedings initiated by the original grantee under the PTCL Act for resumption of the land had been rejected/dropped. Hence, it was held that a



subsequent application for resumption was not maintainable. Hence, the orders passed by the Assistant Commissioner and the Deputy Commissioner were set aside.

6. It is pertinent to note that the proceedings initiated by the original grantee for the resumption of land (No. K.SC.ST.48/1987-88) were dropped by the Assistant Commissioner vide order dated 27.08.1992. In the said order, it was noticed that the land was granted vide Saguvali Chit dated 26.07.1948, and the non-alienation period mentioned was 10 years. It was also noticed that the grant was made in favour of a person belonging to the scheduled caste category and the non-alienation period was to be taken as 15 years from the date of the grant. The Assistant Commissioner noticed that the alienation was made in the year 1974, i.e., 26 years after the date of the grant. Hence, it was held that the alienation did not contravene the 15-year non-alienation period. It was also noted that the purchaser was a relative of the grantee, and that the first alienation occurred before the PTCL Act came into force. Hence, it was held that the provisions of the PTCL Act were not applicable and the proceedings were dropped.



7. In the proceedings initiated by Smt. Hanumakka (daughter of the original grantee), it was noticed that the Saguvali Chit dated 17.12.1940 was produced and the land was granted free of cost. It was further held that, according to the then-existing rules, the land granted in favour of the depressed class/scheduled caste persons could not be alienated ever. Hence, it was held that the first alienation made vide Sale Deed dated 13.05.1974 was in violation of the provisions of the PTCL Act, and hence, the subsequent alienations were also *null* and *void*. Accordingly, the Assistant Commissioner, vide order dated 27.03.2012, allowed the application for resumption and ordered the change of revenue entries in favour of Smt. Hanumakka.

8. The Deputy Commissioner, while considering the appeal, noticed that the original records pertaining to the grant to the original grantee were not produced either in the said appeal or before the Assistant Commissioner. The appeal filed by Sri M. Nagaraju (No. SC.ST(A)8/2012-13) was dismissed as filed beyond time, and the appeal filed by Smt. Bhagyalakshmi (No.SC.ST(A) 13/2012-13) was allowed. Being aggrieved, the legal representatives of Sri. M. Nagaraju filed a writ petition.



9. Admittedly, in the proceedings for resumption filed by the original grantee, the Assistant Commissioner recorded findings that the alienation was made beyond the 15-year period and that the first alienation occurred 26 years after the grant. However, in the application for resumption filed by the daughter of the original grantee, the Assistant Commissioner held that the grant in respect of land made in favour of the depressed class/scheduled caste, could not be alienated forever. In the subsequent proceedings, the Assistant Commissioner did not refer to the findings recorded in the earlier proceedings, when the application for resumption made by the original grantee was dropped. Further, the Deputy Commissioner had categorically recorded a finding that the original grant records were not produced either before the Assistant Commissioner or in the appeal.

10. Be that as it may, it is clear that the application for resumption that was allowed was initiated by the daughter of the original grantee in the year 2011-12. It is further forthcoming that the original grant was made in the year 1940. 71 years had elapsed when the daughter of the original grantee made the application for resumption.



11. Undisputedly, the question whether the application for resumption can be entertained after an inordinate delay is no longer *res integra*. The Supreme Court in **Nekkanti Rama Lakshmi V/s State of Karnataka**¹ and in **Vivek M.Hinduja v. M.Aswatha**² held that an inordinate delay in filing an application for restoration of granted land which was allegedly alienated in violation of the provisions of the PTCL Act could not be maintained. The provisions of Section 5 of the PTCL Act were amended by introduction of clauses (c) and (d), by virtue of Act No.30 of 2023. The import of the said amendment came to be considered by the Division Bench of this Court in **Smt. Gouramma @ Gangamma Vs. The Deputy Commissioner and others**³ and the Court observed as under:

"3.*****

(c) The vehement submission of learned counsel for the appellant that Act 30 of 2023 has amended the provisions of Section 5 of the 1978 Act by adding clauses (c) & (d) to sub-section (1) of the said Section and therefore, the concept of "limitation and delay" has to remain miles away. These new clauses read as under:

¹ (2020) 14 SCC 232

² (2019) 1 Kant LJ 819 SC

³ 2024:KHC-D:10666-DB



“(c) notwithstanding anything contained in any law, there shall be no limitation of time to invoke the provisions of this Act.

(d) the provisions of clause (c) shall apply to all cases pending before all the competent authorities and all Courts of Law adjudicating the cases under this section.”

It hardly needs to be stated that at no point of time, the 1978 Act prescribed any period of limitation for moving application for the resumption of granted land after it is alienated.

(d) The Amendment Act that is made applicable with retrospective effect is only a duplication of the existing legal position. Such duplication happened even in English legislative history, hardly needs to be mentioned. The question of delay is a matter of limitation which this statute is silent about. Clauses (c) and (d), now introduced to Section 5(1) of the Act, do not bring any change in the statutory scheme. At the most, they are declaratory of what the statute has been all through, so far as the limitation period is concerned. Nobody disputes that there was no limitation period earlier and there is no limitation period now too. Laches, which would involve a host of factors, pertains to the Domain of Equity.

(e) **Nekkanti** supra does not speak of “limitation period” at all. What it discusses is, the long lapse of time between alienation of granted land and the filing of claim for its



resumption. Observations occurring in para 8 of the decision lend support to this view:

“8. However, the question that arises is with regard to terms of Section 5 of the Act which enables any interested person to make an application for having the transfer annulled as void under Section 4 of the Act. This Section does not prescribe any period within which such an application can be made. Neither does it prescribe the period within which suo motu action may be taken. This Court in the case of Chhedi Lal Yadav v. Hari Kishore Yadav (D) Thr. Lrs., (2017) 6 Scale 459 and also in the case of Ningappa v. Dy. Commissioner (C.A. No. 3131 of 2007, decided on 14.07.2011) reiterated a settled position in law that whether Statute provided for a period of limitation, provisions of the Statute must be invoked within a reasonable time. It is held that action whether on an application of the parties, or suo motu, must be taken within a reasonable time. This relief was granted to the farmers due to flood in the Kosi River which make agricultural operations impossible. An application for restoration was made after 24 years and was allowed. It is in that background that this Court upheld that it was unreasonable to do so. We have no hesitation in upholding that the present application for restoration of land made by respondent-Rajappa was made after an unreasonably long period and was liable to be dismissed on that ground. Accordingly, the judgments of the Karnataka High Court, namely, R. Rudrappa v. Deputy Commissioner, (2000) 1 Karnataka Law Journal, 523, Maddurappa v. State of Karnataka, (2006) 4 Karnataka Law Journal, 303 and G.



Maregouda v. The Deputy Commissioner, Chitradurga District, Chitradurga, (2000) 2 Kr. L.J.Sh. N.4B holding that there is no limitation provided by Section 5 of the Act and, therefore, an application can be made at any time, are overruled.”

(emphasis is ours)

Apparently, the law declared by the Apex Court in the above case has not been altered by the subject amendment, even in the least.

(f) It may be true, that the legislative debates might have taken place about the observations of the Apex Court in **Nekkanti** and other such cases while passing the Amendment Bill. That per se does not lend credence to the contention that the said amendment intends to invalidate the law declared by the highest court of the country which it did after considering all aspects of the matter including the sense of equity & justice. If the Legislature intended to silence the voice of **Nekkanti**, it would have employed a different terminology. We repeat that, ordinarily, delay is decided by computing the period of limitation prescribed by law, whereas “laches” is decided keeping in view a host of factors. Cases are repleat in Law Reports relating to delay and laches in writ jurisdiction under Articles 12, 226 & 227 of the Constitution of India. This is only to illustrate.

(g) There is a marked difference between ‘delay & laches’ that operate in equity and ‘limitation & delay’ that obtain in



law. The following observations of the Apex Court in Union of India v. N. Murugesan [(2022) 2 SCC 25] make out this point:

“Delay, laches and acquiescence

20. The principles governing delay, laches, and acquiescence are overlapping and interconnected on many occasions. However, they have their distinct characters and distinct elements. One can say that delay is the genus to which laches and acquiescence are species. Similarly, laches might be called a genus to a species by name acquiescence. However, there may be a case where acquiescence is involved, but not laches. These principles are common law principles, and perhaps one could identify that these principles find place in various statutes which restrict the period of limitation and create non-consideration of condonation in certain circumstances.... The underlying principle governing these concepts would be one of estoppel. The question of prejudice is also an important issue to be taken note of by the court.

21. The word “laches” is derived from the French language meaning “remissness and slackness”. It thus involves unreasonable delay or negligence in pursuing a claim involving an equitable relief while causing prejudice to the other party. It is neglect on the part of a party to do an act which law requires while asserting a right, and therefore, must stand in the way of the party getting relief or remedy.



22. Two essential factors to be seen are the length of the delay and the nature of acts done during the interval. As stated, it would also involve acquiescence on the part of the party approaching the court apart from the change in position in the interregnum. Therefore, it would be unjustifiable for a Court of Equity to confer a remedy on a party who knocks its doors when his acts would indicate a waiver of such a right. By his conduct, he has put the other party in a particular position, and therefore, it would be unreasonable to facilitate a challenge before the court. Thus, a man responsible for his conduct on equity is not expected to be allowed to avail a remedy.”

12. In view of the factual matrix in the present case as well as the legal position as noticed above, we find no error in the ultimate conclusion reached by the learned Single Judge in allowing the writ petition.

13. Accordingly, the above appeal is dismissed.

14. Pending IAs., if any, also stand disposed of.

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

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