



CNR: KAHC010716372025

NC: 2026:KHC:49599-DB
WA No. 1789 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 9TH DAY OF SEPTEMBER, 2026

PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

THE HON'BLE MRS. JUSTICE K.S. HEMALEKHA

WRIT APPEAL NO.1789 OF 2025 (SC/ST)

BETWEEN:

SHRI. MYLARAPPA
S/O LATE MOTAPPA
AGED ABOUT 38 YEARS,
R/AT KANNAMANGALA VILLAGE,
BIDARAHALLI HOBLI,
BENGALURU EAST TALUKA,
BENGALURU - 560049.

...APPELLANT

(BY SRI. CLIFTON D'ROZARIO, ADVOCATE FOR
SMT. MAITREYI KRISHNAN, ADVOCATE)

AND:

1. SHRI. S. MARTIN
S/O SANTHIRAJU
R/AT NO.415, 100 FEET ROAD,
'N' BLOCK, KORAMANGALA
BENGALURU - 560034.
2. SHRI. MUNISHETTAPPA
S/O TOTAD MUNEPPA
SINCE DECEASED BY LR's.
- 2A. SHRI.S. NARAYANSWAMY
S/O MUNISHETTAPPA
R/AT KANNAMANGALA VILLAGE,

Digitally signed
by C K LATHA
Location: High
Court of
Karnataka



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BIDARAHALLI HOBALI,
BENGALURU EAST TALUK,
BENGALURU - 560049.

- 2B. SRI. NARAYANASWAMY
S/O NARAYANASWAMY
RESIDING AT KANNAMANGALA VILLAGE,
BIDARAHALLI HOBALI,
BENGALURU EAST TALUK,
BENGALURU-560 049.
3. SMT. N. SARASWATI
W/O SHRI C. RAMAKRISHNAPPA,
R/AT NO.5, BANASAWADI,
BENGALURU - 560 047.
4. THE ASSISTANT COMMISSIONER
NORTH TALUK SUB-DIVISION
BENGALURU.
5. THE DEPUTY COMMISSIONER
BENGALURU URBAN DISTRICT,
BENGALURU - 560030.

...RESPONDENTS

(BY SRI. K.S. HARISH, GOVERNMENT ADVOCATE, R4 & R5)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT, 1961 PRAYING TO SET ASIDE THE ORDER OF THE LEARNED SINGLE JUDGE DATED 23.04.2021 IN W.P.NO.31074/2019 AND CONSEQUENTLY ALLOW THE WRIT PETITION AND 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 MRS. JUSTICE K.S. HEMALEKHA



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ORAL JUDGMENT

(PER: HON'BLE MRS. JUSTICE K.S. HEMALEKHA)

1. The appellant, who was the petitioner in Writ Petition No. 31074/2019 (SC/ST) has preferred the present appeal impugning the order dated 23.04.2021 [**impugned order**] passed by the learned Single Judge, whereby the writ petition preferred by the appellant challenging the order dated 31.01.2019 passed by the Deputy Commissioner was dismissed. The Deputy Commissioner, by the said order, had allowed the appeal preferred by the private respondents and set aside the order of the Assistant Commissioner, who had allowed the application for resumption and restoration of the granted land. The learned Single Judge, by dismissing the writ petition, affirmed the order passed by the Deputy Commissioner.

2. The land in R.S. No. 174, new R.S No. 189, measuring 2 acre 4 guntas situated at Kannamangala Village, Bidarahalli Hobli previously in Hosakote Taluk, now in Bangalore East Taluk [**subject land**] was granted in favour of Pujiga @ Poojappa in the year 1936-37; the said Pujiga @ Poojappa belonged to the scheduled caste. The grant was subject to a condition prohibiting



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alienation for a period of 20 years. However, the land was alienated under a registered sale deed dated 30.05.1947 and thereafter changed hands through subsequent transactions. Proceedings were initiated seeking resumption and restoration of land by Muddamma, wife of original grantee. The Assistant Commissioner allowed the application and directed resumption of land from the purchaser and its restoration in favour of the legal heirs of the original grantee.

3. Aggrieved by the said order, respondent No. 1 preferred an appeal before the Deputy Commissioner. During the pendency of the said proceedings, Muddamma expired, and the present appellant was brought on record as her legal representative. The Deputy Commissioner allowed the appeal and set aside the order of restoration, *inter alia* on the ground that the proceedings had been initiated after an inordinate delay. The appellant, claiming to be the legal heir of the original grantee, challenged the said order before this court in the said writ petition. The learned Single Judge dismissed the writ petition, which led to the present appeal.

4. The appeal is accompanied by an application, I.A.1/2025, under Section 5 of the Limitation Act. 1963 [**Limitation Act**] read



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with Section 151 of the Code of Civil Procedure, 1908, seeking condonation of delay of 1,311 days in preferring the appeal. In the affidavit accompanying the application, the appellant attributes the delay to prolonged ill health. He states that during the COVID-19 pandemic, in 2021, he contracted COVID-19, which severely affected his health and left him weak and bed ridden. According to him, while he was recuperating, he suffered a paralytic stroke, which rendered him physically immobile for several months and necessitated prolonged treatment. He further states that owing to his poor financial condition, he could not afford to undergo all recommended medical procedures, and his illness and physical limitations prevented him from attending his personal, agricultural and legal affairs including travelling to Bangalore, consulting an advocate and pursuing legal remedies. He further states that he studied only upto the 4th standard, is a small farmer dependent upon the granted land for his livelihood and that even after some improvement in his health, considerable time was required to arrange funds and collect necessary records and secure legal representation.



5. The explanation offered is general in nature and does not satisfactorily account the entire delay between the order of the learned Single Judge dated 23.04.2021 and filing of the present appeal. We are unable to accept the aforesaid explanation as constituting sufficient cause for condoning the delay of 1,311 days. Whilst the appellant may suffer from ill health, mere reference to illness, financial difficulties, and alleged inability to secure legal assistance, without satisfactorily explaining the prolonged period of inaction, would not by itself furnish sufficient cause for condoning such an inordinate delay.

6. The learned Single Judge held that the proceedings under the Karnataka Scheduled Castes and Scheduled Tribes (Prohibition of Transfer of Certain Lands) Act, 1978 [**PTCL Act**] have been initiated after an unreasonable and prolonged delay. The learned Single Judge observed that although no specific period of limitation is prescribed under the PTCL Act, the Supreme Court in **Nekkanti Rama Lakshmi vs State of Karnataka and Another**¹, and **Vivek M Hinduja vs M Aswatha**² had held that the proceedings for restoration must nevertheless be initiated within a

¹ (2020) 14 SCC 232

² (2019) 1 Kant LJ 819 SC



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reasonable time. The learned Single Judge rejected the contention that subsequent decision of the Supreme Court could be disregarded as *per incuriam* or *sub silentio*. Referring to the principle of judicial discipline, the learned Single Judge held that the High Court was bound to follow the law declared by the Supreme Court and that any questioning, or seeking reconsideration of those decisions would appropriately be urged only before the Supreme Court. The contention that a period of 30 years should be treated as reasonable period was also rejected. The application seeking for restoration, by following the settled proposition of law, was held to be liable to be rejected on the ground of delay and laches.

7. It is also apposite to note that Section 5 of the PTCL Act came to be amended by Act No. 30/2023 by insertion of clauses (c) and (d). The scope and effect of the said amendment fell for consideration before the co-ordinate Bench of this Court in **Gouramma @ Gangamma vs The Deputy Commissioner and Others³**. It was observed at para No. 3 as under :

"3. *****

³ 2024:KHC:D:10666-DB



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(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:

“(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



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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 Chhedilal 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



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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



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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."

8. The Special Leave Petition preferred against the said decision being SLP(C) Diary No. 19020/2025 was dismissed by the Supreme Court by order dated 09.05.2025.

9. Similarly another co-ordinate bench of this court after considering the amendment of Section 5 of the PTCL Act as well as the decision in **Gouramma** (*supra*) reiterated the legal position and recorded its conclusion in **M. Manjula and others vs The Deputy Commissioner and Others**⁴ and held that para No.5 as under :

"5. The Supreme Court in **N. Murugesan** (*supra*), explained the word 'laches' thus,

"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

⁴ 2024: KHC: 51015-DB



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act which law requires while asserting a right, and therefore, must stand in the way of the party getting relief or remedy."
(para 21)

5.1 The Supreme Court proceeded to observe that the remedy for which the party knocks the doors of the Court may not be provided to him on equitable grounds when such party is guilty of indolence and his action suffers from laches,

"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."

(Para 22)

5.2 Though the principles governing overlap, the delay and laches has the facet in equity. Delay is the genus to which the laches and acquiescence are species. The jurisprudential concepts of delay, latches and acquiescence have their own colour and connotation and conceptually often different from crossing the period of limitation prescribed in the statutory provision. Limitation binds the litigant in terms of initiating a legal action or filing any proceedings. Laches concedes an element of culpability in allowing time to pass by in commencing the action in law."

10. The challenge to that judgment before the Supreme Court in Special Leave to Appeal (C) No(s). 8421/2025 also came to be dismissed on 01.04.2025. The Supreme Court observed that there was no reason to interfere with the High Court's order.



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11. Learned counsel appearing for the appellant however sought to contend that the legal position concerning the effect of 2023 amendment has not attained finality. He drew our attention to Special Leave to Appeal (C) No(s). 11544/2025 arising out of Writ Appeal No. 1141/2023 wherein, the interpretation of amendment of Section 5 of PTCL Act is stated to be under challenge. Reference was also made to the proceedings instituted by State of Karnataka against another decision of this Court, which according to the learned counsel, were withdrawn with liberty to institute appropriate proceedings. It was submitted that several matters involving similar questions at the instance of legal heirs of the original grantees are presently pending consideration before the Supreme Court.

12. The learned counsel further referred to Review Petition (C) No. 2592/2025 in C.A No. 1390/2009, stated to have been filed in relation to the decision in **Nekkanti Rama Lakshmi** (supra) and submitted that the correctness and continued applicability of the principles laid down therein are under reconsideration. On the strength of these proceedings, he urged that the consideration of the present appeal be deferred until the Supreme Court decides the aforesaid matter.



13. His submission is unmerited, in the absence of any order in the Review Petition or staying the operation of the judgments in question. As the matter stands today, the Supreme Court has also declined to entertain similar challenges against the decisions in **Gouramma** and **M. Manjula** (*supra*) by expressly stating that the court finds no ground to interfere with those decisions under Article 136 of the Constitution of India. The said decisions continue to hold the field.

14. Undisputedly, the proceedings for restoration themselves suffered from an unexplained and unreasonable delay of nearly 6 years. The proceedings for restoration were initiated on 26.05.2010, 63 years after the first alienation in the year 1947, which was much prior to the PTCL Act coming into force. The writ petition was dismissed on that ground. In the given circumstances, the appellant ought to have exercised greater due diligence in pursuing the remedy of appeal. Instead, the present appeal is preferred with a delay of 1,311 days. We are not persuaded that sufficient cause has been made out for condoning the delay. As stated *supra*, the reasons indicated in the affidavit do not establish



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sufficient cause within the meaning of Section 5 of the Limitation Act. No grounds have been made out on merits as well.

15. Accordingly, the appeal is dismissed on the ground of delay as well as on merits.

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

**Sd/-
(K.S. HEMALEKHA)
JUDGE**

CKL
List No.: 1 SI No.: 5