

Chennappa Vs. the State of Karnataka and Others

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Court : Karnataka

Decided On : Apr-08-1992

Reported in : AIR1993Kant188; ILR1993KAR1589

Judge : N.Y. Hanumanthappa, J.

Acts : Karnataka Scheduled Castes and Scheduled Tribes (Prohibition of Transfer of Certain Lands) Act, 1978 - Sections 4, 5(1); [Transfer of Property Act, 1882](#) - Sections 51, 111 and 114; Govt. Grants Act, 1895 - Sections 2 and 3; Mines and Minerals (Regulation and Development Act, 1957; [Constitution of India](#) - Article 19(1); Rent Control Act - 13(1)

Appeal No. : Writ Petitions Nos. 1348 of 1992, 23217 to 23226 and 23227 to 23234 of 1990

Appellant : Chennappa

Respondent : The State of Karnataka and Others

Advocate for Def. : N.S. Rajanna and ;Siddagangaiah, Govt. Pleader.

Advocate for Pet/Ap. : M.R. Rajagopal, Adv.

Judgement :

ORDER

1. The questions to be decided in all these writ petitions are common as such all the petitions are clubbed and a common order is passed.

The reliefs sought in all the petitions are identical as such the same are extracted hereunder :

'Wherefore, the petitioner most respectfully prays that this Hon'ble Court be pleased to :

a) Issue any appropriate writ, order or direction, declaring that the petitioner cannot be evicted except in accordance with law in particular only after complying with the requirement under Sec. 51 of the Transfer of Property Act;

b) Declare that the restoration of the lands in pursuance of the orders under Sec. 5 of the Act is coupled with the encumbrances.

c) Direct the respondents to hold an enquiry regarding the encumbrances and charge created on the respective properties before causing evictions.

d) Direct the respondents to consider the case of the petitioner for the grant of lands as a measure of alternative lands as per the Karnataka Land Grant Rules.

e) Issue any writ order or direction as this Hon'ble Court deems to be fit and proper in the circumstances of the case in the ends of justice and equity.'

2. All the petitioners are purchasers of Government lands which were granted to the grantees under the then existing Land Grant Rules of State of Mysore.

3. Karnataka SC/ST (Prohibition of Transfer of Certain Lands) Act, 1978 (hereinafter referred to as the 1978 Act) is a social legislation enacted with a view to see that the persons belonging to the weaker section of the society who parted with the land because of social and economic oppression and such sales be declared as void.

4. Earlier an attempt was made by the transferees of the lands which were earlier granted to the persons belonging to Scheduled Caste/Scheduled Tribes by challenging its constitutional validity of 1978 Act. But the constitutional validity of

the 1978 Act was upheld both by this Court and the Supreme Court. While disposing of the cases, the Division Bench of this Court in Krishnappa S. V. v. State of Karnataka,, ILR 1982 (2) Kant 1310, while taking into consideration the hardship the purchasers may undergo in cases where they have made improvements or existence of malki ordered some concession to them as at para 63 of the judgment which reads as follows :

'Thus, if an alienee of a granted land is evicted by the Assistant Commissioner under Sec. 5 of the Act, the alienee may remove standing crops and fixtures put by him in such land. He may sue his alienor for the return of the purchase money. He can also claim from the original grantee or his heirs to whom such land is restored, the value of the improvements made by him in that land. The right to get such return of the purchase money and the right to claim the value of such improvements, will mitigate to some extent the hardship caused to the alienee of a granted land when he is evicted therefrom under Sec. 5 of the Act.'

5. Subsequently, the matter was taken up before the Supreme Court by one Sri Manchegowda. In Sri Manchegowda etc. v. State of Karnataka, : [1984]3SCR502 , the Supreme Court while considering various provisions of the Act, including the rights of the transferee, payment of compensation, etc. held that such grants being crown grants the question of asserting of compensation and till then to continue the transferees in possession as not tenable. In the same decision, applicability of the provisions of the Transfer of Property Act was also considered. The Supreme Court held that when a transaction is against public policy as in case of transfer of land by grantees belonging to weaker sections, to others, such a transfer as rendered void.

6. As stated earlier, 1978 Act is nothing but an Act brought into force with the noble object which is enshrined in the preamble of the Constitution including the directive principles of the State policy which are meant to benefit and improve the social and economic conditions of persons belonging to weaker sections of the society particularly, SC and ST category who, because of their ignorance, illiteracy, innocence, poverty and helplessness, have been exploited by the persons belonging to the affluent class, by way of purchase of lands and such

lands be restored to the grantees once again, a provision is made in the Act empowering the Government to resume such lands and restore the same to the grantee. The said resumption, as observed by the Supreme Court is, with a view to avoid unnecessary delay of protracting the proceedings. The Supreme Court has observed that when a person purchases the land knowing fully well the rights of the grantees, terms imposed that 'transferees of granted lands with full knowledge of the legal position that the transfers made in their favour in contravention of the terms of grant or any law, rule or regulation governing such grant are liable to be defeated in law, cannot and do not have in law or equity a genuine or real grievance that their defeasible title in such granted lands so transferred is, in fact, being defeated and they are being dispossessed of such lands from which they were in law liable to be dispossessed by process of law'. The Supreme Court, further observed that 'where a transferee acquires only a defeasible title liable to be defeated in accordance with law, avoidance of such defeasible title which still remain liable to be defeated in accordance with law at the date of commencement of the Act and recovery of possessions of such granted land on the basis of the provisions contained in Sec. 4 and Sec. 5 of the Act cannot be said to be constitutionally invalid and such a provision cannot be termed as unconscionable, unjust and arbitrary'.

7. Regarding the proposition that taking possession without paying compensation as violative of Article 19(1)(f), the Supreme Court held that such a contention is not valid for the reasons :

'Granted lands were intended for the benefit and enjoyment of the original grantees who happen to belong to the Scheduled Castes and Scheduled Tribes. At the time of the grant, a condition had been imposed for protecting the interests of the original grantees, in the granted lands by restricting the transfer of the same. The condition regarding the prohibition on transfer of such granted lands for a specified period, was imposed by virtue of the specific term in the grant itself or by reason of any law, rule or regulation governing such grant. It was undoubtedly open to the grantor at the time of granting lands to the original grantees to stipulate such a condition the condition being a term of the grant itself, and the condition was imposed in the interests of the grantee. Except on the basis of such

a condition the grantor might not have made any such grant at all. The condition imposed against the transfer for a particular period of such granted lands which were granted essentially for the benefit of the grantees cannot be said to constitute any unreasonable restriction. The granted lands were not in the nature of properties acquired and held by the grantees in the sense of acquisition, or holding of property within the meaning of Art. 19(1)(f) of the Constitution. It was a case of a grant by the owner of the land to the grantee for the possession and enjoyment of the granted lands by the grantees and the prohibition on transfer of such granted lands for the specified period was an essential term or condition on the basis of which the grant was made. It has to be pointed out that the prohibition on transfer was not for an indefinite period or perpetual. It was only for a particular period, the object being that the grantees should enjoy the granted lands themselves at least for the period during which the prohibition was to remain operative. Experience had shown that persons belonging to Scheduled Castes Scheduled Tribes to whom the lands granted were, because of their poverty, lack of education and general backwardness, exploited by various persons who could and would take advantage of the said plight of these poor persons for depriving them of their lands. The imposition of the condition of prohibition on transfer for a particular period could not, therefore be considered to constitute any unreasonable restriction on the right of the grantees to dispose of the granted lands. The imposition of such a condition on prohibition in the very nature of the grant was perfectly valid and legal.

The transferees of the granted lands from the original grantees, acquired the lands improperly and illegally in contravention of the condition imposed on such transfers. Such transferees must have been aware and must in any event be deemed to have been aware of the condition regarding the prohibition on transfer and they cannot be considered to be bona fide transferees for value. Such persons acquired in the granted lands only a voidable title which was liable to be defeated and possession of such lands could be resumed from such transferees. Such a person who only acquires a defeasible legal right cannot make a grievance of any violation of Article 19(1)(f) of the Constitution, when the defeasible legal right is, in fact, defeated by appropriate legal action or by any suitable provision enacted in an Act passed by the competent legislature. It may further be noted

that in most cases such transferees have after the transfer, which is liable to be avoided in accordance with law, enjoyed for a sufficiently long period the benefits of lands transferred to them before the lands could be recovered from them. Article 19(1)(f), therefore, did not invalidate Sec. 4 of the Act.'

The Supreme Court also said that Articles 31 and 31A of the Constitution also cannot be attracted as there is nothing to show by the nature of the transaction, the transferee has been deprived of a property on which he has a right. While interpreting the scope of Sections 4 and 5 of the Act, the Supreme Court held :

'With the enactment of the Act, the voidable right or title of the transferee in the granted lands becomes void and the transferee is left with no right of property in the granted lands. The lands which are sought to be recovered from the transferees of the granted lands are lands in which the transferees cease to have any interest or property. The effect of the provisions contained in Ss. 4 and 5 of the Act is that the defeasible right or interest of the transferees in the granted lands is defeated and the voidable transaction is rendered void. We have earlier held that it is clearly open to the Legislature to declare void the transfers of granted lands in contravention of the condition of prohibition on transfer. As soon as such transfers are rendered void by virtue of the provisions of the Act, the transferee does not have any right in the granted lands so transferred, and possession is sought to be recovered of such lands in which the transferees have lost their right and interest. Therefore, the question of acquisition of any property by the State or any modification or extinguishment of right or property does not really arise and Art. 31A cannot be applied. We are, therefore, of the opinion that there is no infringement of Articles 31 and 31A of the Constitution. We may further observe that this aspect has been carefully and elaborately considered by the learned Judges of the High Court while holding that Articles 31 and 31A are not violated.'

8. In spite of the law laid down by the Supreme Court and this Court on various contentions as has been raised in these petitions, were raised therein and were not accepted by the Court, the petitioners who are the purchasers suffered orders in the hands of the Assistant Commissioner, Deputy Commissioner declaring the

sales as void and directing to restore the lands to the grantees which subsequently are confirmed by this Court in separate writ petitions on different dates ranging between the years 1980 to 1990, have again approached this Court after the expiry of the time granted by the Court to vacate and put the grantees in vacant possession of the same, on the ground that without first determining the compensation to be payable to the petitioners and without drawing mahazar as to the existence of malki and not taking into consideration the effect of Sec. 51 of the Transfer of Property Act and Sec. 4(1) and 5(1)(b) of Karnataka Scheduled Castes and Scheduled Tribes (Prohibition of Transfer of Certain Lands) Act, 1978 (SC/ST Act for short), the Assistant Commissioner's act in disposing of the cases is quite illegal. Contending thus, the petitioners have sought for the reliefs as mentioned in the respective writ petitions.

9. At the outset, it is to be stated that the conduct of these petitioners clearly demonstrate as regards how in spite of the State conferring benefits to the weaker sections and even this Court protecting such rights, the rich can rule the law by twisting the legal position and can keep in abeyance the reliefs granted by the authorities and by this Court.

10. In order to appreciate the contentions of Sri Rajagopal, it is proper to extract Sec. 51 of the Transfer of Property Act and Secs. 4(1) and 5(1)(b) of SC/ST Act, which read as follows :

'Sec. 51 of Transfer of Property Act :

When the transferee of immovable property makes any improvement on the property, believing in good faith that he is absolutely entitled thereto, and he is subsequently evicted therefrom by any person having a better title, the transferee has a right require the person causing the eviction either to have the value of the improvement estimated and paid or secured to the transferee, or to sell his interest in the property to the transferee at the then market-value thereof, irrespective of the value of such improvement.

The amount to be paid or secured in respect of such improvement shall be the estimated value thereof at the time of the eviction.

When, under the circumstances aforesaid, the transferee has planted or sown on the property crops which are growing when he is evicted therefrom, he is entitled to such crops and to free ingress and egress to gather and carry them.

Sec. 4(1) of SC/ST Act;

Notwithstanding anything in any law, agreement, contract or instrument, any transfer of granted land made either before or after the commencement of this Act, in contravention of the terms of the grant of such land or the law providing for such grant, or subsection (2) shall be null and void and no right, title or interest in such land shall be conveyed nor be deemed over to have conveyed by such transfer.

Sec. 5(1)(b) of SC/ST Act :

Restore such land to the original grantee or his legal heir. Where it is not reasonably practicable to restore the land to such grantee or legal heir, such land 'shall be deemed to have vested in the Government free from all encumbrances. The Government may grant such land to a person belonging to any of the Scheduled Castes or Scheduled Tribes in accordance with the rules relating to grant of land.'

It is true that S. 51 of Transfer of Property Act protects the person who purchases the property in good faith and speaks about the improvements made by the bona fide holder under defeasible title. But, unfortunately, Mr. Rajagopal has forgotten to notice that 1978 Act is a special Act and S. 4 declares that there shall not be transfer of any land granted as any such transfer is null and void and no right, title or interest in such land be conveyed. In addition to this, even Section 5(1)(b) also does not say anything about taking notice of the improvements made as said under S. 51 of the Transfer of Property Act. All that it envisages is that transfer of any such property be declared as null and void and the same shall be restored to the grantee or if it is not possible to restore, the same shall be deemed to have been vested. Thus, once a declaration is made under Section 4 of the 1978 Act, whatever interest let alone right or title of the transferee over the land is deemed to have extinguished. Thus S. 51 of the Transfer of Property Act has no application to the transaction upon which the 1978 Act is applicable. Apart from all these things,

any grant of the land belonging to the Government is a crown grant. Such grants are governed by the provisions of S. 2 of the Government Grants Act, 1895. Section 2 of the Government Grants Act excludes applicability of the Transfer of Property Act. The said section reads as under :

'2 [Transfer of Property Act, 1882](#), not to apply to Government grants. -

Nothing in the [Transfer of Property Act, 1882](#) contained shall apply or be deemed ever to have applied to any grant or other transfer of land or of any interest therein heretofore made or hereafter to be made by or on behalf of the Government to, or in favour of, any person whomsoever, but every such grant and transfer shall be construed and take effect as if the said Act had not been passed.'

Section 3 of the Government Grants Act, 1895, reads thus :

'3. Government grants to take effect according to their tenor. -

All provisions, restrictions, conditions and limitations ever contained in any such grant or transfer as aforesaid shall be valid and take effect according to their tenor, any rule of law, statute or enactment of the Legislature to the contrary notwithstanding.'

11. From the above, it is made clear that in case of Government grants, restrictions against its alienation by the grantee is valid and no alienee or purchaser can say that such a condition is opposed to the provisions of the Transfer of Property Act. This position has been clarified by the High Court of Orissa in Md. Serajuddin v. State of Orissa, : AIR1969 Ori152 . That was a case where the State of Orissa granted lease to quarry mines (Chromite) to one Mohd. Serajuddin under the provisions of Mines and Minerals (Regulation and Development Act, 1957). The State had also undertaken to make available to the defendants land, electricity and raw material to carry out quarrying work more effectively. One of the conditions incorporated in the lease was that the period of lease was for 20 years and the defendant should put up the Ferro Chrome Plant within 5 years failing which the State Government will have an option to cancel the lease without notice. As there was failure to put up the Ferro Chrome Plant within

5 years as agreed upon by the grantee, the State determined the lease. The same was communicated to the defendant and called upon him to deliver possession of the same to the plaintiff. In spite of the same, the defendant failed to deliver possession. Accordingly, the State of Orissa, the plaintiff, filed a suit for eviction. The suit was contested by the defendant. One of the conditions that was incorporated in the agreement was Clause 10 of the agreement, viz., in the event of failure to put up the Ferro Chrome Plant within 5 years, the plaintiff is entitled to determine the lease. The defendant contended that it was unlawful for the State Government to determine the lease without taking action under Clause 4 of the agreement. It was also contended on behalf of the defendant that since Clause 10 of Part IX of the lease contains no provision reserving for the plaintiff a right for re-entry on his breach, there can be no forfeiture of the lease under Section 111(g) of the Transfer of Property Act. Without a notice under Section 114 of the T.P. Act the lease could not have been terminated. Also contended that the Government Grants Act, 1895 has no application to the case of the defendant. On the other hand, it was contended by the State (plaintiff) that as the lease was granted by the Government in respect of the property belonged to it, the provisions of the Government Grants Act, 1895 would apply. As such the provisions of the T.P. Act have no application. The plaintiff denied other contentions of the defendant. Subsequently, the suit was decreed rejecting the defendant's contention. Aggrieved by the same an appeal was preferred to the High Court of Orissa. The contentions which were raised before the trial Court were again reiterated before the High Court. But, the High Court taking into consideration the effect of certain clauses under the Agreement and Sections 111(g) and 114 of the Transfer of Property Act read with Sections 2 and 3 of the Government Grants Act, 1895, held that the 1895 Act applies to the transactions in question by observing as follows :

'Grants by the Government are usually construed most favourably for the Government, and that appears to be the reason why application of some laws are generally excepted in such cases. Under Section 2 of the Government Grants Act, application of the provisions of the Transfer of Property Act has been excepted specifically as follows:--

'Nothing in the Transfer of Property Act, 1882, contained shall apply or be deemed ever to have applied to any grant or other transfer of land or of any interest therein heretofore made or hereafter to be made by or on behalf of the Government to, or in favour of any person whomsoever; but every such grant and transfer shall be construed and take effect as if the said Act had not been passed.'

This being so, in our opinion, the provisions of Section 111(g) and Section 114 of the Transfer of Property Act have no application to a grant of this nature, because though this may not be a grant of land in perpetuity, it is certainly a grant by transfer of interest in land, and as such, the impugned grant is completely covered by the provisions of the Government Grants Act. In *Secy, of State for India v. Nistarini Annie Mitter*, AIR 1927 Pat 319 it has been held that -

'Leases granted by the Crown are outside the operation of the Transfer of Property Act. There is no distinction between grants by virtue of the prerogative rights of the Crown and grants made as a mercantile transaction for profit.'

This decision was followed with approval in *V. Pedda Rangaswamy Shreshti v. Sri Vishnu Nimbakar*, AIR 1946 Mad 180 and this view finds support from the decisions in *Gaya Prasad v. Secy, of State* : AIR 1939 All 263 *Rupan Singh v. Akhaj Singh*, AIR 1931 Pat 268 and *Manindra Nath Binda v. Amiya Pal*, : AIR 1951 Cal 361 .

As we hold this lease to be covered by the provisions of the Government Grants Act of 1895, all the provisions, restrictions, conditions and limitations contained in the said lease shall be followed and take effect according to their tenor, notwithstanding any rule of law, statute or enactment of the Legislature to the contrary, as provided for under Section 3 of the said Act. The decisions in *Ullattuthedi Choyi v. Secy, of State for India*, 41 Mad LJ 494 : AIR 1921 Mad 409, *Surja Kanta Roy Chowdhury v. Secy, of State* : AIR 1938 Cal 229 reiterate this view. This being so, the contention raised by the learned counsel for the appellant regarding the applicability of the several provisions of the Transfer of Property Act is of no avail, as they would not apply in view of the provisions of the Government Grants Act.'

12. The Governments Grants Act has not only settled the doubt about the non-applicability of the Transfer of Property Act but also removed the doubt about the power of the Government to impose conditions. The confusing that the conditions of non-alienation imposed by the authorities concerned is hit by S. 51 of the Transfer of Property Act is untenable as the State has got unfettered power to impose such restrictions and the right, privilege, etc. over the grant lands are regulated by the grant, though it is inconsistent with the provisions of the Statute or common law as held by the Madras High Court in *Sisili Ammal v. I. S. Sundararaja Naidu*, AIR 1946 Madras 52.

13. In respect of the case on hand also, the position is almost similar to the above case namely that the land granted to the grantee was earlier a Government land. The grant was made subject to the provisions of the Land Grant Rules prevailing at that time. The State granted the land imposing a condition of prohibition of alienation (as in the instant case). When such a condition of prohibition for alienation was imposed the same should be given effect.

14. Regarding principles of *res judicata* Sri Rajagopal argued that the present petitions are not hit by the principles of *res judicata* even though in earlier proceedings the lands and the parties were the same. In support of his contentions he placed reliance on a decision of the Supreme Court in *Mathura Prasad Sarjoo Jaiswal v. Dossibai N. B. Jeejeebhoy*, : [1970]3SCR830 . The Supreme Court interpreting the scope of S. 11 of C.P.C. held in para 9 of its judgment as follows :

'A question of jurisdiction of the Court, or of- procedure, or a pure question of law unrelated to the right of the parties to a previous suit, is not *res judicata* in the subsequent suit. Rankin C. J., observed in *Tarini Charan Bhattacharjee's case*, ILR 56 Cal 723 : AIR 1928 Cal 777.

The object of the doctrine of *res judicata* is not to fasten upon parties special principles of law as applicable to them *inter se*, but to ascertain their rights and the facts upon which these rights directly and substantially depend; and to prevent this ascertainment from becoming nugatory by precluding the parties from reopening or recontesting that which has been finally decided.'

A question relating to the jurisdiction of a Court cannot be deemed to have been finally determined by an erroneous decision of the Court. If by an erroneous interpolation of the statute the Court holds that it has no jurisdiction, the question would not, in our judgment, operate as res judicata. Similarly by an erroneous decision if the Court assumes jurisdiction which it does not possess under the statute the question cannot operate as res judicata between the same parties, whether the cause of action in the subsequent litigation is the same or otherwise.'

At para 10 the Supreme Court further held as follows :

'Where, however, the question is one purely of law and it relates to the jurisdiction of the Court or a decision of the Court sanctioning something which is illegal, by resort to the rule of res judicata a party affected by the decision will not be precluded from challenging the validity of the order under the rule of res judicata, for a rule of procedure cannot supersede the law of the land.'

This view has been subsequently followed by the Supreme Court in Karri Ram v. Smt. Kazani, : [1973]1SCR254 , wherein at para 5 of its judgment the Supreme Court, while interpreting scope of Section 13(1) of the Rent Control Act held that in execution proceedings Section 11 of the Code of Civil Procedure does not apply in terms but the rule of constructive res judicata has always been applied. It further observed that mixed question of law and fact decided in the earlier proceedings between the same parties could not be questioned in a subsequent proceedings between the same parties.

15. The same view has again been reiterated by the Supreme Court in its subsequent decision, viz., in Jai Singh Jairam Tyagi etc. v. Maman Chand Ratilal Agarwal, : [1980]3SCR224 .

16. From the above, it is clear that principles of res judicata does apply where the subject matter of dispute and the parties were same in the earlier proceedings, as held by Jai Singh's case where the Court decided a case though it did not possess any jurisdiction. Thus the reliance placed by Sri Rajagopal on the decision in Mathura Prasad Sarjoo's case if read properly, it is clear that the principles of res judicata are applicable to the case on hand.

17. Sri Rajagopal has forgotten that on the same issue the petitioner fought earlier before this Court where the land involved was the same and the other side, viz., the respondents, were also the same. As such the principles of res judicata definitely apply to the case on hand.

18. It has to be further said that merely because, for the first time in these petitions the petitioners requested to take into consideration the effect of Section 51 of the Transfer of Property Act that does not mean that these petitions are to be accepted and the issue to be reconsidered. Apart from this, taking advantage of the utmost backwardness of grantees and the handicap from which the grantees are suffering for centuries including their social and economic oppression now all these petitioners are attempting to prevent the Assistant Commissioner from taking possession of the land and to hand over the same to the grantees. When once sale transaction is declared as void and the order of restoration is made and confirmed both by the authorities and this Court the subsequent steps to be taken are in the nature of execution proceedings namely to restore the lands to the grantees.

19. No doubt, a citizen cannot be prevented from approaching the Court for the relief provided the proceedings initiated are not vexatious. But, while granting relief it has to be seen whether the proceedings are bona fide or the proceedings are to circumvent the earlier orders of the Court. In the instant case, even though a right has been conferred on the poor grantee in 1978 and both competent authorities and this Court declared the transactions as null and void and the grantees are entitled for possession of the lands, however, by virtue of interim orders granted in these petitions poor grantees are denied of the benefits conferred on them by the 1978 Act. Thus the orders made by this Court and other authorities extending the fruits of social legislation have become a mirage to these grantees.

20. Regarding payment of compensation for having continued in wrongful possession of the property and its enjoyment by the transferee Sri Rajagopal contended that the transferees/the petitioners are not liable to pay any compensation. On the other hand, in case of their eviction the petitioners are entitled for compensation. He also contended that, though the petitioners had

earlier challenged the constitutional validity of the 1978 Act, and the earlier orders passed under Ss. 4 and 5 of the Act by the Assistant Commissioner and the Deputy Commissioner and subsequently confirmed and concluded by this Court, the petitioners are not precluded from once again filing writ petition and seeking for relief that they shall not be evicted unless compensation for the improvement is paid. The said contentions are neither tenable nor acceptable. Apart from this, he is not sure that the Assistant Commissioner is attempting to take possession without drawing a mahazar as to the existence of malki or other improvements made. Even now, if the petitioners feel that para 63 of the judgment of this Court in Krishnappa's case is helpful and applicable to them, they can urge the same before the Assistant Commissioner. Further, the petitioners are somehow managing to circumvent the orders of this Court in spite of this Court granting them a little time to vacate and put the grantees in possession of the lands. Thus the petitioners are continuing in possession of the Sands wrongfully for which they are liable to pay compensation to the grantees.

21. Regarding the other contentions raised that any restoration of land shall be declared as coupled with encumbrance and charge created on such party and considering the case of the petitioners fresh grant of alternative land as per the Karnataka Land Grant Rules, etc., they are neither tenable nor have any force in the eye of law. In view of the discussions made above, all the contentions raised by the petitioners are rejected as they have no legal basis and the present proceedings have been initiated only to get interim order with a view to circumvent the earlier orders of this Court and the authorities and thus to continue in possession. Since all the points raised in these petitions have already been decided by this Court and the Supreme Court any interim order is now granted and the transferees are allowed to continue to be in possession, it will run counter to the decision already taken by this Court. Judicial discipline demands that the interim orders granted by this Court in these petitions deserve to be vacated. Hence the following order :

(a) The interim orders granted in all these petitions are vacated;

(b) All these petitions are dismissed with costs of Rs. 2000/- in each writ petition payable by the petitioner to the grantee or his/her legal representatives as the case may be;

(c) It is ordered that the Assistant Commissioner shall see that the petitioners are evicted from the lands in question and put the grantees or their legal representatives in possession of the lands in question forthwith;

(d) If there is any obstruction either by the petitioners or by others to hand over the possession of the lands in question and put the grantees or their legal representatives in vacant possession of the same, the Assistant Commissioner can take the help and assistance of the concerned authorities to give effect to the earlier orders and the present order made by this Court.

Sri Siddagangaiah, learned High Court Government Pleader, is permitted to file his memo of appearance within four weeks.

22. Petition dismissed.

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