

**Anil Kumar Vs. State of Karnataka**

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**Court :** Karnataka

**Decided On :** Feb-25-1988

**Reported in :** ILR1988KAR2598

**Judge :** K.A. Swami, J.

**Acts :** Karnataka Prevention of Fragmentation and Consolidation of Holdings Act, 1966 - Sections 6 and 7

**Appeal No. :** W.P. No. 14892 of 1987

**Appellant :** Anil Kumar

**Respondent :** State of Karnataka

**Advocate for Def. :** Abdul Khadar, HCGP

**Advocate for Pet/Ap. :** K. Sheela, Adv.

**Disposition :** Petition allowed

**Judgement :**

ORDER

**K.A. Swami, J.**

1. Though this petition is posted for preliminary hearing, as the learned Government Pleader has entered appearance on behalf of respondents and as the

matter lies in a very narrow compass, rule is issued and it is taken up for final disposal.

2. In this petition under Articles 226 and 227 of the Constitution, the petitioner has sought for quashing the order dated 2-7-1986 passed by the Sub-Registrar, Belur Taluk, produced as Annexure-C and also the Order dated 9-2-1987 passed by the District Registrar in Reg.No. 86-87 produced as Annexure-D.

3. By the first order the Sub-Registrar has refused to register the document dated 26-12-1985 on the ground that it violates the provisions of the Karnataka Prevention of Fragmentation and Consolidation of Holdings Act, 1966 (hereinafter referred to as 'the Act'). Annexure-B is the order passed by the Appellate Authority. The Appellate Authority has confirmed the order of the Sub-Registrar. The document is a deed of relinquishment executed by four out of the five co-owners in favour of the 5th co-owner. The petitioner is the 5th co-owner, in whose favour the other co-owners have relinquished their rights.

4. The facts as revealed in the document are : The property in respect of which the rights are relinquished by the other co-owners originally owned by one Sri. B.R. Nagarajasetty. After his death the petitioner and the four other persons named in the document have succeeded to it. As the division of the property does not facilitate better enjoyment and is not in the interest of the parties, the other four co-owners have relinquished their right, title and interest in favour of the petitioner. Accordingly they have executed and presented the document for registration before the third respondent who by the impugned order dated 2-7-1986 has refused to register it.

5. A reading of the document makes it clear that it does not divide the property. It is a document by which four out of the five co-owners have relinquished their right, title and interest in favour of the fifth or the remaining co-owner of the property. When there is no division of the property and no fragment is created and there is no transfer to a person who is not a owner of the adjoining land, there is no violation of the provision of the Act.

6. According to Section 6 of the Act, no land in any area shall be transferred, partitioned or subdivided so as to create a fragment. Even if it is considered that the property involved in the deed in question is a fragment the document does not contravene either Section 6 or Section 7 of the Act. By the deed in question, no fragment is created, sold, sub-divided or leased. The Act does not prohibit relinquishment of right, title and interest in a fragment by one Of the joint owners or co-owners in favour of his other joint or co-owners. Such relinquishment of right results in consolidation of ownership in one person and prevents further division of land and creation of fragment and thereby it advances the object of the Act. Therefore there is no violation of either Section 6 or Section 7 or any other provisions of the Act. That being the position, the order refusing to register the document cannot be sustained. Accordingly, the Writ Petition is allowed. The impugned orders Annexure-C and D are quashed. The 3rd respondent is directed to register the document if the petitioner presents the same within six weeks from today.

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