

**Gowramma Vs. State of Karnataka**

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**Court :** Karnataka

**Decided On :** Jul-22-1985

**Reported in :** ILR1985KAR3111

**Judge :** Doddakale Gowda, J.

**Acts :** [Karnataka Land Revenue Act, 1964](#) - Sections 100 and 104

**Appeal No. :** W.P. No. 11094 of 1985

**Appellant :** Gowramma

**Respondent :** State of Karnataka

**Advocate for Pet/Ap. :** C.B. Srinivasan, Adv.

**Judgement :**

ORDER

**Doddakale Gowda, J.**

1. Rights of grantee (not impleaded as party in this Writ Petition) is defeasible subject to fulfilment of terms and conditions on which grant is made. Undisputedly grant is on 3-11-1961 and alienation in favour of petitioner is on 10-3-1963. Action taken for resumption by Government for breach of conditions imposed is questioned in this Writ Petition.

2. Section 100 of [Karnataka Land Revenue Act, 1964](#) declares that a sale of 'granted land through process of Court without obtaining sanction of prescribed authority as null and void. Section 104 of Karnataka Land Revenue Act which reads thus:

Summary eviction of person unauthorisedly occupying land -Notwithstanding anything contained in the Karnataka Public Premises (Eviction of Unauthorised Occupants) Act, 1961 (Karnataka Act 3 of 1962) any person unauthorisedly occupying or wrongfully in possession of any land which is not transferable by virtue of any condition lawfully annexed to the tenure under the provisions of Section 91, Section 98 or Section 99 may be summarily evicted in the land shall be liable to forfeiture and any building or other construction erected thereon shall also, if not removed by him after written notice, as the (Tahsildar) may deem reasonable, be liable to forfeiture or summary removal.

(Underline is mine)

enables an authority to resume land from a person unauthorisedly in occupation or in possession of granted land for breach of conditions annexed to grant. One of the conditions as amongst others in this case, is that grantee should not alienate the property for a period of 15 years. Particulars set out above clearly demonstrate that alienation being within the prohibited period, grantee has committed breach of conditions annexed to grant. Section 100 read with Section 104 of Land Revenue Act provides machinery for resumption of granted land for breach of terms and conditions of grant. Relying on para 24 of the decision of Supreme Court in *Manchegowda and others -v.- State of Karnataka and others*, ILR 1984(2) KAR 1-1984(2) KLJ 2 Sri C.B. Srinivasan, Learned Counsel for petitioner, vehemently urged that purchaser has acquired prescriptive title, hence he cannot be evicted. Learned Counsel for petitioner rightly and fairly conceded adverse possession dealt in para 24 relates to right of grantee vis-a-vis a purchaser, extinguishment of rights of grantee and does not deal with rights of Government. Having regard to provisions of Karnataka Scheduled Castes/Scheduled Tribes (Prohibition of Alienation of Certain Lands) Act, 1979, which provide for restoration of possession to grantee, Supreme Court has held that on perfection of adverse

possession as against grantee, question of restoration of possession will not arise. That is not the position here. Land admittedly belongs to Government and for non-compliance of terms and conditions of grant. Government is at liberty to resume the land. Petitioner has not asserted adverse possession as against Government. In this view, I find no merit, Writ Petition is rejected.

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