

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF NOVEMBER, 2020

BEFORE

THE HON'BLE MR.JUSTICE M.NAGAPRASANNA

WRIT PETITION No.1873/2017 (SCST)

BETWEEN

1. SRI M E RAJASHEKARA
S/O SRI. M.R. ESWARAPPA,
AGED ABOUT 39 YEARS
AGRICULTURIST,
RESIDING AT MOTIHALLI VILLAGE,
HULIYURU HOBLI,
CHIKKANAYAKANAHALLI TALUK,
TUMKUR DISTRICT PIN:577214.
2. SMT. M.V. NAGAVENI
W/O SRI. MANJUNATHA AND
D/O LATE SRI. M.R. VEERABHADRAIAH,
AGED ABOUT 40 YEARS,
AGRICULTURIST,
RESIDING AT VIDHYANAGAR,
HOSADURGA TOWN,
CHITRADURGA DISTRICT.
PIN: 577527.

...PETITIONERS

(BY SRI CHITHAPPA, ADV.)

AND

1. THE DEPUTY COMMISSIONER
TUMKUR DISTRICT,
TUMKUR. PIN: 572201.

2. THE ASSISTANT COMMISSIONER
TIPTURU SUB-DIVISION,
TIPTUR, TUMKUR DISTRICT
PIN:572201.
3. SMT. CHANDRA BAI
W/O SRI. RAMANAIIKA,
MAJOR,
AGRICULTURIST,
RESIDING AT MOTIHALLI VILLAGE,
HULIYURU HOBLI,
CHIKKANAYAKANAHALLI TALUK,
TUMKUR DISTRICT.
PIN: 572214.
4. SRI. CHANDAPPA
S/O LATE SRI. CHINNABASAVEGOWDA,
MAJOR,
ARICULTURIST,
RESIDING AT MOTIHALLI VILLAGE,
HULIYURU HOBLI,
CHIKKANAYAKANAHALLI TALUK,
TUMKUR DISTRICT.
PIN: 572214.

...RESPONDENTS

(BY SMT. SAVITHRAMMA, HCGP FOR R1 & R2,
R3 & R4 ARE SERVED & UNREPRESENTED.)

THIS WP IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE ORDERS DTD:6.1.2017, 4.11.2011 PASSED BY THE R-1 DEPUTY COMMISSIONER, TUMKURU DISTRICT IN APPEAL NO.PTCL.16/2011-12 AND PTCL NO.26/2004-05 AS PER ANNEXURE-A & B AND CONSEQUENTLY QUASH THE ORDER DTD: 13.12.2004 PASSED BY THR R-2 ASSISTANT COMMISSIONER, TIPTUR SUB-DIVISION, TUMKUR DISTRICT IN CASE NO.PTCL.SR.8:04-05 DTD:13.12.2004 AS PER ANNEXURE-C ETC.

THIS WP COMING ON FOR 'PRELIMINARY HEARING - B GROUP' THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

The petitioner in this writ petition has called in question the order of the Assistant Commissioner dated 13-12-2004 and the order of the Deputy Commissioner dated 04-11-2011 whereby the authorities have restored the land in favour of the legal heirs of the original grantee.

2. The brief facts leading to the filing of the writ petition are that:

The land in Sy.Nos. 100 measuring 3 acres 32 guntas in Sy.No.100 of Huliyaaru Hobli, Motihalli village, Chikkanayakanahalli Taluk, Tumakuru District was granted to Ranganaika on 13-10-1948. The original grantee sold the land in favour of Channabasave Gowda, the father of the 4th respondent, on 4th March, 1966 and after the aforesaid sale, the legal heirs of the original grantee filed an application before the Assistant Commissioner seeking restoration of land on the score that the sale was in violation of the provisions of the Act. The Assistant Commissioner by an order dated

13-12-2004 allowed the claim of the legal heirs of the grantee and restored the land in their favour. Challenging the said order the purchasers preferred an appeal before the Deputy Commissioner who affirmed the findings of the Assistant Commissioner by an order dated 04-11-2011. It is these two orders that are called in question in this writ petition by the purchasers.

3. Heard Sri Chithappa, learned counsel for the petitioners and learned High Court Government Pleader appearing for respondents 1 & 2.

4. The learned counsel for the petitioners would contend that both the Assistant Commissioner and the Deputy Commissioner have erred in law annulling the sale that took place on 04-03-1966 in an application filed after 23 years of the Act coming into force and about 35 years after the sale and would contend that the legal heirs of the original grantee did not file an application before the Assistant Commissioner for bonafide reasons and for extraneous consideration.

5. On the other hand, the learned counsel appearing for the respondent - State would support the order of the

Assistant Commissioner and the Deputy Commissioner, contending that admittedly, the sale was in violation of the provisions of the Act and the orders passed by the Assistant Commissioner and the Deputy Commissioner cannot be found fault with.

6. I have given my anxious consideration to the submissions made by the learned counsel appearing for the parties and have perused the material on record.

7. The dates and events are not in dispute. The land was granted to one Ranganaika in the year 1948, the original grantee. He sold the land in favour of the father of the 4th respondent by sale deed dated 04-03-1966. The Act came into force on 01.01.1979. The legal heirs of the original grantee instituted proceedings before the Assistant Commissioner by filing an application seeking resumption on 25-10-2002, that is, after 23 years of the Act coming into force without any plausible explanation for the delay in approaching the Assistant Commissioner seeking resumption of land. The order of the Assistant Commissioner was also

affirmed by the Deputy Commissioner in a challenge raised by the purchaser by his order dated 04-11-2011.

8. Admittedly, the proceedings are initiated after 23 years of the Act coming into force and delay would vitiate the entire proceedings before the Assistant Commissioner in the light of the law laid down by the Apex Court in the case of **NEKKANTI RAMA LAKSHMI VS. STATE OF KARNATAKA AND ANOTHER** reported in **2017 SCC ONLINE 1862** which is further reiterated in the case of **MR.VIVEK M HINDUJA AND OTHERS v. MR. ASWATHA AND OTHERS** reported in **2019 Kar.L.J. 819 (SC)**, which is followed by the learned Division Bench of this Court in the case of **SMT. NINGAMMA VS. THE TIBETIAN CHILDREN'S VILLAGE** in **WRIT APPEAL NO.4092 OF 2017** decided on **09.04.2019**.

9. In terms of the law laid down by the Apex Court and that of the learned Division Bench of this Court holding that proceedings ought to have been initiated within a reasonable time, the proceedings before the

Assistant Commissioner being initiated after 23 years was hit by delay and laches.

For the aforesaid reasons, the following:-

ORDER

- 1) The writ petition is allowed.
- 2) The order of the Assistant Commissioner dated 13-12-2004 vide Annexure-C in case No.PTCL SR 8:04-05 is quashed.
- 3) The order of the Deputy Commissioner dated 04-11-2011 vide Annexure-B in case No.PTCL 26/2004-05 is also quashed.

In view of setting aside of the orders impugned, all further proceedings taken up or orders passed pursuant to the order passed by the Deputy Commissioner are quashed.

Sd/-
JUDGE

Rsk/-
CT-HR