



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 22ND DAY OF APRIL, 2026

BEFORE

THE HON'BLE MRS. JUSTICE K.S. HEMALEKHA

WRIT PETITION NO. 1236 OF 2016 (KVOA)

BETWEEN:

1. YELLAPPA
S/O LATE VENKATAGIRIYAPPA
AGED ABOUT 73 YEARS

SINCE DEAD BY HIS LRS P2 TO P4
2. VENKATESHAPPA
S/O YELLAPPA,
AGED ABOUT 49 YEARS
3. BEERAPPA
S/O YELLAPPA,
AGED ABOUT 43 YEARS
4. MUNIRAJ
S/O YELLAPPA
AGED ABOUT 38 YEARS

ALL ARE R/AT HASANDALLI VILLAGE
MASTHI HOBLI
MALUR TALUK
KOLAR-563 130.

...PETITIONERS

(BY SRI. SHARATH S. GOWDA, ADVOCATE)

AND:

1. SRI. SAHADEVAPPA
S/O LATE MUNIYAPPA,
AGED ABOUT 45 YEARS





2. SRI. M. LAKSHMINARAYANA
S/O LATE T. MUNIYAPPA,
AGED ABOUT 49 YEARS,
3. SMT. MUNIYAMMA
W/O LATE SAVANA DODDAPPA
AGED ABOUT 57 YEARS

SINCE DEAD BY HER LR'S
R4 TO R8
4. SRI. LAKSHMAIAH
S/O LATE SAVANA DODDAPPA,
AGED ABOUT 56 YEARS,
5. SRI. RAMAPPA
S/O LATE SAVANA DODDAPPA,
AGED ABOUT 51 YEARS
6. SRI. PERUMALAPPA
S/O LATE SAVANA DODDAPPA,
AGED ABOUT 48 YEARS
7. SRI. NARAYANAPPA
S/O LATE SAVANA DODDAPPA,
AGED ABOUT 46 YEARS
8. SRI. NAGARAJA
S/O LATE SAVANA DODAPPA,
AGED ABOUT 44 YEARS
9. SRI. NARAYANAPPA
S/O LATE MUNIVENKATAPPA @ ABBAIAH,
AGED ABOUT 58 YEARS
10. SRI. VENKATASWAMY
S/O LATE MUNIVENKATAPPA @ ABBAIAH,
AGED ABOUT 48 YEARS

ALL ARE R/AT HASANDALLI VILLAGE



MASTHI HOBLI, MALUR TALUK,
KOLAR-563130.

11. THE TAHSILDAR
MALUR TALUK,
MALUR-563130.

...RESPONDENTS

(BY SRI. RAMESH KUMAR R.V., ADVOCATE FOR R1, R2,
R4 TO R10; R3 IS DEAD
SRI. B.T. KOLLER, AGA FOR R11;
V/O DATED 21.07.2016, R4 TO R8 ARE TREATED AS
LR'S OF DECEASED R3)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE ORDER DATED 6.7.2015 PASSED BY PRINCIPAL DISTRICT JUDGE AT KOLAR IN M.A.NO.18/2013 IN ALLOWING I.A.NO.1 FILED U/S 5 OF THE LIMITATION ACT BY CONDONING DELAY OF 30 YEARS IN FILING THE APPEAL VIDE ANNEXURE-A AND ETC.

THIS PETITION COMING ON FOR DICTATING ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MRS. JUSTICE K.S. HEMALEKHA

ORAL ORDER

The petitioners are assailing the order dated 06.07.2015 passed on I.A. No.1 in M.A. No.18/2013 on the file of the Principal District Judge, Kolar ('District Court' for short), whereby the delay in filing the appeal was condoned and the consequential judgment dated 28.09.2015, whereby the appeal was allowed, the re-grant order passed by the Tahsildar was set aside and the



matter was remitted back for fresh consideration in accordance with law.

Brief facts:

2. The subject properties are Neeraganti inam lands. The Tahsildar, by order dated 26.07.1988, granted re-grant of the said lands in favour of the petitioners' predecessor. Respondent Nos.1 to 10 challenged the order in M. A. No.18/2013, contending that, prior to such re-grant, the lands had already been alienated under the registered sale deeds in favour of their predecessor between 01.02.1963 and 07.08.1978, and that the benefit of re-grant would enure to the purchasers of the said service inam land, who are in possession thereof, in light of the Full Bench decision of this Court in the case of **Syed Bhasheer Ahamed and others Vs. State of Karnataka and others**¹ (Syed Bhasheer Ahamed).

¹ (1994) 1 KAR LJ 385



3. The respondents, claiming as purchasers, were not parties to the re-grant proceedings. The appeal was preferred with delay, accompanied by an application under Section 5 of the Limitation Act, 1963, seeking condonation of delay. The Appellate Court, by order dated 06.07.2015, condoned the delay and by judgment dated 28.09.2015, allowed the appeal, set aside the re-grant order and remanded the matter to the Tahsildar for fresh consideration after affording an opportunity to all the parties.

4. Learned counsel for the petitioners submits that the Tahsildar had initiated proceedings under Section 5 (6) of the Karnataka Village Offices Abolition Act, 1961 ('KVOA Act' for short), by issuing show-cause notice to the persons in unauthorized occupation of the subject lands. It is contended that the predecessors of the respondents, who now claim rights under the subject property, were found to be in unauthorized cultivation and were accordingly evicted by due process of law pursuant to an



order dated 27.04.1981. It is further submitted that subsequent to such eviction, the Tahsildar passed an order of re-grant on 26.07.1988 in favour of Venkatagiriappa, the predecessor of the petitioners. Therefore, as on the date of re-grant, the persons under whom the respondents claim, having already been dispossessed, had no subsisting right, title or possession over the subject lands. Learned counsel would further contend that the revenue records were thereafter mutated in the name of Venkatagiriappa and subsequently, in the name of Yellappa @ Bellappa and the said entries have continued without interruption. It is also urged that the respondents, who preferred the appeal before the District Court, have not approached the Court with clean hands, inasmuch as they have suppressed the material fact of eviction pursuant to the order dated 27.04.1981. It is contended that the Appellate Court has erred in condoning an inordinate delay of 30 years and entertaining the appeal without appreciating that the respondents have already



been evicted and had no surviving right to question the re-grant order. On these grounds, it is submitted that the impugned orders passed by the Appellate Court are illegal and unsustainable.

5. *Per contra*, learned counsel for the respondents submits that the respondents, being purchasers under prior alienations more particularly between 01.02.1963 and 07.08.1978, were necessary parties to the re-grant proceedings and the Tahsildar has passed the re-grant order without issuing notice to them, thereby violating the principles of natural justice. It is contended that the respondents had no knowledge of the re-grant proceedings and therefore, the delay has been properly explained and rightly condoned by the Appellate Court. It is further submitted that the Appellate Court has not finally adjudicated the rights of the parties, but has only set aside the re-grant order and remanded the matter for fresh consideration after affording opportunity to all the parties.



6. This Court has carefully considered the contentions and perused the material on record. The point that arises for consideration is:

"Whether the order passed by the Appellate Court in M.A. No.18/2013 warrants any interference by this Court, when re-grant, in law, enures to the benefit of the purchaser?"

7. The challenge in the present writ petition is essentially directed against the order condoning delay of nearly three decades and consequential judgment allowing the appeal and remanding the matter to Tahsildar. It is not in dispute that the respondents herein, who were the appellants before the District Court, claim rights as purchasers under prior alienation effected before the re-grant. The alienation admittedly fall within the period between 01.02.1963 and 07.08.1978 and the re-grant order passed by the Tahsildar is of the year 1988. The Full Bench of this Court in **Syed Bhasheer Ahamed** has held at paragraph Nos.10, 11, 16, 19, 23 and 25 as under:



"10. *The Decision in Lakshmana Gowda [1981 (1) KLJ 1 : ILR (Karantaka) 1980 (2) 892.] has been followed in several Decisions. Relying on the Decision on Question No. (iii) in Lakshmana Gowda [1981 (1) KLJ 1 : ILR (Karantaka) 1980 (2) 892.] based on the doctrine of feeding the grant by estoppel, it was consistently held in several Decisions that alienations of Service Inam Lands which took place between the date of commencement of the Principal Act (1.2.1963) and the date of coming into force of the Amendment Act (7.8.1978) were not void and that the alienees will perfect their title, on subsequent re-grant to their alienors, even though there was no re-grant as on the date of alienations.*

11. *Then came two Division Bench Decisions of this Court in the case of Hanumaiah [ILR 1987 Kar 550.] and Chikkanarasaiah [ILR 1989 Kar 1520.] . In those cases, the alienations by the holders were after 1.2.1963, but prior to 7.8.1978. There were no re-grants under Section 5 or 6 in favour of the alienors either prior to 7.8.1978 or after 7.8.1978. After the Amendment Act came into force, orders were passed under Section 7 of the Act, directing summary eviction of the alienees under Section 7(1) and thereafter re-granting the lands to the alienors under Section 7(3). It was held (a)*



alienees between 1.2.1963 and 7.8.1978 were 'unauthorised holders' unless the alienation was preceded by regrant; (b) until re-grant was made the holder will have no title to the land and consequently the alienee/purchaser would acquire no title to the land purchased by him; and (c) the alienees between 1.2.1963 and 7.8.1978 were liable to be summarily evicted under Section 7, if re-grant had not been made in favour of their alienors before 7.8.1978. It was also held that the subsequent re-grant to the alienor, under Section 7(3) of the Act that is re-grant made after summary eviction of the alienee, will not enure for the benefit of the alienee. In other words, it was held that in regard to alienations between 1.2.1963 and 7.8.1978, the alienees would get title, only if the re-grant was also made prior to 7.8.1978; and where the alienations were between 1.2.1963 and 7.8.1978, but regrants were not made before 7.8.1978, the alienees will not acquire any title and were liable to be summarily evicted. These two Decisions had the effect of restricting the applicability of the Decision on question (iii) in Lakshmana Gowda's case [1981 (1) KLJ 1 : ILR (Karnataka) 1980 (2) 892.] , only to cases where, both alienation and re-grant were between 1.2.1963 and 7.8.1978. It should be noticed that the question whether an alienee between 1.2.1963



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and 7.8.1978 could be evicted, if there was a re-grant under Section 5 or Section 6 after 7.8.1978 did not really arise for consideration in the cases of Hanumaiah [ILR 1987 Kar 550.] and Chikkanarasaiah [ILR 1989 Kar 1520.] , as in the those cases, there was no re-grant under Section 5 or 6, after 7.8.1978.

16. *But what is the position of the alienees between 1.2.1963 and 7.8.1978? In regard to alienations between 1.2.1963 and 7.8.1978, if the re-grant is also made between 1.2.1963 and 7.8.1978, there is unanimity in the view that the alienee would acquire title, and even if sanction of the Deputy Commissioner was not obtained, the transfer could be regularised, by paying an amount equal to fifteen times the assessment. However, if the alienation is between 1.2.1963 and 7.8.1978 and no re-grant has been made as on 7.8.1978, what would be the position in regard to such alienation and whether the Decision on Question No. (iii) in Lakshmana Gowda [1981 (1) KLJ 1 : ILR (Karantaka) 1980 (2) 892.] would cover such a case? If Lakshmana Gowda [1981 (1) KLJ 1 : ILR (Karantaka) 1980 (2) 892.] has decided the question in controversy, then the Decision therein would bind us as the same has been fully approved by the Supreme Court in Seenappa's case [1993*



Supp (1) SCC 648 : AIR 1992 SC 1531 : ILR 1992 Kar 2177.] .

19. *The Act contemplates eviction by the State only in the following four situations:*

(a) Where a holder or an authorised holder to whom the land is re-granted under Section 5(1) fails to pay the occupancy price - [vide Sections 5(2) and 6 of the Act];

(b) Where a holder or an authorised holder to whom the land is re-granted under Section 5(1) or 6 transfers the land within 15 years from 7.8.1978 [vide Section 5(3) and 6 read with Section 5(4) of the Act];

(c) Where an unauthorised holder is in possession of a land resumed under Section 4(3) - [vide Section 7(1) of the Act];

(d) Where a grantee of a land re-granted under Section 5(4) or Section 7(3) of the Act after summary eviction of the unauthorised holder or occupant under Section 5(4) or 7(1) transfers the land within 15 years from 7.8.1978 - (vide Section 7A of the Act).

There is no provision in the Act for summary eviction of an alienee with imperfect title, that is an



alienee between 1.2.1963 and 7.8.1978. In the cases of Hanumaiah [ILR 1987 Kar 550.] and Chikkanarasiah [ILR 1989 Kar 1520.] , it has been assumed, without basis, that an alienee with imperfect title (that is alienee during the period 1.2.1963 to 7.8.1978) is an 'unauthorised holder' who could be evicted under Section 7. We have already seen that under Section 7, only an 'unauthorised holder' could be evicted and not an alienee between 1.2.1963 and 7.8.1978 as he is not an 'unauthorised holder'. At this juncture, the relevant portions from the Judgment in Lakshmana Gowda's case [1981 (1) KLJ 1 : ILR (Karantaka) 1980 (2) 892.] may conveniently be referred. The following are the observations relating to Question No. (iii):

"65) We have already held that though the holder or the authorised holder of a Service Inam Land got title to such land only when it was actually re-granted to him under Section 5 or 6 of the principal Act, such title related back to the date of coming into force of that Act. From this, it would follow that if he purported to alienate such land before it was re-granted to him, but after the Principal Act came into force, the doctrine of feeding the grant by estoppel embodied in Section 43 of the Transfer of Property Act, would apply and



the title he subsequently acquired on such re-grant of that land, would enure to the benefit of his alienee who would get a good title to such land after such re-grant to his alienor. There is also no good reason why the benefit of Section 43 should be denied to such an alienee when the Principal Act did not prohibit the holder or the authorised holder of a service inam land from transferring his interest or right therein after it was resumed and before it was re-granted to him.

66) Hence our answer to the question is that if the holder or the authorised holder of a service inam land had alienated it after the Principal Act came into force and before it was re-granted to him under Section 5 or 6 of the Principal Act, the alienee acquired a title to that land after such re-grant to his alienor”.

23. *Though the application for re-grant may be considered after 7-8-1978, the consideration of entitlement to regrant will be with reference to 31-1-1963, that is the date immediately prior to the appointed date (1-2-1963). That is why, while dealing with Point (iii) in Lakshmana Gowda [1981 (1) KLJ 1 : ILR (Karantaka) 1980 (2) 892.] , this Court held that an alienee of Service Inam Land, under an alienation after 1-2-1963 will not be*



entitled to apply for or obtain regrant in his own name, but will be entitled to perfect his title to such land on re-grant to the alienor, by applying the doctrine of feeding the grant by estoppel. There is no restriction or rider in the said Decision linking title, to the date of re-grant. The only restriction is contained in Section 5(3) and 5(4) which bar alienations after 7-8-1978 for a period of 15 years. If this Court had intended that re-grant also should have taken place before 7-8-1978, to enable the alienee to acquire title, that would have been made clear while answering Point (iii). A careful reading of the discussion regarding Point (iii) will show that this Court did not consider the date of re-grant to be relevant, to determine the validity of alienations between 1-2-1963 and 7-8-1978.

25. *We therefore hold that alienations between 1-2-1963 and 7-8-1978 cannot be invalidated on the ground that there was no re-grant prior to 7-8-1978. It now becomes necessary to examine whether Hanumaiah [ILR 1987 Kar 550.] and Chikkanarasaiah [ILR 1989 Kar 1520.] can co-exist with Lakshmana Gowda [1981 (1) KLJ 1 : ILR (Karantaka) 1980 (2) 892.] .”*

8. The Full Bench held that the alienation of service inam land during the said period is not invalid, and



that though the alienee initially acquires only an imperfect title, upon re-grant being made in favour of the alienor, the title so perfected enures to the benefit of the alienee (purchaser). The said principle has been reiterated by the Co-Ordinate Bench of this Court in **Goudra Krishnappa Vs. Deputy Commissioner²** (Goudra Krishnappa), placing reliance on the Full Bench decision of this Court in **Syed Bhasheer Ahamed's** case and held at paragraph No.6 as under:

"6. Learned District Judge while considering the facts of the case has noted that the holder of the village office had sold the land in favour of Nagappa, under a registered sale deed dated 07/06/1976 and 27/05/1977 and subsequently, Nagappa and his brothers had partitioned the land and the land had fallen to the share of the petitioner herein. While considering the decision of this Court in the case of Syed Bhasheer Ahamed and others v. State of Karnataka and others [1994 (1) KLJ 385 (FB)], the learned District Judge has noted that the alienation had taken place between 01/02/1963 and 07/08/1978, the latter being the

² W.P. No.949/2014 D.D. 05.06.2014



date of the amendment Act. He has also held that the Deputy Commissioner was not right in making the order of regrant in the name of the petitioner and that it had to be made in the name of the holder or authorized holder and for that purpose, the matter has been remanded. Having noted the aforesaid aspects in the operative portion, the learned District Judge has stated that the matter is remanded back to the respondent No.2 i.e., the Deputy Commissioner, Davanagere District, Davanagere, to decide the matter in accordance with law. When once the learned District Judge has held that the regrant had to be made in the name of the holder or authorized holder of the village office, it was not necessary to once again remand the matter to be decided in accordance with law. All that was required was to give a direction to the Deputy Commissioner to pass the order of regrant in the name of the respondent Nos.4 to 10 herein. Therefore, while the order of remand is in accordance with law, the said order requires a clarification in the sense that the purpose of remand is to enable the Deputy Commissioner to pass the order of regrant in the name of the holder/authorized holder of the village office and not in the name of the alienee. As stated by the Full Bench (supra), at paragraph 30 (c), the regrant would enure to the benefit of the petitioner, who is



the alienee of the said lands. Paragraphs 30 (c) and (e) of the aforesaid decision read as under:-

"(c) Alienation of Service Inam Land between 1.2.1963 and 7.8.1978, by a holder or an authorized holder before re-grant, is not invalid, as he had a vested right to get re-grant and as there was no bar regarding alienation during that period; but the alienee will be a person with imperfect title entitled to continue in possession and when the land is regranted to the alienor, the title obtained by the alienor will ensure to the benefit of the alienee;

(e) the date of re-grant, whether before or after 7.8.1978, will not be relevant to determine the validity of the alienation between 1.2.1963 and 7.8.1978, as what is prohibited after 7.8.1978 prospectively for a period of 15 years, is alienation and not re-grant."

Therefore, the impugned order does not call for any interference. The first respondent – Deputy Commissioner is directed to pass the order in terms



of paragraphs 30 (c) and (e) of the aforesaid decision."

9. Thus, the legal position is well settled that the re-grant, though formally made in favour of the original holder, ultimately enures to the benefit of the purchaser whose alienations have been taken place between 01.02.1963 and 07.08.1978. In that background, the question that arises is, whether the purchasers were entitled to be heard in the re-grant proceedings and whether, on account of absence of such a notice, the re-grant order itself was liable to be set aside. In the considered opinion of this Court, the answer must be in the negative. The application for re-grant is essentially a statutory and formal proceeding and once the Tahsildar, on verification of records, grants re-grant in favour of the original holder, the legal consequence where alienation falls within the permissible period is that the benefit of such re-grant automatically enures to the purchaser.



10. Therefore, the absence of notice to the purchasers does not, by itself, render the re-grant order adverse to them. The grievance of the appellant, if any, is not that the re-grant defeats their rights, but at the best they were not heard. However, when the law itself protects the interest by recognizing that the benefit of re-grant enures to them, the question of setting aside the re-grant order on that ground does not arise.

11. The Appellate Court, instead of examining whether the respondents were purchasers within the relevant period and applying the settled principle that the benefit of re-grant enures to them, has proceeded to set aside the re-grant order and remand the matter to the Tahsildar. Such an approach, in a peculiar facts of the case, is misdirected.

12. Insofar as the contention regarding delay is concerned, the same does not assume material significance in the facts of the present case. The subject



matter of challenge before the Appellate Court was the re-grant order passed by the Tahsildar. It is settled law that where alienation has taken place during the permissible period, the re-grant, though made in favour of the original holder, enures to the benefit of the purchaser (alienee). In view of the matter, the re-grant order, by itself, does not operate adversely against the purchaser, rather it strengthens their claim. When the very impugned order does not, in substance, prejudice the respondents, the question of applying the principle of delay and laches in the usual manner does not arise.

13. The contention of the petitioners is that the predecessors of the respondents were evicted in the year 1981. Even if accepted, this does not *ipso facto* lead to the conclusion that the benefit of re-grant order would not enure to the purchasers. It is well settled that when alienation takes place prior to re-grant, the alienee acquires an imperfect title, which gets perfected upon re-grant.



Such entitlement flows from the nature of alienation and not merely from possession.

14. Unless it is demonstrated that the eviction was effected by a competent authority and resulted in extinguishment of the rights of the purchaser under the statute, mere dispossession would not defeat the legal consequence and the re-grant enures to the benefit of the alienee. The respondents contend that such eviction order is one without jurisdiction, inasmuch as the power of eviction vests in the Deputy Commissioner under Section 7 of the KVOA Act and not with the Tahsildar. In the considered opinion of this Court, the said contention relating to eviction and possession does not fall for adjudication in the present writ petition, which is confined to examining the correctness of the order passed in M.A. No.18/2013. The issue as to whether the eviction was validly effected and whether the Tahsildar had the jurisdiction to pass an orders, are matters which the respondents are at liberty to agitate before the competent



authority in accordance with law. Accordingly, no opinion is expressed on the said contentions and the same is kept open. The Appellate Court, instead of examining whether the respondents were purchasers within the relevant period and applying the settled principle that the benefit of re-grant enures to them, has redirected and remanded the matter to Tahsildar.

15. The proper course for the Appellate Court was to consider the nature of transactions, determine whether they fall within the permissible period, and record a finding that the benefit of re-grant enures to the purchasers. The question of reminding the matter to Tahsildar in such circumstances was unwarranted. In view of the above, this Court is of the considered view that the writ petition has to be allowed, the point framed for consideration is answered and accordingly this Court pass the following:

ORDER

- i. The writ petition is ***allowed-in-part.***



- ii. The order dated 06.07.2015 passed on I.A. No.1 in M.A. No.18/2013 on the file of the Principal District Judge, Kolar, is **confirmed**, however, the consequential judgment dated 28.09.2015, is **set aside**.
- iii. The matter is remitted back to the Appellate Court/District Court, Kolar, for reconsideration, bearing in mind the principles laid down by the Full Bench in **Syed Bhasheer Ahamed's** case, and the Co-Ordinate Bench of this Court in **Goudra Krishnappa** and to pass appropriate orders in accordance with law.
- iv. The parties to appear before the District Court, Kolar, on **04.06.2026**.
- v. The District Court to pass appropriate orders as expeditiously as possible.

Sd/-

JUSTICE K.S. HEMALEKHA