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ITEM NO.103

COURT NO.11

SECTION IVA

S U P R E M E C O U R T O F
R E C O R D O F P R O C E E D I N G S

I N D I A

CIVIL APPEAL NO.590 OF 2009

SHARANAIAH

Appellant(s)

VERSUS

THE GOVT. OF KARNATAKA & ORS.
(WITH OFFICE REPORT FOR DIRECTION)

Respondent(s)

Date : 20/08/2014 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE RANJAN GOGOI
HON'BLE MR. JUSTICE R.K. AGRAWAL

For Appellant(s)

Mr. K. Maruthi Rao, Adv.
Mrs. Anjani Aiyagari, Adv.

For Respondent(s)

Mr. V.N. Raghupathy, Adv.
Mr. Lagnesh Mishra, Adv.

Mr. K. Sharda Devi, Adv.

Mr. Sanjay R. Hegde, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The appeal is dismissed in terms of the signed order.

[VINOD LAKHINA]
COURT MASTER

[ASHA SONI]
COURT MASTER

[SIGNED ORDER IS PLACED ON THE FILE]

Signature Not Verified

Digitally signed by
Vinod Lakhina
Date: 2014.08.20
17:14:58 IST
Reason:

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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO.590 OF 2009

SHARANAIAH

...APPELLANT

VERSUS

ORDER

This appeal is directed against the judgment and order dated 4th September, 2003 passed by the High Court of Karnataka, Bangalore in Writ Appeal No.5287 of 2002.

The appellant before us is the purchaser of land measuring about 5 acres in Survey No.52/3 of Hosakere village, Sokki Hobli, Jagahuru Taluk, Davangere District. The said land was allotted/granted to one Chowdappa in the

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year 1938-39. In the year 1965, it was sold by the son of the aforesaid allottee to the appellant - Sharanaiah, which sale was questioned by the 5th respondent - Sharadamma herein, who claims to be the wife of late Chowdappa. On the basis of the said objections/claim raised by the 5th respondent, an order dated 23rd February, 2000 was passed by the respondent No.2, namely, Deputy Commissioner, Davangere, Davangere District, Karnataka restoring the land in favour of the 5th respondent. The said order was questioned by the appellant in a writ petition registered and numbered as Writ Petition No.17228 of 2000 before the High Court of Karnataka.

The learned single judge of the High Court hearing the writ petition recorded the view that the grant in favour

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of Chowdappa was made in the year 1938-39 and as per the rules prevailing at that point of time there was a perpetual bar on the alienation of the land. The learned single judge, therefore, held that the condition mentioned in the Saguvalli Chit to the effect that the grantee shall not alienate the land for a period of 10 years was impermissible. In view of the perpetual bar on alienation under the Rules in force at the time of grant i.e. in the year 1938-39, the writ petition was dismissed which order has been affirmed in Appeal giving rise to the present proceeding.

If there was a legal bar on transfer/alienation of the land which bar was to operate in perpetuity i.e. forever, naturally, no alienation could have been

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made. Consequently, the alienation made by the son of Chowdappa in favour of the appellant was clearly contrary to law.

Mr. K. Maruthi Rao, learned counsel appearing for the appellant has placed before us the provisions of Section 4 of the Karnataka Scheduled Castes and Scheduled Tribes (Prohibition of Transfer

of Certain Lands) Act, 1978 to contend that it is a transfer made either before or commencement of the Act which is in contravention of the terms of the grant that will be null and void. In this regard, it has been pointed out that the transfer in favour of the appellant made in the year 1965 and the restriction on alienation in the Saguvalli Chit was for a period of 10 years which had expired well before the date of transfer.

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We are not persuaded to accept the aforesaid contention advanced on behalf of the appellant for the reason that it is the conditions of the allotment as on the date thereof that would be relevant. If there was a perpetual bar on alienation or transfer of the land, the Saguvalli Chit restricting the said bar for a period of 10 years would not be legally permissible. The High Court has categorically held that Rules as prevailing in the year 1938-39 imposed a perpetual bar on transfer/alienation. Nothing has been pointed to enable us to take a contrary view.

For the aforesaid reasons, we find no merit in this appeal. It is accordingly dismissed, however, with no order as to costs.

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Learned counsel for the appellant

submits that he is entitled to receive
damages/compensation for development
carried out on the land. If the appellant
has any claim on this score, it will be
open to him to seek such remedies for
damages/compensation as may be permissible
in law.

.....,J.
(RANJAN GOGOI)

.....,J.
(R.K. AGRAWAL)

NEW DELHI
AUGUST 20, 2014