



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 13<sup>TH</sup> DAY OF OCTOBER, 2025**

**PRESENT**

**THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE**

**AND**

**THE HON'BLE MR. JUSTICE C.M. POONACHA**

**WRIT APPEAL NO. 799 OF 2024 (SC-ST)**

**BETWEEN:**

1. VENKATESH  
AGED ABOUT 42 YEARS
2. RAMESH  
AGED ABOUT 35 YEARS

BOTH SONS OF LATE KRISHNA  
RESIDING AT NO.615/16, 7<sup>TH</sup> CROSS  
LAKSHMINARAYANA TEMPLE ROAD  
MUNNENAKOLALA POST  
BANGALORE - 560 037.

...APPELLANTS

(BY SRI CHAITANYA HEGADE, ADVOCATE)

**AND:**

1. THE STATE OF KARNATAKA  
BY THE SECRETARY TO GOVERNMENT  
REVENUE DEPARTMENT  
VIDHANA SOUDHA  
DR. B. R. AMBEDKAR VEEDHI  
BANGALORE - 560 001.
2. THE SPECIAL DEPUTY COMMISSIONER  
BANGALORE DISTRICT  
BANGALORE.

Digitally  
signed by  
SRIDEVI S  
Location:  
High Court  
of Karnataka



3. THE ASSISTANT COMMISSIONER  
BANGALORE SUB-DIVISION  
BANGALORE.

4. M. B. SHANKAR REDDY  
S/O. LATE M. BHOOMI REDDY  
AGED ABOUT 55 YEARS  
R/AT NO. 3276, HAL II STAGE  
INDIRANAGAR  
BANGALORE - 560 038.

...RESPONDENTS

(BY SMT. NAMITHA MAHESH, AGA FOR R-1 TO 3 &  
SRI P.B. RAJU, ADVOCATE FOR R-4)

THIS WRIT APPEAL FILED UNDER SECTION 4 OF THE  
KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE  
ORDER DATED 21/07/2023 PASSED BY THE LEARNED SINGLE  
JUDGE IN W.P. NO.11112/2021 AND MAY ALLOW THE SAID WRIT  
PETITION.

THIS APPEAL, COMING ON FOR ADMISSION, THIS DAY,  
JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE  
and  
HON'BLE MR. JUSTICE C.M. POONACHA

### **ORAL JUDGMENT**

(PER: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE)

1. The appellants have filed the present appeal impugning an  
order dated 21.07.2023 passed by the learned Single Judge of this



Court, dismissing their writ petition being W.P.No.11112/2021 (SC-ST).

2. The appellants had filed the said writ petition seeking orders directing the respondents to forthwith restore possession of the land measuring one acre, bearing Survey No.37/6 (Plot No.37/6) situated at Munnenakolalu Village, Varthur Hobli, Bangalore South Taluk (subject property), which was granted in favour of their father, since deceased. The appellants claim that their father was working as labourer in the brick manufacturing unit of late M. Bhoomi Reddy (father of respondent No. 4). The appellants claim that their father along with twenty others belonging to scheduled caste were granted lands measuring one acre each. At the material time, ten of the grantees including the appellants' father, were working as labourers in the brick manufacturing unit of Sri. Bhoomi Reddy (father of respondent No.4). The upset price for the land in question was fixed at Rs.300/- per acre. However, Rs.200/- per acre was waived as the grantees fell under the scheduled caste category, and only a sum of Rs.100/- per acre each was collected from them. The appellants claim that it was specifically mentioned



in the grant order that the lands granted would not be alienated for a period of 15 years.

3. The appellants states that the said condition was not complied with and the father of the appellants as well as nine labourers, who were working in respondent No.4's father's factory, agreed to sell the lands granted to them at a price which was five times more than the amount paid by them. The appellants' father executed the sale deed dated 04.08.1967 in favour of Shri Bhoomi Reddy, father of respondent No.4. The appellants' claim that the said sale is void as the same was in contravention of the terms and conditions on which the lands were granted.

4. The appellants contend that the Karnataka Scheduled Castes and Schedule Tribes (Prohibition of Transfer of Certain Lands) Act, 1978 [the **PTCL Act**] came into force with effect from 01.01.1979 and pursuant to Section 4 of the said Act, the sale of the subject land in favour of respondent No.4's father was required to be declared as null and void.

5. After the PTCL Act came into force, proceedings were initiated under Section 5 of the PTCL Act in respect of the lands



acquired by respondent No.4's father including the subject land. Respondent No.3 (Assistant Commissioner) passed an order dated 25.07.1986 declaring that the sale of the land by grantees including the appellants' father in favour of respondent No.4's father (Sri. M. Bhoomi Reddy) were null and void. Accordingly, the said lands, including the subject lands were directed to be resumed. Aggrieved by the said order, Shri Bhoomi Reddy preferred appeals being SC/ST Appl.11 to 20/1096-87, under Section 5A of the PTCL Act before the Deputy Commissioner. However, the said appeals were dismissed by an order dated 14.08.1987 and the order dated 25.07.1986 passed by the respondent No.3 was upheld.

6. Aggrieved by the same, Shri. Bhoomi Reddy preferred a writ petition being WP.No.12518/1987 in this Court, questioning the decision for resumption of lands in question including the subject land granted to the father of the appellants. The said petition was allowed in terms of an order dated 09.04.1991 passed by the learned Single Judge of this Court.

7. The learned Single Judge held that there could be no restriction on alienation of land in view of Rule 43 (G) of the Mysore Land Revenue (Amendment) Rules, 1960. The Court reasoned



that restriction under Sub-Rule (4) of Rule 43(G) of the said Rules postulated that if the grant was made free of cost or made at a price which was less than the full market value, the land would not be alienated for a period of 15 years from the date of the grantee taking possession of the land. The Court also found that in terms of Rule 1 of Rule 43(G) of the said Rules, in the case of lands granted to applicants belonging to Scheduled Castes or Scheduled Tribes, the occupancy rates could be waived upto an amount of Rs.200/- and the balance was to be recovered in 3 instalments. However, the learned Single Judge held that in the present case price of the land was not reduced. The same were granted at full price of Rs.300/- per acre, but Rs.200/- had been waived. Thus, the grant of land could not be considered as a grant made free of cost or at a price which is less than the market value.

8. The father of the appellants was arrayed as respondent No.9 in the said petition.

9. Some of the grantees filed an appeal against the order dated 09.04.1991 before the Division Bench of this Court being W.A.No.1481/1991. The father of the appellants was arrayed as



respondent No.8 in the said appeal. However, the said appeal was dismissed by an order dated 13.04.1994 for non-prosecution.

10. The State preferred a separate appeal against the order dated 09.04.1991 passed by the learned Single Judge in WP.No.12518/1987, being WA.No.2142/1992. The said appeal was also dismissed by an order dated 22.01.1996. Thereafter, some of the grantees including the father of the appellants preferred a petition for seeking review of the order dated 22.01.1996 passed in WA.No.2142/1992. However, the said civil petition was dismissed as well.

11. Thus, the decision of the Division Bench in WA.No.2142/1992 had attained finality.

12. Notwithstanding that the decision of the Division Bench had attained finality, the appellants instituted the present writ petition contending that the Rule 43(G) of the Rules had been incorrectly interpreted in the previous round of litigation. They relied on a subsequent decision rendered by the Supreme Court in ***Siddegowda v. Assistant Commissioner : (2003) 10 SCC 675.***



13. However, the learned Single Judge rejected the said petition on the principles of *res judicata*. Concededly, the father of the appellants was party to the proceedings where the sale of subject land in favour of Sri. Bhoomi Reddy was challenged as void in terms of Section 4 of the PTCL Act. As noted above, the said challenge had been rejected on the interpretation of Rule 43(G) of the Rules. Additionally, it was noted that Saguvali Chit did not contain any condition restricting the transfer or alienation of the subject land.

14. The learned counsel for the appellants submits that the learned Single Judge has grossly erred in declining to entertain the writ petition on the ground of *res judicata*, in view of the subsequent decision of the Supreme Court in Siddegowda (*supra*). He contended that since the issue involved was limited to an issue of law the decision rendered by the Division Bench of this Court in WA.No.2142/1992 could be considered as foreclosing the challenge on the basis of the decision of the Supreme court. The learned counsel for the appellants referred to the decision of the Supreme Court in ***Mathura Prasad Bajoo Jaiswal v. Dossibai B. Jeejeebhoy* : AIR 1971 SCC 2355** in support of his contention.



15. We find no merit in the contention as advanced on behalf of the appellants. The appellants claim their rights through their deceased father, who was the original grantee. Undisputedly, the father of the appellants was party to the writ petition being WP.No.12518/1987. The question whether the alienation of subject land in favour of Sri. Bhoomi Reddy was void, was considered and determined by the Court in this said petition. The decision of the learned Single Judge rested on the interpretation of Rule 43(G) of the Rules. The said decision merged with the order dated 22.01.1996 passed by the Division Bench of this Court in WA.No.2142/1992. The Division Bench upheld the learned Single Judge's interpretation of Rule 43G of the Rules. Additionally, the Division Bench had also held that the Saguvali Chit did not provide for any restriction regarding alienation of the subject land. The appellants' father had also filed a review petition seeking review of the order dated 22.01.1996 (being Civil Petition No.897/1996), which was dismissed by an order dated 15.02.1999. Thus, the disputes sought to be raised in the present writ petition are the same which were the subject matter of the writ appeal No.2142/1992.



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16. The decision in the case of ***Mathura Prasad*** (supra) does not support the contention advanced on behalf of the appellants. In the said decision the Supreme Court had held as under:

"10. It is true that in determining the application of the rule of res judicata the Court is not concerned with the correctness or otherwise of the earlier judgment. The matter in issue, if it is one purely of fact, decided in the earlier proceeding by a competent court must in a subsequent litigation between the same parties be regarded as finally decided and cannot be reopened. A mixed question of law and fact determined in the earlier, proceeding between the same parties may not, for the same reason, be questioned in a subsequent proceeding between the same parties. But, where the decision is on a question law, i.e. the interpretation of a statute, it will be res judicata in a subsequent proceeding between the same parties where the cause of action is the same, for the expression "the matter in issue" in S. 11, Code of Civil Procedure, means the right litigated between the parties, i. e. the facts on which the right is claimed or denied and the law applicable to the determination of that issue. Where, however, the question is one purely of law and it relates to the jurisdiction of the Court or a decision of the Court sanctioning something which is illegal, by resort to the rule of res judicata a party affected by the decision will not be precluded from challenging the validity of the order under the rule of res judicata, for a rule of procedure cannot supersede the law of the land".

17. In the present case, the dispute between the parties involved several questions including (a) whether the grant was subject to any restriction regarding alienation as the Saguvali Chit did not



contain any such restricted condition; and (b) whether the Rule 43(G) of the Rules prohibited transfer of the subject land. The cause of action was also identical – sale of the subject land allegedly contrary to the restriction imposed. The aforesaid were finally decided by the Division Bench and the said decision is final and binding on the parties. It was impermissible for the appellants to seek re-agitation of the same disputes on the ground of a subsequent decision.

18. We may also note the recent decision of the Supreme Court in ***Delhi Development Authority v. Tejpal and others : (2024) 7 SCC 433***. In the said case, the Supreme Court considered the question of condoning the delay in filing an appeal or application on account of change in law. The Court rejected the contention that condonation of delay could be granted on the ground of a subsequent change in law, *inter alia*, for the reason that subsequent ruling of a judgment only takes away the binding nature of that judgment, but does not reopen the *lis* of the parties. The relevant extract of the said decision is set out below.

37. Another ground taken by the appellants for seeking condonation of delay is the subsequent change of law brought in by Shailendra and



Manoharlal. However, we are unable to agree with this contention because of four primary reasons.

44. Finally, the *fourth* reason why subsequent overruling of a judgment cannot be a sufficient cause is because when a case is overruled, it is only its binding nature as a precedent that is taken away and the *lis* between the parties is still deemed to have been settled by the overruled case. It is a settled principle of law that even an erroneous decision operates as *res judicata* between the parties. Hence, when *Manoharlal* overruled *Pune Municipal Corpn.* and *Sree Balaji Nagar Residential Assn.*, as well as all other cases relying on them, it only overruled their precedential value, and did not reopen the *lis* between the parties. The mere fact that the impugned orders in the present case were overruled by *Manoharlal* would not, therefore, be a sufficient ground to argue that the cases should be reopened.

19. In the present case, the appellants are seeking to re-open the *lis* that was finally closed three decades earlier.

20. We find no infirmity in the decision of the learned Single Judge. The appeal is accordingly dismissed.

**Sd/-  
(VIBHU BAKHRU)  
CHIEF JUSTICE**

**Sd/-  
(C.M. POONACHA)  
JUDGE**