

A Vijayakumar vs the State of Karnataka

A Vijayakumar vs the State of Karnataka

SooperKanoon Citation : sooperkanoon.com/1767266

Court : Karnataka

Decided On : Oct-23-2025

Judge : R Devdas

Appeal No. : WP/25228/2022

Appellant : A Vijayakumar

Respondent : The State of Karnataka

Judgement :

-1- R

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF OCTOBER, 2025 BEFORE THE HONBLE MR. JUSTICE R.DEVDAS WRIT PETITION NO. 25228 OF 2022 (SC-ST) BETWEEN A VIJAYAKUMAR S/O LATE PUNYAKOTI REDDY AGED ABOUT 52 YEARS R/AT NO.25 BEHIND SPURTHI HOSPITAL CHOCOLATE FACTORY ROAD THAVAREKERE BANGALORE-560029. ...PETITIONER (BY SRI. SUBRAMANAYA.R., ADVOCATE FOR SRI. B.R. SRINIVASA GOWDA., ADVOCATE) AND

1. THE STATE OF KARNATAKA BY ITS REVENUE SECRETARY M S BUILDING, DR B R AMBEDKAR VEEDHI BANGALORE.
2. THE DEPUTY COMMISSIONER BANGALORE URBAN DISTRICT KANDHAYA BHAVAN, K G ROAD BANGALORE-560009.
3. THE ASSISTANT COMMISSIONER BANGALORE NORTH SUB DIVISION -2- KANDHAYA BHAVAN, K G ROAD BANGALORE-560009.
4. THE TAHSILDAR BANGALORE EAST TALUK K R PURAM BANGALORE URBAN DISTRICT BENGALURU-560036.
5. MUNIRAJU

S/O LATE YELLAPPA AGED ABOUT 26 YEARS R/AT RAMAGONDANAHALLI VILLAGE VARTHUR HOBLI BANGALORE EAST TALUK BENGALURU-560103. .RESPONDENTS (BY SRI. ARUNA G.S., HCGP FOR R1 TO R4 SRI. A.S.MAHESHA., ADVOCATE FOR R5) THIS WRIT PETITION IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE IMPUGNED ORDER PASSED BY THE R2 IN CASE NO. SC/ST (APPEAL) 31/2021 DATED 31.10.2022 VIDE ANNEXURE-A AND

GRANT AN INTERIM ORDER TO STAY THE IMPUGNED ORDER

PASSED BY THE R2 IN CASE NO. SC/ST (APPEAL) 31/2021 DATED 31.10.2022 VIDE ANNEXURE-A. PENDING DISPOSAL OF THE ABOVE WRIT PETITION AND STAY ALL FURTHER PROCEEDING IN RESPECT OF SY.NO. 114 MEASURING 2 ACRES 8 GUNTAS, LAND SITUATED AT RAMAGONDANAHALLI, VARTHUR HOBLI, BANGALORE EAST TALUK. THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED ON 03.09.2025 AND COMING ON FOR PRONOUNCEMENT OF ORDERS, THIS DAY, THIS COURT MADE THE FOLLOWING: -3- CORAM: HON'BLE MR JUSTICE R DEVDAS

CAV ORDER

(PER: HON'BLE MR JUSTICE R DEVDAS) The petitioner is aggrieved of the impugned orders passed by the Deputy Commissioner, Bengaluru Urban District in PTCL proceedings bearing No.SC.ST (Appeal)

2. The facts leading to this writ petition are that the 5th respondent herein filed a petition under Section 5 of the

Karnataka Scheduled Castes and Scheduled Tribes (Prohibition of Transfer of Certain Lands) Act, 1978 (for short hereinafter referred to as PTCL Act) seeking a declaration that the sale deeds dated 24.03.2008 executed by Sri Venkatesh in favour of the petitioner herein is null and void. It was contended in the petition that 2 acres 4 guntas of land in Sy. No. 114 of Ramagondanahalli village, Varthur Hobli, Bengaluru South Taluk (now Bengaluru East

Taluk) was granted in favour of Poojiga. In violation of -4- the conditions of grant the lands were sold by Sri Poojiga

in favour of Sri Patel Govindappa on 24.10.1951.

22.03.1955 and Sri Munishamappa sold it to Sri P. Chinnaiah son of Papaiah under registered sale deed dated 03.02.1959. Sri P.Chinnaiah sold the property to Sri N. Ravikiran on 17.11.1980. Sri Poojiga filed an application under Section 5 of the PTCL Act, in the year 1980-81 and

the case was registered in SC.ST.117/1980-81. The Assistant Commissioner allowed the application while declaring that the sale was in violation of the conditions of grant. The purchasers filed an appeal before the Deputy Commissioner and the Deputy Commissioner dismissed the appeal on 02.02.1998. Aggrieved, the purchasers filed W.P. No.18169/1998 and this Court dismissed the writ

petition on 11.08.1999. The Writ Appeal in W.A.No. -5- 23.10.2000. The lands were restored in favour of Sri Poojiga and the revenue records were also mutated in his name. However since Sri N. Ravikiran and N. Kumar sought to disturb the possession at the hands of the legal heirs of Sri Poojiga, Smt.Narasamma, one of the legal heirs filed O.S. No. 46/1992. The suit was decreed and the defendants

therein were permanently enjoined from interference with the suit schedule property. The defendants filed R.A. No. 63/1998 and the appeal was also dismissed. The Regular Second Appeal No. 761/2001 was also dismissed on 13.06.2007. However in the meanwhile it appears that the 5th respondent herein purchased the lands in question from one Sri Venkatesh, under registered sale deed dated 24.03.2008. The sale deed appears to have been executed by a power of attorney holder Sri P. Srinivas, on behalf of Sri Venkatesh.

3. The Assistant Commissioner however dismissed the application on the ground that there are no records -6-

available to show the grant made in favour of Sri Poojiga. It was also held by the Assistant Commissioner that since the 5th respondent contended that neither he nor his family members, being the legal heirs of late Sri Poojiga executed the sale deed or transferred the property in favour of the petitioner herein, there was no transfer as defined in the PTCL Act and therefore the application is not maintainable.

4. The 5th respondent however, filed an appeal before

the Deputy Commissioner under Section 5-A of the PTCL Act and the Deputy Commissioner allowed the appeal, set aside the order of the Assistant Commissioner and further declared that the registered sale deed dated 24.03.2008 executed in favour of the petitioner herein as null and void and further directed resumption of the lands in favour of the Government and restoration of the same in favour of the legal heirs of the original grantee.

-7-

5. Learned counsel Sri Subramanya.R appearing for

learned counsel Sri B.R.Srinivasa Gowda, for the petitioner submitted that the Deputy Commissioner has gone into disputed questions of title and has held that during the course of the proceedings in R.A. No.63/1998 which was filed by Sri N. Ravikiran and N. Kumar, the civil Court conducted an enquiry and has rendered a finding that Venkatamma wife of late Yallappa, her children Venkatesh and

Muniraju were the legal heirs of late Sri Poojiga. Smt. Narasamma is the wife of late Sri Poojiga, who had filed the suit and the other claimants, namely, Madhu and Venkatesh were not the legal heirs of late Sri Poojiga and Smt. Narasamma. The Deputy Commissioner has given a finding that during the pendency of the Regular Second Appeal No. 761/2001, the said Sri Venkatesh who is not the legal heir of Poojiga, created a Will of Smt. Narasamma and got the khata changed in his name along with

Smt. Narasamma. The learned counsel would therefore -8- submit that the Assistant Commissioner had rightly rejected the application on the ground that even according to the applicant, there was no transfer by the legal heirs of

Sri Poojiga in favour of the petitioner herein. The Assistant Commissioner had rightly held that the said dispute cannot be decided in a proceedings under the provisions of the PTCL Act and the same requires to be decided before a civil Court. It was noticed that a contention was raised at the hands of the petitioner herein that prior permission under Section 4(2) of the PTCL Act

was given by the Special Deputy Commissioner. The appeal filed by the 5th respondent herein was dismissed by the Deputy Commissioner and in a Writ Appeal filed at the hands of the 5th respondent in W.P. No. 52945/2018, this Court set aside the order passed by the Deputy Commissioner while remanding the matter back to the Deputy Commissioner to ascertain whether the Government had granted permission to Smt. Venkatamma -9-

and her children to sell the property and to find out whether Smt. Venkatamma and her children executed a power of attorney in favour of Sri P. Srinivas. The Deputy Commissioner is said to have called for information from the Revenue Department as to whether such permission in terms of official Memorandum dated 13.12.2005 bearing

PTCL no. (East) CR.01/2005-06 was issued by the Revenue Department to the Special Deputy Commissioner. It is now found that the said Official Memorandum dated 13.12.2005 bearing PTCL no. (East) CR.01/2005-06 does not pertain to the lands in question. It pertains to some other piece of land in Sy. No. 127/29

measuring 2 acres

20 guntas situated at Kenchanakuppe Village, Ramanagara Taluk. The Deputy Commissioner has accordingly allowed the appeal filed by the 5th respondent and has directed resumption and restoration of the lands in favour of legal heirs of the original grantee. -10-

6. Learned counsel for the petitioner submits that the

Assistant Commissioner was right in his finding, that having regard to the definition of the word transfer and the provisions contained in Section 4(1) of the PTCL Act, any transfer of granted land made either before or after

the commencement of the Act, if found to be in contravention of the terms of the grant or in contravention of sub-section 2 of Section 4 shall be null and void, therefore, when there is no transfer, as defined therein, the matter cannot be considered under the provisions of the PTCL Act. If aggrieved, the 4th respondent or the legal heirs of the original grantee should approach the Civil Court. Moreover, it is submitted that a Coordinate bench of this Court, in a recent decision in the case of Smt. Rudramma & Ors. Vs. The State of Karnataka & Ors. in W.P. No. 29559/2018, rendered on 09.04.2025 has declared that if a grantee or his legal heirs, on getting the lands resumed and restored in their favour, would not be

-11- entitled to invoke the provisions of the PTCL Act for the second time.

7. Per contra, learned counsel Sri A.S. Mahesha,

appearing for respondent No.5 submitted that this Court while remanding the matter back to the Special Deputy Commissioner, in W.P. No. 52945/2018, by order dated 19.05.2021 had directed the Special Deputy Commissioner to ascertain from the Government as to whether it had granted permission to Smt.Venkatamma and her children to sell the land in question in favour of the petitioner herein. It was also directed that if the answer is negative, then the Special Deputy Commissioner is required to direct resumption of the lands from the petitioner herein, to be restored in favour of the legal heirs of the original

grantee. The Deputy Commissioner has accordingly found that the

State Government had not accorded permission to Smt.Venkatamma and her children to sell the land in question in favour of the petitioner, under Official -12-Memorandum dated 13.12.2005. It was found that the said orders did not pertain to the land in question. Therefore the Deputy Commissioner had no other choice than to allow the appeal, set aside the orders passed by the Assistant Commissioner and direct resumption and

restoration of the lands. Learned counsel further submitted that the objective of the statute is to ensure that lands granted in favour of persons belonging to SC/ST community are not misused. If it is found such lands are illegally transferred or are in possession of a third party, then the official machinery is bound to take action and ensure that the lands are resumed and restored in favour

of the original grantee or his/her legal heirs. It is submitted that the Deputy Commissioner has rightly directed the Tahsildar to mutate the names of the legal heirs of the original grantee in the revenue records. The Tahsildar will have to hold an enquiry in that regard and at any rate the petitioner will have no say in that regard.

-13-

8. Heard learned counsel Sri Subramanya R for learned counsel Sri B.R.Srinivasa Gowda for the petitioner, learned counsel Sri A.S.Mahesha for respondent No.5, learned HCGP for the respondent-State and the official respondents and perused the petition papers.

9. Having regard to the directions issued by this Court

in W.P. No.52945/2018 dated 19.05.2021, the Special Deputy Commissioner has secured information from the Revenue Department and has found that the Official Memorandum dated 13.12.2005 bearing PTCL no. (East) CR.01/2005-06, although issued, is not pertaining to the

land in question. It is found to have been issued in respect of some other land and therefore the contention of the petitioner that there was prior permission granted by the State Government in terms of Section 4(2) of the Act is found to be incorrect. The question therefore is whether the application filed by respondent No.5 invoking Section 5 of the PTCL Act could be entertained or not.

-14-

10. As rightly submitted by the learned counsel for

respondent No.5, Section 4 of the PTCL Act mandates the voiding of any transfer which is in contravention of the terms of the grant of such land or the law providing for such grant or sub-section (2) of Section 4 of the PTCL Act. Sub-section (3) of Section 4 applies the provision in sub-sections (1) and (2) to sale of any granted land in execution of a decree or order of a Civil Court or of any

award or order of any other authority. The overarching provision encompasses any such transaction and therefore the provision has to be read in conjunction with the avowed objective of the PTCL Act. It is also necessary to notice that sub-section (1) of Section 5 provides that any interested person can file an application invoking Section 5 or even on an information given in writing by any person,

the competent authority, namely, the Assistant Commissioner is required to take action. Moreover suo motu powers are conferred on the Assistant Commissioner -
15-

to hold an enquiry as he deems necessary and if he is satisfied that the transfer of any granted land is null and void under sub-section (1) of Section 4, he may pass necessary orders and take possession of such lands after evicting all persons in possession thereof. Sub-section (3) of Section 5 clearly provides that for the purpose of Section 5, if such granted lands are in possession of a person other than the original grantee or his legal heir, it shall be presumed, that such person has acquired the land by a transfer which is null and void. The burden is therefore on the petitioner to prove that he is in

possession of the land in question, lawfully. Lawfully would mean the person in possession has purchased the granted land without violating the conditions of the grant and by securing prior permission of the Government (if the transfer is after the commencement of the PTCL Act). In the present context, it is for the petitioner to prove that the petitioner has purchased the property after securing

-16- prior permission at the hands of the State Government since the transfer is after the commencement of the PTCL Act and the transfer is in compliance of the requirements in terms of Section 4(2) of the Act. It is clear that the petitioner has not secured prior sanction of the Government in terms of Section 4(2) of the PTCL Act and therefore the transfer is void.

11. There is no doubt a dispute as to whether the 5th

respondent is one of the legal heirs of late Sri Poojiga and/or whether the persons who transferred the land in favour of the petitioner are the legal heirs of late Sri Poojiga. That issue need not be gone into in a proceeding initiated under Section 5 of the Act, since any interested person can initiate the proceedings under Section 5. The Deputy Commissioner has rightly directed the Tahasildar to hold an enquiry to find out as to who are the legal heirs of late Sri Poojiga and thereafter restore the lands in their

favour. If a competent Civil Court has already rendered -17- such a finding, then the Tahasildar shall take note of the same.

12. Insofar as the decision rendered by the Coordinate

Bench in Smt.Rudramma (supra), the said decision will not come to the aid of the writ petitioner, for two reasons. Firstly, it is the contention of the 5th respondent that neither he nor his family members have transferred the land in question in favour of the petitioner. The decision of the Coordinate Bench is that after restoration of the lands in an earlier proceeding under the PTCL Act, if the grantee or his legal heirs once again choose to sell the lands that are restored to them, then, they would not be entitled to invoke the provisions of the PTCL Act for the

second time. In the present case, the legal heirs of the original grantee, namely, the 5th respondent or his family members have not chosen to sell the lands in favour of the petitioner. Secondly, this Court has considered the said decision in the case of Smt.Rudramma in, W.P.No. -18- Doddagiriappachari Vs. The Deputy Commissioner, Bengaluru Urban District & Others and has held in great detail that this Court is not in agreement with the opinion, having regard to the express provisions contained in the PTCL Act.

13. For the reasons stated above, this Court is of the considered opinion that the writ petition lacks merit and is accordingly dismissed. Sd/- (R.DEVDAS) JUDGE
BVV/- CT:JL

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com