

**ORDER ON IA FILED BY THE DEFENDANTS UNDER SECTION 151 R/W 20 OF
KARNATAKA LAND GRABBING PROHIBITION ACT - 2011**

The defendants have filed this application U/Sec.151 R/w 20 of Karnataka Land Grabbing Prohibition Act-2011 seeking to transfer the said suit to the special court.

2. In the affidavit it is stated that, the plaintiff has filed suit against defendants for the relief of permanent injunction stating that, the plaintiff is the owner of Sy.No.42/30 and defendants have not right or interest over the said property are illegally trespassed in to the suit schedule property. It is further submitted that, Sy.No.42 is notified as Alaganji Reserve Forest in pursuant of notification No.G 5079-82 FT313-26-4 dated 31.10.1928 and Sy.No.42 declared as Forest. Under Karnataka Land Grabbing Prohibition Act, special court has been established under section 7 of said Act and as per Section 20 the said suit has to be transferred to the special court, Bangalore, K.G. road, Kandhaya Bhavana. Hence prays to transfer the above suit to special court.

3. On the other hand, the plaintiff has filed objection to the said application stating that, the application filed by the defendants is not maintainable either in law or on facts. The suit schedule property was

purchased by the plaintiff through a registered sale deed for valuable consideration on 12.04.1971. Since from the date of purchase the plaintiff has been continues possession, enjoyment and cultivating the suit schedule property and has paid tax to the government as and when due. It is further submitted that, plaintiff purchased 4 acres of land in Sy.No.42/30. Out of 4 acres the plaintiff received the compensation amount from the government. The defendants have not produced any documents to show that, the plaintiff grabbed the government land. If the plaintiff grabbed the government land, how the government awarded compensation amount to the plaintiff for submersion of 1 acre in Sy.No.42/30. Hence prays to dismiss the application.

4. Heard and Perused the materials on record, the defendants have filed application U/Sec.20 of Land Grabbing Prohibition Act. The plaintiff has filed the suit for permanent Injunction in respect of Sy.No. 42/30 measuring to an extent of 3 acres. There are materials on record to show the ownership and possession of plaintiff over the suit schedule property. Ex.P6 is the registered sale deed it is evident to show that, the plaintiff has purchased the suit schedule property for valuable sale consideration. By virtue of said sale deed the plaintiff has become owner in possession of the suit schedule property. Now case is set down for arguments. The defendants have not raised any

objection till now. Moreover, the defendants have not made out that the plaintiff has encroached the suit schedule property and suit schedule property exclusively belonged to Forest. There is no contention in the written statement regarding encroachment of suit schedule property by the plaintiff. Moreover, the defendants have not cross examined the PW.1 with regard to encroachment of Forest property. Such being the case, the defendants have no locus standi to file present application seeking to transfer the above suit before the Special Court. If at all the suit schedule property is belonged to Forest the defendants having all opportunity to produce the documents and to lead evidence. Without taking contention in the written statement and non cross examining the PW.1 filing this application is not maintainable. So for as coming to section 20 of Karnataka Land Grabbing Prohibition Act, the defendants have not established that, the plaintiff has encroached the Forest Land which is exclusively belonged to government. If really the plaintiff has encroached the Government property the suit must be transferred to the Special court. However, the ingredients of section 20 is not attracted to the case on hand. It is on record that, the plaintiff has purchased the suit schedule property as per Ex.P6. Therefore, the question of encroachment would not arise. Hence, application filed by the defendants seeking to transfer the said suit to the Special Court is

not maintainable and not sustainable. Hence, application filed by the defendants is rejected.

ORDER

I.A filed by the defendants under Section 20 of Karnataka Land Grabbing Prohibition Act 2011 is hereby rejected.

For

**Addl. Civil Judge & JMFC,
Heggadadevanakote.**