

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 14th DAY OF FEBRUARY 2003

BEFORE

THE HON'BLE MR.JUSTICE N.KUMAR

WRIT PETITION No.4261/2003(KLR)

BETWEEN

1 VEEREGONDA
S/O.CHANNEGOWDA, AGED 64 YEARS
MAJOR, R/O.HAMPANAKUPPE VILLAGE
KIRAGADALU DAKLE, KASABA HOBLI
ALUR TO, HASSAN DIST.

... PETITIONER

(By Sri: K V NARASIMHAN & VIJAYADEVARAJ, ADVS)

AND :

1 THE TAHSILDAR ALUR TALUK HASSAN DISTRICT

... RESPONDENT

(By Sri : K.P.SHANTHARAJ, HCGP)

THIS WRIT PETITION IS FILED UNDER ART.226 AND 227 OF
THE CONSTITUTION OF INDIA PRAYING TO QUASH THE ORDER DT.
12.12.2002 PASSED BY THE KARNATAKA APPELLATE TRIBUNAL IN
REVISION PETITION NO.119/2001 VIDE ANNEX.F. AND ORDER
PASSED ON 21.1.2001 BY THE RESPONDENT VIDE ANNEX.E.

THIS WRIT PETITION COMING ON FOR PRELIMINARY HEARING
THIS DAY, THE COURT MADE THE FOLLOWING:



ORDER

The petitioner was granted land which was Kere Angala. On a complaint made by the villagers in appeal, the said grant was cancelled. Against the said order, he preferred a revision before the Karnataka Appellate Tribunal. The Karnataka Appellate Tribunal after considering the entire materials on record, came to the conclusion that unless the Deputy Commissioner under Section 71 of the Karnataka Land Revenue Act assigns the said tank bed for special purposes, the revenue authorities would not get the jurisdiction to grant the said land to any applicant. They further noticed that the land in dispute being a tank bed, there was no order passed by the Deputy Commissioner under Sec.71 of the Act for disassigning the said land. Therefore, the matter was remanded to the Deputy Commissioner for disassigning under Sec.71 of the Act and in case the Deputy Commissioner rejects the same, the Tahsildar was directed to cancel the grant after hearing all the parties. The grievance of the petitioner is that after such

remand, the Tahsildar has passed the orders as per Annexure-E cancelling the grant in favour of the petitioner without hearing the petitioner. Therefore, the petitioner contends that the impugned order at Annexure-E passed by the Tahsildar cancelling the grant and the order passed by the Karnataka Appellate Tribunal in revision as per Annexure-F are liable to be set aside.

2. The learned Counsel for the petitioner contends that when a specific direction was given by the Karnataka Appellate Tribunal to the Tahsildar to refer the matter to the Deputy Commissioner for disassigning the land and in case he rejects the same, the Tahsildar must cancel the grant after hearing all the parties, he ought to have issued notice to the petitioner and he having not complied with the said direction, the impugned order passed by the authorities are in violation of principles of natural justice and therefore, the same is liable to be set aside. He also submits that the petitioner is not furnished with the copy of the

order of the Deputy Commissioner under Sec.71 of the Act and therefore the authorities could not have acted on such order without notifying the petitioner about the nature of the order passed.

3. In the order of the Karnataka Appellate Tribunal passed on 30th of October 1987 in Rev.Petition No.60/1986, the direction issued to the Tahsildar to refer the case to the Deputy Commissioner for disassigning the land u/s.71 of the Act is not challenged and it has become final. The resultant position would be the petitioner has accepted the finding recorded by the Karnataka Appellate Tribunal that the land in question be disassigned u/s.71 of the Act and therefore, the same was not available for grant to the petitioner and as such the grant from the inception is void ab initio. If the Deputy Commissioner on reference by the Tahsildar has refused to disassign under Sec.71 of the Act, petitioner cannot have any grievance against such order. Once the Deputy Commissioner has refused to disassign, then the Tahsildar has to pass only consequential order. No discretion is left to

the Tahsildar. Therefore, the question of hearing the petitioner does not arise. In these circumstances, the Tahsildar was justified in cancelling the grant and the Appellate Tribunal was justified in upholding the same. I do not find any infirmity in the order passed by the revenue authorities. Accordingly, the writ petition is dismissed.

Sd/-
Judge

Sm/-