

KAKD200021372024



**IN THE COURT OF THE CIVIL JUDGE & JMFC, AT
KUSHALNAGAR
: PRESENT :**

**SMT. CHAITHRA L, BBM. LLB.,
Civil Judge & J.M.F.C.,
KUSHALNAGAR.**

DATED THIS THE 10th DAY OF FEBRUARY, 2026

O.S.No.128/2024

PLAINTIFF: Gowrammash

(By Sri. S.S.M Adv.,)

-V/s-

DEFENDANTS: Jayamma and others

(By Sri.CBC Adv.,)

PARTIES TO I.A.NO.IV

Applicant/Defendant : Gowramma

-V/s-

Opponent/Plaintiff : Jayamma and others



ORDER ON I.A.NO.IV

I.A.No.IV filed by the defendant under Order VII Rule 11(a) & (d) of C.P.C., praying to reject the plaint on the ground that the suit is hit by Proviso of the PTCL Act 1978.

2. The present application is supported by an affidavit filed by the defendant. In the affidavit, the defendant contends that the plaintiff has instituted the suit seeking declaration, permanent injunction, and mandatory injunction. The defendant submits that they belong to the Scheduled Caste/Scheduled Tribe community and are the lawful owners of the land bearing Old Sy. No. 3/5P2, New Sy. No. 3/7, measuring 1 acre, situated at Doddathuru Village, Kudumangalore Post, Kushalnagar. Originally, land bearing Sy. No. 3/5P2 measuring 2 acres was granted in favour of the defendant's grandfather, Harijana Sanna Javara, by the Deputy Commissioner under Order No. 8R2.713/1959 dated 21.06.1959. Pursuant to the grant, the khata was mutated in his name and possession was delivered to him. He remained in possession and enjoyment of the land until his death, leaving behind two sons, Kalaiah and Dasaiah @ Dasa.



3. Subsequently, the sons effected a partition, under which the suit schedule property fell to the share of Dasaiah @ Dasa. The khata was mutated in his name vide MR No. 4/1994–95, and he continued in possession, paying land revenue. Dasaiah @ Dasa died on 19.12.1994, leaving behind his wife and three daughters, who are the defendants herein. After his death, the khata was transferred in the name of defendant No.1 (his wife) vide MR No. 27/2007–08, and the defendants continue to be in possession and enjoyment of the property.

4. The defendants further submit that they are illiterate villagers belonging to a weaker section of society. Taking advantage of their ignorance, one Kullegowda, the husband of the plaintiff, fraudulently obtained a registered General Power of Attorney dated 24.05.2008. On the basis of the said GPA, Kullegowda executed a registered sale deed dated 25.10.2008 in favour of the plaintiff. The said transaction was effected without obtaining prior permission from the Government and is therefore in contravention of Section 4 of the Karnataka Scheduled Castes and Scheduled Tribes (Prohibition of Transfer of Certain Lands) Act, 1978.

5. As per the provisions of the PTCL Act, the grantee or his legal heirs are prohibited from alienating the granted land



without prior government approval. Hence, the GPA and the sale deed are null and void and confer no right, title, or interest upon Kullegowda or the plaintiff.

6. Accordingly, the defendants filed a petition under Section 5 of the PTCL Act before the Assistant Commissioner, Madikeri Sub-Division, seeking declaration of the GPA and sale deed as void and for restoration of the land. The Assistant Commissioner, in PTCL No. 6/2024–25 and R.A. No. 80/2024–25, passed an order dated 14.11.2024 declaring the transactions null and void and directing restoration of the land in favour of defendant No.1.

7. In view of the said order and the statutory bar under Sections 4 and 11 of the PTCL Act, the present suit is not maintainable. The civil court has no jurisdiction to adjudicate the matter, and the plaintiff is not entitled to any relief. Hence, the application seeks dismissal of the suit.

8. Per contra, the plaintiff has filed objections to I.A. No.4, denying the allegations made by the defendants. The plaintiff admits the death of late Dasaiah, the relationship between the defendants and late Dasaiah, and the mutation of khata of the suit schedule property in favour of the defendants,



as there is no dispute regarding these facts. The contents and allegations made in paragraph No.5 of the affidavit filed in support of the application are partly admitted and partly denied as false.

9. The plaintiff denies the allegation that the registered General Power of Attorney bearing Document No. SMP-4-00016/2008-09 was obtained by taking undue advantage of the defendants. Such allegations are false, fabricated, and concocted with an intention to unlawfully grab the suit schedule property from the plaintiff. The defendants were fully aware of the execution of the GPA and the registered sale deed dated 25.10.2008 bearing Document No. SMP-1-00931/2008-09, executed by Sri Kullegowda before the Sub-Registrar, Somwarpet.

10. The plaintiff further contends that the suit schedule property does not fall within the ambit of Section 4 of the PTCL Act. The true owner of the property had purchased the same through an auction conducted by the VSSN Bank on 24.11.1981, and therefore the property is self-acquired in nature. The defendants are not properly aware of the provisions of the PTCL Act, 1978, nor of the recent judgments and legal opinions of the Hon'ble High Court of Karnataka. The Assistant



Commissioner has not passed any order as alleged by the defendants in their supporting affidavit.

11. The plaintiff submits that the defendants and their counsel have failed to properly read and understand the order dated 14.11.2024 passed by the Assistant Commissioner. The Kannada portion of the order relied upon by the defendants is misleading and incomplete. Further, the Assistant Commissioner of Kodagu District, by an order dated 15.11.2024 in PTCL No. 6/2024-25, has clearly stated that the Hon'ble Civil Judge and JMFC Court, Kushalnagar, granted an interim temporary injunction in O.S. No. 128/2024 in favour of the plaintiff. Consequently, the order dated 14.11.2024 passed by the Assistant Commissioner has been stayed until further orders of the Civil Court.

12. Despite this, the defendants have attempted to mislead the Court by suppressing the subsequent stay order. The defendants have also failed to properly understand the applicability of Section 4 of the PTCL Act. Since the suit schedule property was acquired through a commercial transaction and the previous owner had purchased it through a government auction, the provisions of the PTCL Act are not applicable.



13. The sale transaction in question does not attract the PTCL Act, and the registered sale deed executed on 25.10.2008, nearly 16 years ago, cannot be questioned under the said Act. Hence, the plaintiff prays that the application be rejected.

14. Heard. Perused the materials available on record.

15. The following points arise for consideration :-

1. Whether the plaint is liable to be rejected under Order 7 Rule 11(a) and (d) of C.P.C.?

2. What Order?

16. The findings of this court on the above points are as follows:

Point No.1 : In the Negative

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

REASONS

17. **Point No.1:-** Considering the rival contentions advanced by both parties, this Court has carefully perused the application filed under Order VII Rule 11(a) and (d) of the Code of Civil Procedure, the objections filed thereto, and



the materials placed on record, in order to ascertain whether the plaint is liable to be rejected at the threshold.

18. The defendants have sought rejection of the plaint contending that it does not disclose a cause of action and that the suit is barred by law, more particularly under Sections 4, 5, and 11 of the Karnataka Scheduled Castes and Scheduled Tribes (Prohibition of Transfer of Certain Lands) Act, 1978. The plaintiff, on the other hand, has denied all allegations of fraud and statutory bar and has asserted that the plaint clearly discloses a cause of action warranting adjudication by this Court.

19. At the outset, it is not in dispute between the parties that the suit schedule property measuring 2 acres was originally granted in favour of one Shri Harijana Sanna Javara. However, the **nature of the grant**, and **whether such grant falls within the ambit of Sections 4 and 11 of the PTCL Act** are matters which cannot be decided without evidence. It is well settled that **not every grant is protected under the PTCL Act**, and the applicability of the Act depends upon the nature of grant.

20. The defendants allege that a fraudulent registered General Power of Attorney was executed by them on 24/05/2008 and that, on the basis of the said GPA, a registered sale



deed was executed in favour of the plaintiff on 25/10/2008. Whether the GPA was obtained by fraud from the defendants, whether the defendants had knowledge of the transaction, and whether the sale deed was executed lawfully are all **seriously disputed questions of fact**, which cannot be adjudicated at the stage of Order VII Rule 11 CPC.

21. The learned counsel for the defendants has placed reliance on the amendment to Section 5 of the PTCL Act, contending that there is no limitation for initiating proceedings under the Act. However, despite such amendment, the Hon'ble High Court of Karnataka, in *Smt. Narasamma v. State of Karnataka* decided on 02.12.2025, while relying upon the judgment in *Gowramma alias Gangamma*, has held that the amendment does not alter the legal position regarding limitation and that the doctrine of laches continues to apply. In paragraph 11 of the said judgment, the Hon'ble High Court has observed that:

“The Amendment Act that is made applicable with retrospective effect is only a duplication of the existing legal position. The question of delay is a matter of limitation which this statute is silent about. Clauses (c) and (d), now introduced to Section 5(1) of the Act, do not bring any change in the statutory scheme. At the most, they are declaratory of what the



statute has been all through, so far as the limitation period is concerned. Nobody disputes that there was no limitation period earlier and there is no limitation period now too. Laches, which would involve a host of factors, pertains to the domain of equity.”

22. In the present case, the alleged GPA and sale deed were executed in the year 2008, whereas the defendants approached the authorities only in the year 2024. Whether such delayed approach disentitles the defendants to relief on the ground of laches, acquiescence, or conduct is again a **mixed question of fact and law**, which necessarily requires adjudication through trial.

23. The defendants have relied upon the judgment in *Narasamma v. K.V. Ramaprasad*, which deals with alienation during a subsisting bar period. In the present case, although the grant order has been produced, no legible copy of the grant order has been furnished by the defendants to conclusively establish the nature of the grant.

24. The plaintiff has also relied upon judgments in *Smt. Gowramma alias Gangamma v. The Deputy Commissioner, Haveri* dated 29.07.2024, which discusses delay, laches, acquiescence, and conduct of parties seeking protection under the PTCL Act, and *Gowramma v. State of Karnataka* dated



25.07.2024, where restoration was rejected due to failure to produce the grant order. Though the factual matrix differs, the principles laid down therein underscore the necessity of examining evidence before granting relief under the PTCL Act.

25. It is relevant to refer to the ratio laid down by the Hon'ble Supreme Court in *(2015) 8 SCC 331, P.V. Gururaja Reddy v. P. Narendra Reddy*, wherein it is held that rejection of a plaint under Order VII Rule 11 CPC is a drastic power and can be exercised only when, upon a reading of the plaint averments as a whole, it is apparent that the suit does not disclose a cause of action or is barred by law. At this stage, the defence raised by the defendants is wholly immaterial.

26. Applying the said principles to the facts on hand, this Court finds that the plaint, when read as a whole, clearly discloses a cause of action. The relief sought is one of declaration and injunction, and therefore this Court has jurisdiction to try the suit. The issues raised by the defendants involve disputed questions of fact and law, which require evidence and adjudication in a full-fledged trial.

27. Accordingly, the defendants have failed to make out any ground for rejection of the plaint under Order VII Rule 11(a)



or (d) of the Code of Civil Procedure. **With these observation, this court answers point No.1 in the Negative.**

28. **Point No.2**: In view of the foregoing reasons stated at point no.1, I proceed to pass the following;

ORDER

The I.A.No.4 Under order 7 rule 11 (a) and (d) of C.P.C, filed by the defendant is hereby dismissed.

(Dictated to the Stenographer, transcribed by her, transcript revised directly on the computer, corrected by me, signed and then pronounced in open court on this 10th day of February 2026)

Sd/xxx
(Chaithra L)
Civil Judge & J.M.F.C.,
Kushalagar.