

**IN THE COURT OF THE CIVIL JUDGE AND JMFD., AT
T.NARASIPURA**

DATED THIS THE 8th DAY OF AUGUST 2019

PRESENT : Sri. PRASHANTHA G.C.,BAL., LL.M.,
CIVIL JUDGE AND JMFC,
T.Narasipura

O.S.NO. 207/2011

PLAINTIFF : Sri.Rangaswamy
V/s

DEFENDANTS : The Chief Secretary and others

PARTIES IN I.A. No.VII

APPLICANT : Tahasildar 3rd Defendant
V/s

OPPONENTS : Rangaswamy Plaintiff

ORDERS ON I.A. No.VII

The Learned A.G.P is appearing for the 3rd defendant has filed I.A.No.VII under Section 20 of Karnataka Land Grabbing Prohibition Act R/w Section 151 of C.P.C, to transfer the case to the Special Court.

2. The Learned A.G.P for the 3rd defendant in support of the IA has filed Memorandum of Facts.

3. The plaintiff has filed an objection to IA No.VII and praying to dismiss the same.

4. Heard both the parties, perused the material available on record.

5. The following point has arisen for consideration of this Court:

1. Whether the Learned A.G.P for the 3rd defendant has made out sufficient grounds to transfer the case to the Special Court ? if so, what order ?

6. This Court answers the above point in the ***Affirmative*** as per the final order for the following :

REASONS

7. This suit is filed by the plaintiff against the defendants to declare his family members as the owner in possession of the suit schedule properties, as they have perfected the title under law of adverse possession and consequential relief of Permanent Injunction. The Learned A.G.P for the 3rd defendant in the Memorandum of Facts has stated that, this case is triable by the Special Court, situated at Bengaluru.

8. Per contra the plaintiff in his objection has stated that, suit schedule land was a tenanted land, one Yalakkigowda, the grandfather of the plaintiff was cultivating the land for 18 years. After his demise his son Thimmegowda @ Thimmaiah, continued

as a tenant. After the death of the said Thimmegowda, the plaintiff and his family members have inherited the tenant rights over the suit schedule properties. The plaintiff in suit 'B' property has constructed 6 shops. In the remaining 18 guntas, the plaintiff and his family members are residing. Therefore, prayed to dismiss the application.

9. On perusal of the records it is clear that, the plaintiff is seeking relief with respect to the Government property. Plaintiff has produced Ex.P2 R.T.C standing in the name of King, Mysuru Province. Section 20 of Karnataka Land Grabbing Prohibition Act 2011, read as follows :

“ Any case, pending before any court or other authority immediately before the constitution of a Special Court, as would have been within the jurisdiction of such Special Court, shall stand transferred to the Special Court as if the cause of action on which such suit or proceeding is based had arisen after the constitution of the Special Court.”

10. Aforesaid provision provides any suit involving Government property shall stands transfered to the Special Court. Hon'ble High Court of Karnataka in a case between *Joseph Saldhana V/s State of Karnataka and others* reported in 2019(2) KCCR 1719, it is held that :

“ In view of the dictums of the Hon'ble Apex Court, referred supra, it is manifestly clear that the Special 40 Court is competent to adjudicate the question of title, ownership, or lawful possession of any land alleged to

have been grabbed and the matters pertaining to the act of 'land grabbing' are triable by the Special Court. Having regard to the non-obstante clause used therein at the inception, it is obvious that the jurisdiction of the Special Court is exclusive. The Special Court is competent to try and determine the issue of title, right to, or possession of the land alleged to have been grabbed. In the case on hand, on careful scrutiny of the averments made in paragraph-3 of the plaint, it is seen that the plaintiff-petitioner herein has categorically stated that he is in adverse possession over the land belonging to the Government for a period of 30 years. Once it is admitted that the land belongs to the Government, the provisions of Karnataka Land Grabbing Prohibition Act, 2011, would attract. However, the same requires to be determined by the special Court after full fledged trial/enquiry and on evaluation of the oral and documentary evidence that may be adduced and produced by both the parties. The learned judge of the Trial Court while considering the application U/S.20 of the Act, filed by the defendants-respondents here in has formulated the points for determination and passed well reasoned order in exercise of power conferred under Section-20 of the Act. Accordingly the point raised in the writ petition is answered in the affirmative holding that the Trial Court is justified in passing the impugned order. 24. The decision in the case of Gangadhara referred Supra, relied on by the learned counsel for the petitioner has no application to the facts and circumstances of the present case and the impugned order passed by the trial Court is a well crafted order. 42 25. In view of the aforesaid reasons, this Court is of the considered opinion that the learned judge of the Trial court is justified in passing the impugned order, in exercise of his power under Section-20 of the Act.

11. Hence, the Learned A.G.P for the 3rd defendant has made out sufficient grounds to allow IA. In the result, this Court

answers aforesaid point in the **Affirmative**. In the result, this Court proceeds to pass the following.

ORDER

I.A.No.VII filed by the Learned A.G.P for the 3rd defendant under Section 20 of Karnataka Land Grabbing Prohibition Act R/w Section 151 of C.P.C is hereby allowed.

Office is hereby directed to transfer the suit to the Special Court, established under Karnataka Land Grabbing Prohibition Act, 2011 at Bengaluru.

**Civil Judge and J.M.F.C.
T.Narasipura.**

