



KARNATAKA HIGH COURT UPHOLDS CONSTITUTIONAL VALIDITY OF KARNATAKA LAND GRABBING PROHIBITION ACT

The Hon'ble High Court of Karnataka, *vide* its judgement dated 19 January 2021 has upheld the constitutional validity of the Karnataka Land Grabbing Prohibition Act, 2011 ("**KLGP Act**"). The constitutional validity of the KLGP Act was challenged on various grounds that it violates several provisions of the Constitution of India and particularly challenged on its retrospective application, separation of powers, manifest arbitrariness, reverse burden of proof, non-provision of appellate remedy amongst others in a batch of petitions filed from the year 2017.

The Hon'ble High Court of Karnataka however has read down various provisions, issued directions and quashed a portion of the KLGP Act. Notable highlights of the judgement pronounced are as follows**:

- Section 9(4) of the KLGP Act which states that “additional evidence, if any adduced in the civil proceedings shall not be considered by the special court while determining the criminal liability,” was stuck down on the ground of vagueness.
- The expression “proceedings” under proviso to Section 22 of the KLGP Act should be construed to mean proceedings not only under KLGP Act but also Karnataka Land Grant Rules, Karnataka Land Reforms Act, Darkasht Rules and any other rules/regulations.
- Cases pending before the civil courts being transferred to special KLGP court should be reconsidered in light of the decision rendered in W.P. No. 51187/2019 (KLGP) wherein a division bench of the

Hon'ble High Court of Karnataka had clearly laid down various parameters before which a matter pending before the Civil Court could be transferred to the special KLGP Court. This primarily includes:

- i. proper application of mind,
 - ii. a clear positive action taken by relevant authorities wherein positive proceedings are initiated against a person who should fall within the definition of land grabbing within the meaning of the KLGP Act,
 - iii. recording a reasoned finding that the land in question is indeed Government land and that the person has indeed committed land grabbing within the meaning of the KLGP Act, i.e., activity of grabbing of Government land is without any lawful entitlement and with a view to illegally take possession of such land.
- The special KLGP court should adopt the procedure for “warrant” cases as a rule. In the event, summary trial procedure is employed, reasons for doing so have to be furnished in detail.
- It was also observed that land grabbing charges may be brought against poor farmers residing in remote parts of the State and they would be put to severe hardship and difficulty if they are required to attend the proceedings only in Bangalore. The court directed the Government to set up special courts in every district, preferably, on a need basis.



****Note: The detailed judgement is yet to be uploaded, and the final findings will be published once the judgement is made available in the public domain.**

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