



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF FEBRUARY, 2026

PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

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

WRIT APPEAL NO. 1876 OF 2024 (SC-ST)

BETWEEN:

1. SMT. BHARATHAMMA
D/O LATE RAMAKRISHNAPPA
AGED ABOUT 46 YEARS
R/AT NO.17, THIPPANAHALLI VILLAGE
NUGITHAHALLI MAJARA
NANDI HOBLI
CHICKBALLAPUR TALUK - 562 101
CHICKBALLAPUR DISTRICT

...APPELLANT

(BY SRI RAJESH P. MAHALE, SENIOR ADVCOATE A/W
SRI MADHUKAR NADIG, ADVOCATE FOR
SRI HANUMANTHAPPA HARAVI B. GOWDAR, ADVOCATE)

AND:

1. STATE OF KARNATAKA
REPRESENTED BY ITS SECRETARY
REVENUE DEPARTMENT
M.S. BUILDING
BANGALORE - 560 001





2. THE DEPUTY COMMISSIONER
CHICKBALLAPUR DISTRICT
CHICKBALLAPUR - 562 101
3. THE ASST. COMMISSIONER
CHICKBALLAPUR SUB-DIVISION
CHICKBALLAPUR - 562 101
4. THE TAHASILDAR
CHICKBALLAPUR - 562 101
5. SRI H RAJRATHNAM
S/O H.D. HANUMANTHARAYAPPA
AGED ABOUT 75 YEARS
R/AT NUGATHAHALLI VILLAGE
NANDI HOBLI
CHICKBALLAPUR TALUK - 562 101
CHICKBALLAPUR DISTRICT

...RESPONDENTS

(BY SRI K.S. HARISH, GOVERNMENT ADVOCATE FOR R-1 TO R-4 & SRI M. SHIVAPRAKASH, ADVOCATE FOR R-5)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE ORDER DATED 15.11.2024 PASSED BY THE LEARNED SINGLE JUDGE IN WRIT PETITION No.20995/2024 & ETC.

THIS APPEAL, COMING ON FOR PRELIMINARY HEARING, 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 appellant, who is the daughter of late Ramakrishnappa, has filed the present appeal impugning an order dated 15.11.2024 passed by the learned Single Judge of this Court in WP.No.20995/2024 (SC-ST). The appellant had filed the said petition impugning the order dated 22.09.2023 passed by respondent No.2 [**the Deputy Commissioner**], setting aside the order dated 19.04.2022 passed by respondent No.3 [**the Assistant Commissioner**], restoring the subject land in favour of the legal heirs of late Ramakrishnappa [**original grantee**].

2. The land measuring 2 acres and 37 guntas falling in Survey No.54 (New Sy.No.160) of Nugathahalli Village, Nandi Hobli, Chickballapura, was granted in favour of the original grantee, late Ramakrishnappa. On 10.08.1982, the *saguvali chit* was issued in favour of the original grantee with a condition that the subject property would not be alienated for a period of fifteen years.



3. One Sri. N. M. Muniyappa claimed that he acquired title to the subject property pursuant to a deed of settlement of partition dated 15.12.1991. He claimed that the subject land came to his exclusive possession in 1991. On 24.08.1996, he filed a suit, OS.No.368/1996, *inter alia*, praying for a declaration that he was the absolute owner of the subject property and further restraining the original grantee and his wife (who were arrayed as defendants in the suit) from entering upon or otherwise interfering in his peaceful possession of the subject land.

4. The summons in the suit was issued. Thereafter, the parties to the suit filed an application under Order XXIII Rule 3 of the CPC to record the settlement, whereby the defendants in the suit (late Ramakrishnappa and his wife) accepted that the subject land was settled in favour of Sri Muniyappa. In view of the said settlement, Sri Muniyappa was declared the owner of the subject land.

5. Thereafter, on 20.10.2008, Sri. Muniyappa was granted permission under Section 4(2) of the Karnataka Scheduled Castes and Scheduled Tribes (Prohibition of Transfer of Certain Lands) Act, 1978 [**PTCL Act**] for sale of the subject land.



6. Sri. Muniyappa sold the subject land under a sale deed dated 13.05.2010.

7. Thereafter, on 16.06.2010, the original grantee filed a suit, being O.S.No.278/2010, seeking a declaration of his title in respect of the subject property. The said suit was dismissed by a decree dated 02.03.2018. Aggrieved by the same, the original grantee filed an appeal, RA No. 55/2018, which was allowed by an order dated 05.03.2019. The learned Appellate Court held that the compromise decree in O.S.No.368/1996 was obtained by fraud.

8. The appellant, who was the daughter of the original grantee, initiated proceedings in PTCL (Chikka) 03/2014-15 under Section 5 of the PTCL Act seeking resumption of the subject land. The Assistant Commissioner accepted the same and passed an order dated 19.04.2022 setting aside all transactions and directing resumption of land in favour of the original grantee.

9. In the meantime, respondent No. 5, who had purchased the subject land from Sri Muniyappa, filed a second appeal (RSA No. 801/2019) impugning the order dated 05.03.2019 passed in RA No. 55/2018.



10. By order dated 27.12.2022, this Court allowed the appeal preferred by respondent No.5 (RSA.No.801/2019) and set aside the order passed in RA.No.55/2018. This Court upheld the decree dated 02.03.2018 passed in OS.No.278/2010, whereby the original grantee's suit for declaration of title was dismissed. Thereafter, on 22.09.2023, the Deputy Commissioner allowed the appeal against the Assistant Commissioner's order directing resumption of the subject land in favour of the original grantee and his heirs.

11. As noted above, the appellant challenged the said order by filing a writ petition (WP.No.20995/2024), which was dismissed by the impugned order.

Submissions

12. The learned counsel appearing for the appellant submits that the order passed by the Deputy Commissioner, as well as the learned Single Judge, is erroneous as they failed to consider the provisions of the PTCL Act. He submitted that the said orders are premised on the basis that the original grantee had entered into a valid settlement with Sri. Muniyappa, whereby he acquired the title



to the subject land. He referred to Section 3(1)(e) of the PTCL Act, which defines the term 'transfer' in very wide terms. The said clause is reproduced below:

"(e) "transfer" means a sale, gift, exchange, mortgage (with or without possession), lease or any other transaction not being a partition among members of a family or a testamentary disposition and includes the creation of a charge or an agreement to sell, exchange, mortgage or lease or enter into any other transaction."

13. He submitted that the definition of the word 'transfer' includes any other transaction. He submitted that Section 4 of the PTCL Act contains a *non obstante* clause, which expressly provides that any transfer of granted land would be null and void. He submitted that, under Section 4 of the PTCL Act, Sri Muniyappa could not have acquired any right or title to the subject land, which was granted to Sri Ramakrishnappa, the original grantee. He also referred to Section 4(11) of the PTCL Act and submitted that the provisions of the PTCL Act would have an effect, notwithstanding any decree or order of a court, tribunal or other authority. He contended that the learned Single Judge had erred in accepting that Sri Muniyappa had sold the land to respondent No.5 after obtaining the permission



of the concerned authorities, and therefore, the said transfer was valid. He also submitted that the permission granted for sale of property by Sri Muniyappa to respondent No.5 would be of no relevance since Sri Muniyappa did not acquire any title to the subject property.

14. We have heard the learned counsel for the appellant.

15. As apparent from the above, the appellant's case rests on the assertion that the transfer of land from Sri Ramakrishnappa to Sri Muniyappa was void.

16. It is material to note that Sri Muniyappa's case is that he was adopted by Sri Ramakrishnappa as his son and resided with him. However, certain differences arose within the family, which he blames on the women in the family. However, the same were resolved and 'a deed of settlement of partition' was entered into on 15.12.1991, whereby he acquired absolute title to the subject property. The plaint filed by Sri Muniyappa, which was OS No. 368/1996, alleges that the original grantee and his wife attempted to alienate the property to third parties by entering into fake sale agreements and disturbing his possession. As noted above, the



said suit was decreed in terms of a compromise arrived at, whereby the original grantee acknowledged Sri Muniyappa's title to the subject property.

17. The suit filed by the original grantee (OS.No.278/2010) seeking a declaration of title was contested by Sri Muniyappa, who was arrayed as defendant No.1 in the said suit. He had led evidence in the said proceedings to the effect that he had been adopted by Sri Ramakrishnappa, the original grantee. Before the trial court, the defence witnesses (DW2 to DW4) specifically deposed that Sri Muniyappa, who was defendant No. 1, was the adopted son of the plaintiff, the original grantee. He also deposed that the subject land had fallen to the share of Sri Muniyappa pursuant to a compromise, which was recorded in OS.No.368/1996.

18. The learned trial court noted that the defence witnesses were subjected to extensive cross-examination. However, nothing had been elicited to disbelieve their version in support of the written statement.



19. The decree passed in OS.No.278/2010 was set aside in an appeal. However, it was restored by an order dated 27.12.2022 passed by this Court in RSA. No.801/2019. This Court held that "the trial court, on proper appreciation of material on record, arrived at the right conclusion and dismissed the suit on the plaintiff".

20. We may now refer to the meaning of transfer as defined under Section 3(1)(e) of the PTCL Act. The said clause is reproduced above. A plain reading of the said clause indicates that the expression transfer excludes "a partition among members of a family or a testamentary disposition". It is Sri. Muniyappa's case that he was the adopted son and thus a member of the original grantee's family. In his plaint (registered as OS.No.368/1996), he asserted that he acquired the title and possession of the subject land under the terms of a deed of settlement of partition dated 15.12.1991. The original grantee had compromised the said suit. The same was decreed by declaring that the plaintiff is the absolute owner of the subject property and further restraining the original grantee or anyone claiming or interfering with the possession of the subject land.



21. As noted above, in the subsequent suit filed by the original grantee (OS.No.278/2010), the trial court held that the compromise recorded in OS.No.368/1996 is binding and that Sri Muniyappa had acquired title and possession to the subject property.

22. In view of the above, the question whether Sri Muniyappa had acquired title to the subject land became final.

23. It is important to note that thereafter, Sri Muniyappa had sought permission for alienation of the land under Section 4(2) of the PTCL Act, which was granted by the Government. After securing the permission, Sri Muniyappa sold the subject land under a sale deed dated 13.05.2010.

24. It is also relevant to note that the appellant had initiated proceedings under Section 5 of the PTCL Act after an unreasonable delay. According to the appellant, the alienation in favour of Sri Muniyappa, which was in the year 1996, if not earlier on 15.12.1991, is void. However, the proceedings for resumption were initiated in the year 2014. The order of the Assistant Commissioner for resumption of the land was passed on 19.04.2022, which is more than three (03) decades after the deed



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of settlement of partition under which Sri. Muniyappa claimed title to the subject property was executed and more than twenty five years after the decree declaring that Sri. Muniyappa was the owner of the property had been passed.

25. The Supreme Court in **Nekkanti Rama Lakshmi v. State of Karnataka**¹ and as well as **Vivek M. Hinduja and Others v. M. Ashwath**² held that the proceedings for resumption of land after an inordinate delay would not be maintainable. The provisions of Section 5(1) of the PTCL Act were subsequently amended by the insertion of clauses (c) and (d), by virtue of Act No.30 of 2023. However, the import of the said amendment came to be considered by the Division Bench of this Court in the case of **Smt. Gouramma @ Gangamma v. The Deputy Commissioner and others**³, held as under:

"(d) The Amendment Act that is made applicable with retrospective effect is only a duplication of the existing legal position. Such duplication happened even in English legislative history, hardly needs to be mentioned. 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

¹ (2020) 14 SCC 232

² 2019 Kar.LJ 819 (SC)

³ KHC-D:10666-DB



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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.

(e) **Nekkanti** supra does not speak of “limitation period” at all. What it discusses is, the long lapse of time between alienation of granted land and the filing of claim for its resumption. Observations occurring in para 8 of the decision lend support to this view:

“8. However, the question that arises is with regard to terms of Section 5 of the Act which enables any interested person to make an application for having the transfer annulled as void under Section 4 of the Act. This Section does not prescribe any period within which such an application can be made. Neither does it prescribe the period within which suo motu action may be taken. This Court in the case of Chhedi Lal Yadav v. Hari Kishore Yadav (D) Thr. Lrs., (2017) 6 Scale 459 and also in the case of Ningappa v. Dy. Commissioner (C.A. No. 3131 of 2007, decided on 14.07.2011) reiterated a settled position in law that whether Statute provided for a period of limitation, provisions of the Statute must be invoked within a reasonable time. It is held that action whether on an application of the parties, or suo motu, must be taken within a reasonable time. This relief was granted to the farmers due to flood in the Kosi River which make agricultural operations impossible. An application for restoration was made after 24 years and was allowed. It is in that background that this Court upheld that it was unreasonable to do so. We have no hesitation in upholding that the present application for restoration of land made by respondent-Rajappa was made after an unreasonably long period and was liable to be dismissed on that ground. Accordingly, the judgments of the Karnataka High Court, namely, R. Rudrappa v. Deputy Commissioner, (2000) 1



Karnataka Law Journal, 523, Maddurappa v. State of Karnataka, (2006) 4 Karnataka Law Journal, 303 and G. Maregouda v. The Deputy Commissioner, Chitradurga District, Chitradurga, (2000) 2 Kr. L.J.Sh. N.4B holding that there is no limitation provided by Section 5 of the Act and, therefore, an application can be made at any time, are overruled.”
(emphasis is ours)

Apparently, the law declared by the Apex Court in the above case has not been altered by the subject amendment, even in the least.

(f) It may be true, that the legislative debates might have taken place about the observations of the Apex Court in **Nekkanti** and other such cases while passing the Amendment Bill. That per se does not lend credence to the contention that the said amendment intends to invalidate the law declared by the highest court of the country which it did after considering all aspects of the matter including the sense of equity & justice. If the Legislature intended to silence the voice of **Nekkanti**, it would have employed a different terminology. We repeat that, ordinarily, delay is decided by computing the period of limitation prescribed by law, whereas “laches” is decided keeping in view a host of factors. Cases are replete in Law Reports relating to delay and laches in writ jurisdiction under Articles 12, 226 & 227 of the Constitution of India. This is only to illustrate.

(g) There is a marked difference between ‘delay & laches’ that operate in equity and ‘limitation & delay’ that obtain in law.”

As such an application for resumption / restoration of land after an unreasonably long delay, are not maintainable.



26. In view of the above, the challenge to the order passed by the Deputy Commissioner cannot be sustained. The learned Single Judge's decision that the sale in favour of respondent No.5 was after obtaining permission under Section 4(2) of the PTCL Act and therefore cannot be held as void, warrants no interference by this Court.

27. The appeal is accordingly dismissed.

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

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