

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

CIVIL APPEAL NO(S).3342-3345 OF 1997@@
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S Srinivasan

Appellant(s)

VERSUS

Narasimha Nayaka and others

Respondent(s)

(with office report)

DATE: 5-2-2003 These matters were called on for hearing today. @@
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CORAM :
HON'BLE MRS. JUSTICE K.G. BALAKRISHNAN
HON'BLE MR. JUSTICE P. VENKATARAMA REDDI

For Appellant (s) : Mr. S Sadasiva Reddy, Adv. for
Mrs. S Usha Reddy, Adv.

For Respondent(s) :

UPON hearing counsel the Court made the following
O R D E R@@
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The appeals are dismissed in terms of the signed order
with no order as to costs.

.SP1

(D.L. Chugh)
Court Master

(Veera Verma)
Court Master

Signed order is placed on the file

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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NOS. 3342-3345 OF 1997

S. Srinivasan

& ..Appellant

vs.

Narasimha Nayaka & Ors.

& ..Respondents

O R D E R

Respondent Nos. 1 to 4 were allotted some lands by the Government
under the provisions of the Mysore Land Revenue (Amendment) Rules, 1960.

Rule 43(G) thereof provided that where the grant of the land is made free of cost or at a price which is less than the full market value, the grant shall be subject to the condition that the land shall not be alienated for a period of 15 years from the date of the grantee taking possession of the land after the grant. The respondents 1 to 4 belonged to 'Nayaka' caste, which was included as one of the castes in the list of Scheduled Tribes notified under the Presidential Order. The appellant herein, by two documents, purchased the lands in question from the respondents. The Karnataka State Legislature passed an enactment, namely, the Karnataka Scheduled Castes and Scheduled Tribes (Prohibition of Transfer of Certain Lands) Act, 1978 (Act 2 of 79) [for short, "the Act"], which came into force on 1.1.1979. This Act was enacted to protect the interests of the Scheduled Castes and Scheduled Tribes who had been granted land by the Government. It was noticed that in spite of the 'non-alienation' clause contained in the grant, the members of the Scheduled Castes and Scheduled Tribes were being exploited due to their ignorance and poverty, by persons belonging to the affluent and powerful sections who obtained sales or mortgages either for a nominal consideration or for no consideration at all. Under Section 4 of the Act, alienations effected in contravention of the terms of the grant were declared null and void and it was provided that no right, title or interest in such land shall be conveyed nor be deemed ever to have been conveyed by such transfer.

The appellant herein received notice from the Assistant Commissioner alleging that the alienations in favour of the appellant were in contravention of Section 4 of the Act and the land is to be returned to Respondent Nos. 1 to 4. The appellant filed objections, but the Assistant Commissioner held that the land was liable to be surrendered to Respondent Nos. 1 to 4. The appellant filed an appeal before the Deputy Commissioner, challenging this order and the appeal was dismissed by the Deputy Commissioner. The appellant then filed a Writ Petition before the High Court of Karnataka and the Writ Petition ended in dismissal. Thereafter, the appellant filed a Writ Appeal before the Division Bench and that also was dismissed. Hence this appeal by way of Special Leave.

We heard learned Counsel for the appellant. The main contention urged by the appellant's counsel is that these respondents belonged to 'Nayaka' caste, which was included in the list of Scheduled Tribes only in the year 1976 and at the time of grant of land made in the year 1963, they were not members of the Scheduled Tribes. It is argued, therefore, that Section 4 of the Act has no application. The further argument of appellant's counsel is that at the time of grant of land by the Government, the grantee should be a member of the Scheduled Caste and subsequent inclusion of that caste in the list of Scheduled Tribes is not sufficient to attract Section 4 of the Act. Section 4 of the Act reads as follows:-

"4. Prohibition of transfer of granted lands (1) Notwithstanding anything in any law, agreement, contract or instrument, any transfer of granted land made either before or after the commencement of this Act, in contravention of the terms of the grant of such land or the law providing for such grant, or sub-section (2) shall be null and void and no right, title or interest in such land shall be conveyed or be deemed ever to have been conveyed by such transfer.

(2) No person shall, after the commencement of this Act, transfer or acquire by transfer any granted land without the previous permission of the Government

(3) The provisions of sub-sections (1) and (2) shall apply also to the sale of any land in execution of a decree or order of a Civil Court or of any award or order of any other authority."

It is significant to note that Section 4 states that it would apply to any transfer of granted land made either before or after the commencement of the Act. Therefore, it is clear that the alienation by the grantee need not necessarily be after the commencement of the Act. The term 'Granted Land' has also been defined in Section 3(1)(b) of the Act, as under:

"Granted Land" means any land granted by the Government to a person belonging to any of the Scheduled castes or the Scheduled

& .& & & & & & & & & & J.
(P. VENKATARAMA REDDI)

New Delhi
February 5, 2003