

V. Nanjappa Vs. State of Karnataka and Others

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Court : Karnataka

Decided On : Dec-09-1997

Reported in : 1998(5)KarLJ458

Judge : M.F. Saldanha, J.

Acts : Karnataka Scheduled Castes and Scheduled Tribes (Prohibition of Transfer of Certain Lands) Act, 1978 - Sections 4 and 5; Karnataka Land Grant Rules, 1969 - Rule 29-A; Karnataka Land (Grant (Amendment) Rules, 1974; Uniform Land Revenue Act (Karnataka Land Revenue Act, 1964); Mysore Land Grant Rules, 1968 -Rule 40; [General Clauses Act, 1897](#) - Sections 6

Appeal No. : Writ Petition No. 22478 of 1997

Appellant : V. Nanjappa

Respondent : State of Karnataka and Others

Advocate for Def. : Mrs. Bharathi Nagesh, Government Pleader

Advocate for Pet/Ap. : Sri Puttige R. Ramesh, Adv.

Judgement :

ORDER

1. I have heard the petitioner's learned Advocate as also the learned Government Pleader.

2. Mr. Ramesh on behalf of the petitioner states that a clear reading of the intendment of the Legislature while promulgating the Karnataka Scheduled Castes and Scheduled Tribes (Prohibition of Transfer of Certain Lands) Act, 1978 was in order to prescribe a bar to the transfer of lands granted to persons of this category to others who may either want to deprive them of their lands or who may want to deceive them into parting with their lands or who may want to exploit them by depriving them of their lands through any other unfair means. Learned Counsel submits that the scheme of the legislation is very clear insofar as it is intended to protect a particular social strata and he contends that if this be the objective, that it would not prohibit a transfer inter se within persons belonging to the SC/ST. He has placed reliance on a Division Bench decision reported in *Lakshamma v State of Karnataka and Others*, wherein the Division Bench while dealing with a group of writ petitions had occasion to deal with the ambit and scope of Rule 29-A. The Division Bench has upheld the contention that, a transfer that is made to a person belonging to the SC/ST category would not come within the bar prescribed by the statute. Mr. Ramesh submits that, this contention was specifically pleaded by the petitioner and has been wrongly rejected. Learned Counsel even points out to me that, a fundamental issue of this type has neither been properly recorded nor has it been considered leave alone recording a finding thereon and therefore he assails the impugned orders.

3. I need to record here that, the learned Government Pleader has vehemently opposed the interference by this Court because she has submitted that an examination of the scheme of the Act would indicate that every transfer or alienation irrespective of who is the beneficiary that has taken place in violation of the provisions of the Act would be void and she submits that the Act has not made any specific exceptions least of all, to the effect that the Members of the SC/ST would be permitted inter transfers. Her submission is that, if this is the scheme of the Act, that the petitioner's learned Advocate is not justified in reading intentions into it or relying on some stray provision of a Rule because it is the Act which should prevail. She also points out to the Court that, even among persons belonging to the SC and ST, that the eligibility for grant or regrant be required to be examined by the Government and that not all persons belonging to this category are eligible for the grant of leasehold lands. Under these circumstances,

she submits that the impugned orders are correct and that no interference is warranted.

4. I do concede, as pointed out by the learned Government Pleader that under the normal rules of interpretation the provisions of the Act would ordinarily prevail. However, under the doctrine of harmonious construction unless there is a conflict, which I do not find in the present case, Court is obliged to construe the Act in consonance with the rules framed thereunder which are framed in furtherance of the objectives of the Act. To my mind, Rule 29-A does not in any manner conflict with the provisions of the Act and it is capable of being interpreted to further the objectives of the Act. It is very clear that the Government was of the view that the bar prescribed, which is almost total, should not adversely apply to the very small category of persons whom the law was intended to benefit which is why we have Rule 29-A. In this view of the matter, the law laid-down by the Division Bench would have to be applied to the facts of the present case.

In the result, the impugned orders are quashed and set aside. The petition succeeds. No order as to costs.