[2025] 4 S.C.R. 2045 : 2025 INSC 583

Shardhamma & Anr.
v.
The Dy. Commissioner & Ors.

(Civil Appeal No. 5689 of 2025)

29 April 2025

[B.V. Nagarathna and Satish Chandra Sharma,* JJ.]

Issue for Consideration

The present appellants being aggrieved by the order passed by the Assistant Commissioner as well as Deputy Commissioner preferred a writ petition before the High Court and *vide* order dated 18.12.2003, the writ petition was dismissed. The present appellants thereafter preferred a Writ Appeal in the matter and the same was also dismissed by the High Court.

Headnotes†

Karnataka Scheduled Castes and Scheduled Tribes (Prohibition of Transfer of Certain Lands) Act, 1978 – s.5 – A land was sold to R, predecessor-in-title of the appellants in the year 1946-47 and a Saguvalli Chit was confirmed on 12.05.1954 – The land was sold by R on 20.06.1969 – The application u/s.5 of the PTCL Act was filed on 06.06.1992 by one D (not a legal representative of the original grantee) – The Assistant Commissioner has allowed the application vide order dated 01.03.1999 and on appeal, the Deputy Commissioner has affirmed the aforesaid order vide order dated 16.10.2003 holding that there was violation of alienation clause as under the Mysore Land Revenue Rules which were in force on the date of grant, particularly on account of the non-alienation clause, the land could not have been alienated before the expiry of period of 20 years – Writ petition and thereafter writ appeal filed before the High Court was dismissed:

Held: The application preferred in the matter under the PTCL Act was hopelessly barred by delay and latches – In the instant case, the application was preferred only on 06.06.1992 and the land was sold on 20.06.1969, it was certainly beyond reasonable period and, therefore, the order passed by the Assistant Commissioner, Deputy Commissioner, Single Judge and the impugned orders are set aside – The appellants had purchased the land by virtue

* Author

of the sale deed, and, therefore, have all rights over the land in question – The application u/s.5 of the PTCL Act was preferred after expiry of more than 10 years period, the same should have been dismissed on the ground of delay and latches – There is one another important aspect with regard to Saguvalli Chit which was confirmed on 12.05.1954 – The records reveal that there is a non-alienation clause which provides that the land in question shall not be transferred before expiry of period of 10 years and, therefore, in the light of this categoric recital in the Saguvalli Chit, the sale deed executed in the matter could not have been declared as null and void as has been done by the authorities and affirmed by the Courts below – The respondents before this Court were also not having any locus in the matter as they are not descendants of R, the original grantee and, therefore, they could not have preferred an application u/s.5 of the PTCL Act – Thus, the impugned orders are set aside. [Paras 6-10]

Case Law Cited

Nekkanti Rama Lakshmi v. State of Karnataka and Another **(2020) 14 SCC 232;** *Vivek M. Hinduja and Others v. M. Ashwatha and Others* **(2020) 14 SCC 228 – referred to.**

List of Acts

Karnataka Scheduled Castes and Scheduled Tribes (Prohibition of Transfer of Certain Lands) Act, 1978; Mysore Land Revenue Rules.

List of Keywords

Section 5 of Karnataka Scheduled Castes and Scheduled Tribes (Prohibition of Transfer of Certain Lands) Act, 1978; Delay and laches; Non-alienation clause; Beyond reasonable period.

Case Arising From

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 5689 of 2025

From the Judgment and Order dated 27.07.2010 of the High Court of Karnataka at Bengaluru in WA No. 1928 of 2004

Appearances for Parties

Advs. for the Appellants:
Ms. Kiran Suri, Sr. Adv., S.j. Amith, Ms. Vidushi Garg, Dr. Mrs. Vipin Gupta.

Advs. for the Respondents:
P. Vishwanatha Shetty, Sr. Adv., V. N. Raghupathy, Raghavendra M. Kulkarni, Ms. Mythili S, M. Bangaraswamy, Venkata Raghu Mannepalli, Dhanesh Ieshdhan, Shiv Kumar, Ms. Vaishnavi, G. N. Reddy, Mahesh Thakur, Vibhav Chaturvedi.

Judgment / Order of the Supreme Court

Judgment

Satish Chandra Sharma, J.

Leave granted.

2. The present appeal is arising out of order dated 27.07.2010 passed in Writ Appeal No. 1928 of 2004 (SC/ST) by the High Court of Karnataka at Bangalore whereby the High Court has set aside the order passed in Writ Petition No. 50446/2003 dated 18.12.2003.

3. The facts of the case reveal that four acres of land in old Survey No. 14/1 (New No. 150) of Hosahalli Village, Hulikunte, Hobli were granted on lease through auction conducted by Tehsildar, Sira Taluk to one Shri Ranga @ Rangappa during the year 1946-47 i.e. 01.04.1946 and a Saguvalli Chit was confirmed on 12.05.1954 in his favour. The upset price was paid by Shri Ranga towards the land and Shri Ranga continued to be in peaceful possession and enjoyment of the land in question from 1946 to 1969, i.e., for a period of 23 years. His name continued in existence in the revenue records. Shri Ranga, the land holder (the Grantee), sold the land to the husband of the first appellant, namely, Sri Basavarajappa by way of a registered sale deed and the appellant No. 2 is son of Basavarajappa. Thus, the land in question continued to be in possession of late Shri Ranga and after his death in the name of his wife and son.

4. On 06.06.1992, one Dodda Hanumaiah preferred a petition under Section 5 of the Karnataka Scheduled Castes and Scheduled Tribes (Prohibition of Transfer of Certain Lands) Act, 1978 (hereinafter referred to as, 'the PTCL Act'), stating that the original grantee is the elder brother of his late father and the land was sold on 20.06.1969 and as the land was sold on 20.06.1969, the possession of the same has to be restored to the original grantee and as the original grantee was not alive, to his relative. It is pertinent to note that respondent

No. 3 Doddahanumaiah is certainly not the legal representative of the original grantee. The Assistant Commissioner has allowed the application vide order dated 01.03.1999 and on appeal, the Deputy Commissioner has affirmed the aforesaid order vide order dated 16.10.2003 holding that there was violation of alienation clause as under the Mysore Land Revenue Rules which were in force on the date of grant, particularly on account of the non-alienation clause, the land could not have been alienated before the expiry of period of 20 years. The present appellants being aggrieved by the order passed by the Assistant Commissioner as well as Deputy Commissioner preferred a writ petition before the High Court of Karnataka and vide order dated 18.12.2003, the writ petition was dismissed.

5. The present appellants thereafter preferred a Writ Appeal in the matter and the same was also dismissed by the High Court of Karnataka vide order dated 27.07.2010.

6. This Court has carefully gone through the orders passed by the Assistant Commissioner, Deputy Commissioner, learned Single Judge as well as Division Bench of the High Court of Karnataka. In the present case, the land was sold to Shri Ranga, predecessor-in-title of the appellants in the year 1946-47 and a Saguvalli Chit was confirmed on 12.05.1954. The land was sold by Shri Ranga on 20.06.1969 and the application under Section 5 of the PTCL Act was filed on 06.06.1992. In the considered opinion of this Court, the application preferred in the matter under the PTCL Act was hopelessly barred by delay and latches, as has been held in the case of ***Nekkanti Rama Lakshmi Vs. State of Karnataka and Another*** (2020) 14 Supreme Court Cases 232, in paragraphs 7 and 8, as under:

> *"7. Shri R.S. Hedge appearing for the appellant urged several grounds. It is contended by Shri Hegde that proceedings are void for non-joinder of the first purchaser of the land. It is further contended that the non-alienation period i.e. period for which Kriyappa could not have transferred the land was not 15 years but was 10 years under the Rules of the land and, therefore, transfer was legal having been made after 10 years. However, the applicant had not produced the original grant, and, therefore, it was not possible for the purpose to come to a conclusion that the transfer was in breach of the*

non-alienation period. We, however, find that one of the points raised on behalf of the appellant deserves acceptance. That point is that the application for restoration of the land was made by the heir of Kriyappa after unreasonably long period i.e. 25 years from when the Act came into force. Section 4 of the Act itself has a ubiquitous effect in it, annulling the transfer of granted land "made either before or after the commencement of the Act" as null and void. The Act does not specify how much before the commencement of the Act. Thus, on a plain and critical reading of the Act, it seems that it covers proceedings made in time before the Act was enacted. However, we are not called upon to deal with the reasonableness of this provision and we do not propose to say anything on this. The validity of the Act has been upheld by a judgment of this Court in Manchegowda v. State of Karnataka [Manchegowda v. State of Karnataka, (1984) 3 SCC 301]."

"8. However, the question that arises is with regard to terms of Section 5 of the Act which enables any interested person to make an application for having the transfer annulled as void under Section 4 of the Act. This section does not prescribe any period within which such an application can be made. Neither does it prescribe the period within which suo motu action may be taken. This Court in Chhedi Lal Yadav v. Hari Kishore Yadav [Chhedi Lal Yadav v. Hari Kishore Yadav, (2018) 12 SCC 527:(2018) 5 SCC (Civ) 427] and also in Ningappa v. Commr.[Ningappa v. Commr.(2020)14 SCC 236] reiterated a settled position in law that whether statute provided for a period of limitation, provisions of the statute must be invoked within a reasonable time. It is held that action whether on an application of the parties, or suo motu, must be taken within a reasonable time. That action arose under the provisions of a similar Act which provided for restoration of certain lands to farmers which were sold for arrears of rent or from which they were ejected for arrears of land from 1-1-1939 to 31-12-1950. This relief was granted to the farmers due to flood in Kosi River which make agricultural operations

> *impossible. An application for restoration was made after 24 years and was allowed. It is in that background that this Court upheld that it was unreasonable to do so. We have no hesitation in upholding that the present application for restoration of land made by respondent Rajappa was made after an unreasonably long period and was liable to be dismissed on that ground. Accordingly, the judgments of the Karnataka High Court, namely, R. Rudrappa v. Commr. [R.Rudrappa v. Commr., 1998 SCC OnLine Kar 671:(2000) 1 Kant LJ 523], Maddurappa v. State of Karnataka [Maddurappa v. State of Karnataka, (2006) 4 Kant LJ 303] and G. Maregoudav. Commr. [G. Maregouda v. Commr., (2000) 2 Kant LJ SN 4B] holding that there is no limitation provided by Section 5 of the Act and, therefore, an application can be made at any time, are overruled. Order accordingly."*

7. In the light of the aforesaid judgment, as in the present case, the application was preferred only on 06.06.1992 and the land was sold on 20.06.1969, it was certainly beyond reasonable period and, therefore, the order passed by the Assistant Commissioner, Deputy Commissioner, learned Single Judge and the impugned orders are set aside. The appellants had purchased the land by virtue of the sale deed, and, therefore, have all rights over the land in question. This Court again in the case of ***Vivek M. Hinduja and Others Vs. M. Ashwatha and Others*** (2020) 14 Supreme Court Cases 228 dealing with the similar Act, in paras 10 to 12, has held as under:

> *"10. In Pune Municipal Corpn. v. State of Maharashtra [Pune Municipal Corpn. v. State of Maharashtra, (2007) 5 SCC 211] this Court reproduced the following observations with regard to the declaration of orders beyond the period of limitation as invalid: (SCC p. 226, para 39)*
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> > *"39. Setting aside the decree passed by all the courts and referring to several cases, this Court held that if the party aggrieved by invalidity of the order intends to approach the court for declaration that the order against him was inoperative, he must come before the court within the period prescribed by limitation. 'If the*

> *statutory time of limitation expires, the court cannot give the declaration sought for'."*
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> *(emphasis supplied)*
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> *"11. We are in respectful agreement with the aforesaid observations. It is, however, necessary to add that where limitation is not prescribed, the party ought to approach the competent court or authority within reasonable time, beyond which no relief can be granted. As decided earlier, this principle would apply even to suo motu actions."*
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> *"12. We find from the impugned judgments [Vivek M. Hinduja v. M. Ashwatha, 2006 SCC OnLine Kar 882] , [George Thomas v. K.P. Krishnappa, 2011 SCC OnLine Kar 4496] that the High Court has not given due regard to the period of time within which the action was taken in the present cases. The competent authorities in all these cases had declined relief to the respondents and had refused to annul the transfers. In the circumstances, the impugned judgment(s) and order(s) passed by the High Court are set aside."*

8. In the light of the ratio laid down in the aforesaid judgments, it can be safely gathered that as the application under Section 5 of the PTCL Act was preferred after expiry of more than 10 years period, the same should have been dismissed on the ground of delay and latches.

9. There is one another important aspect with regard to Saguvalli Chit which was confirmed on 12.05.1954. The vernacular version and the English translation which are on record reveal that there is a non-alienation clause which provides that the land in question shall not be transferred before expiry of period of 10 years and, therefore, in the light of this categoric recital in the Saguvalli Chit, the sale deed executed in the matter could not have been declared as null and void as has been done by the authorities and affirmed by the learned Courts below.

10. Resultantly, the appeal deserves to be allowed and is accordingly allowed. The respondents before this Court were also not having any locus in the matter as they are not descendants of Shri Ranga,

the original grantee and, therefore, they could not have preferred an application under Section 5 of the PTCL Act. On this count also, the impugned orders deserve to be set aside and are hereby set aside.

11. The appeal is allowed. No orders as to costs.

Result of the case: Appeal allowed.

†*Headnotes prepared by:* Ankit Gyan