



UPDATE ON THE KARNATAKA HIGH COURT DECISION ON THE NATURE OF 'GRANTED LAND' POST CONVERSION

A Full Bench of the High Court of Karnataka answered a reference made to it in ***Munnaiah and others v. The Deputy Commissioner, Bangalore and others***, W.P. No. 60483 of 2014 (SC-ST), regarding the status of 'granted land' under Section 4(2) of the Karnataka Scheduled Castes and Schedule Tribes (Prohibition of Transfer of Certain Lands) Act, 1978 (**the PTCL Act**).

FACTUAL BACKGROUND

- The Petitioners were the legal heirs of Late Konda @ Kondappa, who was granted a land admeasuring 5 acres and 3 guntas at Meenukunte Village, Jala Hobli, Devanahalli Taluk vide Government Order dated 31.12.1927, with a condition of non-alienation of land. On the death of Konda, the land devolved on his legal heirs (the Petitioners in the present case)
- The impugned property was sold to Respondent 3 vide five sale deeds dated 31.10.1996 without the requisite permission of the State Government u/s. 4(2) of the PTCL Act. Petitioner No. 1 filed an application before the Assistant Commissioner for restoration of land, citing the lack of government sanction to alienate the impugned property. Considering the said application, the Assistant Commissioner held that the impugned sale was null and void in accordance with Section 4(2) of the PTCL Act in their Order dated 10.06.2008. Since then, the matter has seen several rounds of litigation before various forums.

PROCEDURAL BACKGROUND

- The matter finally reached the High Court, where a Single Judge Bench in its order dated 19.05.2021 noted that the questions of law in the present matter have been held with divergent views by various benches in ***Kariyappa v. A.C., Hassan*** [ILR 1997 Kar 1723]; ***Smt. Muniyakkamma v. The Assistant Commissioner*** [2005 (4) KCCR 2953]; ***The Tibetan Children's Village v. The Deputy Commissioners and others***, in W.P. No. 15802/2007 decided on 07.04.2019; ***Kumar and others v. State of Karnataka*** in W.P. No.21977/2013 decided on 21.12.2020; and ***Smt. Ningamma v. Tibetan Children's Village*** in W.A. No. 4092/2017 decided on 09.04.2019 by the Karnataka High Court and the same needs to be decided by a larger bench. Hence a Full Bench of the Karnataka High Court was constituted.

QUESTIONS BEFORE THE COURT

There were three main question that were referred to the Full Bench to be answered –

1. Whether the definition of 'granted land' under the PTCL Act can be restricted to agricultural lands?
2. Whether the conversion order passed by the Deputy Commissioner under Section 95 of the Karnataka Land Revenue Act, 1964 would take away the 'granted land' from the purview of the PTCL Act?
3. Whether the conversion order passed by the Deputy Commissioner can be construed as prior permission granted by the government satisfying the requirement under Section 4(2) of the PTCL Act?

FINDINGS OF THE COURT

1. Restriction of 'granted land' to agricultural land

- The definition of the word 'granted land' under Section 3(1)(b) of the PTCL Act contains the expression 'means and includes', which enlarges the scope and meaning of the words occurring in the statute. Therefore, the Court held that the definition of 'granted land' cannot be restricted to agricultural land alone but would also extend to residential and other types of land.

2. Conversion Order and its effect on 'granted land'

- The PTCL Act is a beneficial legislation which protects the economic interest of the persons belonging to the Scheduled Castes and Scheduled Tribes. However, the said legislation only protects the 'granted land'. Once the allottee of land under the PTCL Act applies for the conversion of land, it loses its status as 'granted land'.
- **Therefore, once the Deputy Commissioner passes a Conversion Order under Section 95 of the Karnataka Land Revenue Act, 1964, the 'granted land' loses its status and consequently comes out of the scope of the PTCL Act.**

3. The Conversion Order as Governmental Sanction

- Section 3(1)(b) and 4 of the PTCL Act are not in conflict with Section 95 of the Karnataka Land Revenue Act, 1964. The authorities in the said provisions are different and they work on entirely different fields.
- The Deputy Commissioner has to ensure that no other statute is defeated in the conversion of the land and consequently, Section 4 of the PTCL Act is also required to be taken into consideration.

- Section 95 of the Karnataka Land Revenue Act, 1964 is not mentioned in Section 4(2) of the PTCL Act. Therefore, a transfer cannot be effectuated by a conversion order under Section 95 of the Karnataka Land Revenue Act, 1964. The authorities under the two provisions and the enquiries made thereunder are completely different.
- **Therefore, a Conversion Order under Section 95 of the Karnataka Land Revenue Act, 1964 cannot be deemed to be ‘permission of the State Government’ required under Section 4 of the PTCL Act.**

Disclaimer This update note is for private circulation only and not for commercial re-circulation. Any form of reproduction, dissemination, copying, disclosure, modification, distribution and/or publication of this update note for any non-academic and non-informational purposes are strictly prohibited. This update note is not intended to be an advertisement or solicitation. The contents of this update note are solely meant for informational purposes only and is not a substitute for professional advice. Legal advice should be obtained based on the specific circumstances of each case, before relying on the contents of this update note or prior to taking any decision based on the information contained in this update note. Sanctum Law disclaims all the responsibility and accepts no liability for the consequences of any person acting, or refraining from acting, on information contained in this update note, which may be inadvertently incorrect.

Copyright © Sanctum Law. All rights reserved. Replications or redistribution of content, including by caching, framing or similar means, is expressly prohibited without the prior written consent of Sanctum Law. Any queries may be addressed to contact@sanctumlaw.com