

IN THE COURT OF PRL.SENIOR CIVIL JUDGE & J.M.F.C
HANGAL, AT; HANGAL

Present : Shri. BALAPPA APPANNA JARAGU,
B.Sc., LL.M.,
Senior Civil Judge & JMFC.,
Hangal.

REGULAR APPEAL No.25 OF 2016
DATED THIS THE 8th DAY OF DECEMBER 2017

APPELLANTS:

1. Peerasab S/o Paijuddinsab Mulla
Age: 63 years, Occ: Agriculture,
R/o: Uppunushi, Tq: Hangal,
Dist: Haveri.
2. Jafarsab S/o Faizuddinsab Mulla
Age: 66 years, Occ: Agriculture,
R/o: Uppunasi, Tq: Hanagal,
Dist: Haveri.
3. Ismai S/o Faizuddinsab Mulla
Age: 58 years, Occ: Agriculture,
R/o: Uppunasi, Tq: Hanagal,
Dist: Haveri.
4. Isaqsab S/o Faizuddinsab Mulla
Age: 56 years, Occ: Agriculture,
R/o: Uppunasi, Tq: Hanagal,
Dist: Haveri.
5. Smt. Julekhabhi W/o Rajesab
Devihosur, Age: 66 years,
Occ: Agriculture, R/o: Uppunasi,
Tq: Hanagal, Dist: Haveri.

6. Smt.Ameenabi W/o Babulal Kusanur
Age: 54 years, Occ:Agriculture,
R/o: Havanagi, Tq: Hanagal,
Dist: Haveri.
7. Khutejabi W/o Jainullasab Hondad
Age: 46 years, Occ:Agriculture,
R/o: Uppunasi, Tq: Hanagal,
Dist: Haveri.
8. Ayeshabi W/o Gousmohiddinsab Sangur
Age: 39 years, Occ: Agriculture,
R/o: Uppunasi, Tq: Hanagal,
Dist: Haveri.

[Aplt. By Sri. I.K.H. Adv.]

// V/s. //

- RESPONDENTS:**
1. The Secretary,
Government of Karnataka,
Vidhana Soudha,
Bangalore,
 2. Chief Secretary,
Government of Karnatka,
Revenue Department,
M.S.Building,
Vidhana Soudha,
Bangalore.
 3. The Commissioner,
Government of Karnataka,
Deputy Commissioner
and Prl.District & Sessions Court Campus
Belagavi. Tq: Dist: Belagavi.

4. The Deputy Commissioner
Haveri. Tq: Dist: Haveri.
 5. Assistant Commissioner
Savanur, Tq: Dist: Haveri.
 6. The Tahasildar
Tq: Hanagal, Dist: Haveri.
 7. Revenue Inspector,
Akki-Alur, Tq: Hanagal, Dist: Haveri.
 8. Veerappa S/o Gadigeppa Mahanta
(Since he is dead, Rep.By his Lr's)
 - 8(a). Shambhulingappa S/o Gadigeppa
@ Basappa Mahanta, Age: major,
Occ: Business, R/o: Hanveri Mahanta Traders,
(Kalu Kadi Dalali Angadi)
Near Danada Market, New APMC Haveri.
Tq: Dist: Haveri.
 - 8(b) Shivabasappa S/o Gadigeppa
@ Basappa Mahanta.
Occ: Business, R/o: Hanveri Mahanta Traders,
(Kalu Kadi Dalali Angadi)
Near Danada Market, New APMC Haveri.
Tq: Dist: Haveri.
- (Resp. No.2, 3, 7, 8(a), 8(b) are placed exparte)**
(Respondents No.1, 4 to 6 by A.G.P)

ORDER ON MEMO FILED BY LEARNED AGP

Learned AGP who appearing on behalf of respondent No.4 to 6 has filed Memo requesting the Court to transfer case as provided under section 20 of Karnataka Land Grabbing Prohibition Act, to the special court constituted under section 7 of said Act has present case is following under Karnataka Land Grabbing Prohibition Act 2011.

2. The learned counsel for plaintiffs has vehemently argued facts of case or not fall under Karnataka Land Grabbing Prohibition Act, hence no grounds made out to transfer the case to special Court constituted under act.

3. Heard on both side

4. Perused the records placed before the Court.

5. The following points arises for my consideration.

Point No.1 : Whether present case falling under Karnataka Land grabbing Prohibition Act 2011 so as to transfer it to Special Court constituted under said Act?

Point No.2: What order?

6. My findings to the above said points are as under:

Point No.1: In the Affirmative.

Point No.2: As per final order, for the following:

REASONS

7 **Point No.1:** On going through the plaint averments the plaintiffs have filed present suit against Government and defendants No.8 who is private party for relief of declaration to declare, the plaintiffs have perfected their title over suit property by way of adverse possession and restraining the defendants from interfering with plaintiffs peaceful possession and enjoyment of suit property.

8. It is pleaded by the plaintiffs, suit schedule property bearing R.S.No.94/3 to an extent of 3 Acres 39 guntas of Uppunashi village originally Inam land. The father of plaintiffs by name Faizuddinsab was in possession and enjoyment of suit property prior to Inam abolition Act. As Faizuddinsab was

illiterate, he has not paid amount fixed by the Government, consequently land not regranted in the name of Faizuddinsab as provided under Inam Abolition Act. As per order passed by Assistant Commissioner Savanur land was taken to Government. Though there was order passed by Assistant Commissioner Savanur dated 14-11-1968, actual possession of property from Faizuddinsab not obtained by Government. Till his death Faizuddinsab was in possession of suit property, after his death the plaintiffs being tenants in common, they are in possession and cultivation of suit property. After coming into force of Karnataka Land Reforms Act, on 15-08-1974, Faizuddinsab had filed Form No.7 to Land Tribunal seeking occupancy right in respect of suit property, same was rejected by land tribunal. Even after that, since 1969, the plaintiffs more than 44 years have continued in possession and enjoyment of suit property. Either Government or any officers at no point of time have interfered with possession and enjoyment of plaintiffs over suit property. Recently name of defendant No.8 entered to suit property in column No.12 of records of rights. On these grounds the plaintiffs have sought for declaratory relief of declaration to declare, they have perfected title over suit property by way of adverse possession and consequently sought for permanent injunction against defendants.

As per Section 2(c)(1) of Karnataka Land Grabbing Prohibition Act, land means :

- (I) Land belonging to the Government, Wakf or the Hindu Religious institutions and Charitable Endowments, a local authority, a statutory or non statutory body owned controlled or managed by the Government;
- (ii) rights in or over land, benefits to arise out of land, and buildings, structures and other things attached to the earth or permanently fastened to anything attached to the earth ;

As per Section 2(f) Land Grabbing means : Every activity of grabbing of any land, without any lawful entitlement and with a view to illegally taking possession of such land, or enter into or create illegal tenancies or lease and licences agreements construct unauthorised structures thereon for sale or hire, or give such lands to any person on rental or lease and license basis for construction, or use and occupation, of unauthorised structures; and the term “ to grab land” shall be construed accordingly ;

As per Section 4(2) of Karnataka Land Grabbing Prohibition Act 2011, any person who, on or after the commencement of this Act, continue to be in occupation, otherwise than as a lawful tenant, of a grabbed land belonging to the Government, Wakf Hindu Religious Institution and Charitable Endowments, local authority, statutory or non-statutory body owned, controlled or managed by the State Government shall be guilty of an offence under this Act.

If pleadings of case are read with provisions of Act as mentioned above, case of plaintiffs squarely falling within ambit of Karnataka Land Grabbing Prohibition Act.

As per Section 7 of Karnataka Land Grabbing Prohibition Act 2011, Special Court is created to deal with matters involved in Act.

As per Section 20 of Karnataka land Grabbing Prohibition Act 2011, such cases shall have to be transferred to Hon'ble Special Court constituted under the Act, Hence, I answered point No.1 in the **Affirmative.**

9. **Point No.2:** In view of my findings on the above said point, I proceed to pass the following:

ORDER

In view of Section 20 of Karnataka land Grabbing Prohibition Act present case stands transferred to Hon'ble Special Court constituted under Karnataka Land Grabbing Prohibition Act 2011.

Office to submit entire case file to Hon'ble Special Court constituted under Karnataka Land Grabbing Prohibition Act 2011 henceforth through Hon'ble Prl.District & Sessions Court Haveri.

In view of transfer of present case to Hon'ble Special Court constituted under Act, case stands closed before this Court.

*[Dictated to the Stenographer directly on laptop, typed by her, the same is corrected, signed and then pronounced by me in the open court on this the **8th day of December 2017**].*

Senior Civil Judge & JMFC,
Hangal.