



IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 23RD DAY OF FEBRUARY, 2026
PRESENT
THE HON'BLE MRS. JUSTICE ANU SIVARAMAN
AND
THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL
WRIT APPEAL NO.978/2023 (SC/ST)

BETWEEN:

MR. M.K. BALADEVKRISHNA
AGED ABOUT 70 YEARS
SON OF LATE MRS. SAROJAMMA
R/AT. HOSAMANE EXTENSION
SHIMOGA-577301.

...APPELLANT

(BY SRI. DHYAN CHINNAPPA, SR. ADV., FOR
SRI. SUNDARA RAMAN M.V. ADV.,)

AND:

1. MR. SACHIDANANDA MURTHY
S/O LATE MR. A. HANUMANTHAPPA
AGED ABOUT 50 YEARS
DHARMASHREE NILAYA
MISSION COMPOUND
BESIDE CHINMAYA HOSPITAL
KUVEMPU ROAD, SHIMOGA-577201.
2. THE ASSISTANT COMMISSIONER
SHIVAMOGGA DISTRICT
SHIMOGA-577201.
3. THE DEPUTY COMMISSIONER
SHIVAMOGGA DISTRICT
SHIMOGA-577201.





4. DR. H.R. RAJESHWARI DEVI
AGED ABOUT 55 YEARS
D/O LATE MR. A. HANUMANTHAPPA
R/A VENLOCK HOSPITAL
MANGALORE-575001.
5. MRS. H. GEETHANJALI
AGED ABOUT 53 YEARS
D/O LATE MR. A. HANUMANTHAPPA
R/A DHARMASHREE NILAYA
MISSION COMPOUND
BESIDE CHINMAYA HOSPITAL
KUVEMPU ROAD, SHIVAMOGGA-577201.
6. MRS. H. RAJANI
AGED ABOUT 45 YEARS
D/O LATE MR. A. HANUMANTHAPPA
R/A DHARMASHREE NILAYA
MISSION COMPOUND
BESIDE CHINMAYA HOSPITAL
KUVEMPU ROAD, SHIVAMOGGA-577201.

...RESPONDENTS

(BY SRI. R. GOPAL, ADV., FOR R1
SRI. JAYALINGAYYA MUDENOORMATH, AGA FOR R2 & R3
R4 & R5 SERVED
R6 SERVICE OF NOTICE IS H/S V.C.O.DTD:02.02.2026)

THIS WRIT APPEAL IS FILED U/S 4 OF THE KARNATAKA
HIGH COURT ACT, 1961, PRAYING TO SET-ASIDE THE ORDER
DATED 04/07/2023, PASSED BY THE LEARNED SINGLE JUDGE
IN WP NO.3497/2022 AND CONSEQUENTLY DISMISS THE WRIT
PETITION & ETC.

THIS WRIT APPEAL HAVING BEEN HEARD AND RESERVED
ON 10.02.2026, COMING ON FOR PRONOUNCEMENT OF
JUDGMENT, THIS DAY **VIJAYKUMAR A. PATIL J.**, DELIVERED
THE FOLLOWING:



CORAM: HON'BLE MRS. JUSTICE ANU SIVARAMAN
and
HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

CAV JUDGMENT

(PER: HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL)

This appeal is filed by the appellant under Section 4 of the Karnataka High Court Act, 1961, challenging the order dated 04.07.2023 passed by the learned Single Judge in W.P.No.3497/2022 (SC-ST).

2. Sri.Dhyan Chinnappa, learned Senior Counsel appearing for Sri.Sundara Raman M.V., learned counsel for the appellant submits that the learned Single Judge has failed to appreciate that Smt.Sarojamma, the grantee, executed the Will dated 20.08.2001 bequeathing the granted properties in favour of Sri.A.Hanumanthappa and the execution of the Will was not within the knowledge of the legal representatives of the grantee Smt.Sarojamma, who died on 17.06.2002. It is further submitted that, when appellant visited the land, he came to know that the legal representatives of A.Hanumanthappa are in



possession, he filed an application for restoration of land. The filing of an application for restoration of land by the appellant is within the time from the date of knowledge. The bequeathing of property in favour of A.Hanumanthappa is not a transfer under the provisions of The Karnataka Scheduled Castes and Scheduled Tribes (Prohibition of Transfer of Certain Lands) Act, 1978 (for short, '**PTCL Act**'). It is further submitted that effecting the revenue entries based on such a Will cannot be construed as constructive notice to the appellant. Hence, allowing of the writ petition of respondent No.1 by the learned Single Judge is contrary to law and material available on record as there is no time stipulated in Section 5 of the PTCL Act for filing an application for restoration. Hence, he seeks to allow the appeal.

3. Sri.R.Gopal, learned counsel appearing for the respondent No.1 supports the impugned order of the learned Single Judge and submits that immediately after the death of testator, the name of A.Hanumanthappa was



entered in the revenue records and from the said date, the appellant is aware about the execution of Will and also aware that respondent No.1's father was in physical possession of the property, such an aspect is required to be construed as constructive notice of transfer of title in favour of the father of respondent No.1 by the grantee. It is submitted that the application filed seeking for restoration of land does not indicate any reason for enormous delay in filing such application. In support of his contention, he placed reliance on the following decisions of this Court:

- i. ***Smt.Gouramma @ Gangamma vs. The Deputy Commissioner and others¹***
- ii. ***Smt.M.Manjula and others vs. The Deputy Commissioner and others².***

Hence, he seeks to dismiss the appeal.

¹ W.A.100101/2024 DD 29.07.2024

² W.A.210/2023 DD 25.11.2024



4. We have heard the arguments advanced by the learned Senior Counsel appearing for the appellant, learned counsel appearing for the respondent No.1, learned Additional Government Advocate appearing for respondent Nos.2 and 3 and perused the material available on record. We have given our anxious consideration to the submissions advanced on both the sides.

5. The records indicate that the mother of the appellant Smt.Sarojamma was granted land measuring 4 acres in Sy.No.81 (Old 59) of Guddada Arekere Village, Shivamogga Taluk on 23.03.2000. The grantee Smt.Sarojamma executed a will dated 20.08.2001 bequeathing the granted land in favour of Sri.A.Hanumanthappa, the father of respondent No.1. The grantee Smt.Sarojamma died on 17.06.2002. The records further indicates that the father of respondent No.1 filed an application before the jurisdictional Tahasildar to enter his name in the revenue records based on the Will



executed by the grantee. The jurisdictional Tahasildar vide order dated 22.11.2002 ordered to enter the name of the father of respondent No.1 in the revenue records. The records were mutated as per M.R.No.1/2002-03 and from the said date the name of Sri.A.Hanumanthappa was continued in the revenue records. After the death of A.Hanumanthappa on 30.12.2011, the daughters of A.Hanumanthappa executed registered relinquishment deed in favour respondent No.1 relinquishing their right, title and interest over the property vide registered Relinquishment Deed dated 12.01.2012 and based on such relinquishment deed, the jurisdictional Tahasildar passed an order on 28.01.2017 in RRT Dispute No.41/2015-16 entering the name of respondent No.1 which is evident from the record of rights produced by respondent No.1 along with statement of objections.

6. The appellant filed an application under Section 4 of the PTCL Act seeking for resumption of land on 23.06.2017 on the ground that the execution of the Will by



Smt.Sarojamma in favour of Sri.A.Hanumanthappa is in contravention of PTCL Act. The respondent No.2 - Assistant Commissioner allowed the appeal vide order dated 11.02.2020 by ordering that the Will and the relinquishment deed are void as the transfer is without prior permission as per Section 4(2) of the PTCL Act and further ordered for resumption and restoration of land in favour of the grantee.

7. Respondent No.1 assailed the order of respondent No.2 - Assistant Commissioner before the respondent No.3 - Deputy Commissioner on various grounds which came to be dismissed. The Learned Single Judge under the impugned order set aside the order of respondent Nos.2 and 3 on the ground that the initiation of proceedings by legal representatives of grantee is beyond reasonable period.

8. It is not in dispute that the original grantee Smt.Sarojamma bequeathed the granted land in favour of



Sri.A.Hanumanthappa under Will dated 20.08.2001 and based on such Will, A.Hanumanthappa got the revenue records mutated in his name in the revenue records as per the order dated 22.11.2002 as per MR No.1/2002-03 and the revenue records are standing in the name of Sri.A.Hanumanthappa. The contention of the appellant is that the acquisition of title by A.Hanumanthappa is not transfer within the provisions of the PTCL Act has no merit.

9. It would be useful to refer to the decision of the Co-ordinate Bench of this Court in the case of ***Shankargouda v Deputy Commissioner, Dharwad***³, wherein it was held as under:

"17. The Scheme of the Act as also the objects and reasons for which it was introduced would indicate that the objective is to prevent alienation of lands granted to Scheduled Castes and Scheduled Tribes by Government. Such prevention cannot partake the colour of testamentary disposition to a stranger other than the family members in order to come out of the rigour of Section 4 (2) of the Act.

18. The expression 'transfer' in Section 3 (1) (e) of the Act has to be given a meaning as to promote the object of the enactment. The deceased grantee can

³ WA.No.100348/2014 dtd 11.06.2020



transfer his rights only to the family members through partition or testamentary disposition by legitimate kinship. If the granted lands are bequeathed to the strangers who may acquire a right over the granted land in terms of the device under a Will, it would certainly defeat the purpose and object of the Act."

10. It is clear that the objective of the PTCL Act would be defeated, if bequeathing a property vide a testamentary disposition such a will is exempted from the definition of 'transfer' of property as under Section 3(1)(e). Hence, the contention of the learned senior counsel for the appellant that bequeathing a property vide a Will not amount to transfer of property is required to be rejected. It is to be noticed that the name of Sri.A.Hanumanthappa was reflected in the RTC from 22.11.2002 and the revenue documents being the public documents, the appellant cannot contend that he was unaware of the acquisition of right by A.Hanumanthappa. Under the law, it is deemed and understood that appellant has constructive notice with regard to acquisition of right and title over the granted land by A.Hanumanthappa once



his name is reflected in the revenue records. Further, it is noticed that after the death of A.Hanumanthappa, two daughters of A.Hanumanthappa executed a registered relinquishment deed in favour of respondent No.1, son of A.Hanumanthappa, and based on such relinquishment deed, revenue records were again mutated in the name of respondent No.1 as per the order dated 28.01.2017 passed by the Tahasildar. The appellant cannot contend that he was unaware with regard to acquisition of right and title of the property by A.Hanumanthappa and later by his son viz., respondent No.1, in view of revenue records standing in their name from 2002 onwards. Considering the aforesaid aspect, we are of the considered view that filing an application for resumption and restoration of land on 23.06.2017 is beyond reasonable period. The appellant in the application filed under Section 4 of the PTCL Act does not provide any explanation for the delay whatsoever. The other factor that goes against the appellant is that the father of respondent No.1 as well as



respondent No.1 claim that they are in physical possession of granted land from the date of death of original grantee i.e., 17.06.2002, and the appellant cannot contend that he came to know with regard to possession of respondent No.1 over the granted land only when he visited the property in the year 2017. Such an explanation cannot be accepted.

11. The learned Single Judge considering the contentions advanced and taking note of the fact that filing of an application for restoration and resumption of land in the year 2017 is after lapse of 15 years and by applying the law laid down by the Hon'ble Supreme Court in the case of ***Nekkanti Rama Lakshmi vs. State of Karnataka and antoher***⁴ and ***Vivek M.Hinduja vs. M.Aswatha***⁵ held that the exercise of power by authority is beyond the reasonable time and set aside the orders passed by respondent Nos.2 and 3. We do not find any error or

⁴ (2020) 14 SCC 232

⁵ (2019) 1 Kant.LJ 819 SC



perversity in the order of the learned Single Judge calling for interference in this appeal.

12. It is to be noticed that the coordinate bench of this Court in the case of **Smt.Gouramma @ Gangamma** referred supra has considered the effect of subsequent amendment brought to the PTCL Act and held that there is a marked difference between delay and laches and emphasized on the conduct of the party during the said delay. In the instant case, it is clear that the appellant has failed to carry out due diligence and was negligent in failing to approach the authority within a reasonable time. The Co-ordinate bench of this Court in the case of **Smt.M.Manjula** referred supra has considered the various judgments rendered by the Hon'ble Supreme Court and held that delay and laches are required to be looked into while considering the rights of the parties.

13. For the aforementioned reasons, we do not find any justifiable grounds to interfere with the order of the



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W.A. No.978/2023**

learned Single Judge. The appeal is devoid of merits and the same is accordingly, ***rejected***.

No order as to costs.

**Sd/-
(ANU SIVARAMAN)
JUDGE**

**Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE**

BSR
List No.: 3 SI No.: 6