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C.A.No. 3711 OF 1999
IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.3711 OF 1999

H. NARAYANA GOWDA ... APPELLANT

VERSUS

H.M. MUNIHANUMAPPA & ANR. ... RESPONDENTS

O R D E R

The father of the 1st respondent was granted the land in question on 26.11.1952 by the Government with a condition that the said land shall not be transferred or alienated to any one else within a period of 20 years. The said land was sold to the appellant on 23.12.1967 under a registered sale-cum-reconveyance deed, admittedly within the prohibited period of 20 years. The same land was subsequently sold to the appellant on 25.7.1975 by the legal representatives of the original grantee. The respondent No.1 made an application before the Assistant Commissioner under the provisions of the Karnataka Scheduled Caste, Scheduled Tribe [Prohibition of Transfer of Certain Lands] Act, 1978 ('the Act' for short) for declaration that the alienation of the land made in favour of the appellant was invalid and also for restoration of possession of the said

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land. The Assistant commissioner allowed the application. The appellant filed writ petition before the High Court challenging the order made by the Assistant Commissioner. The writ petition was allowed. The order of the Assistant Commissioner was set aside and the matter was remanded to the Assistant Commissioner to hold a fresh inquiry after affording reasonable opportunity to both the parties. After remand also, the Assistant Commissioner allowed the application made by the respondent No.1 and declared the sale deed executed in favour of the appellant, as invalid. Consequently, the land was ordered to be restored to the 1st respondent. The appellant filed appeal before the Deputy Commissioner against the said order of the Assistant Commissioner, which was also dismissed. Thereafter, the appellant filed the writ petition before the High Court for the second time. The learned Single Judge allowed the writ petition accepting the contention urged on behalf of the appellant that the first sale deed being invalid, the second sale deed having been executed after the prohibited period of alienation, it was not invalid. The respondent No.1 took up the matter before the Division Bench of the High Court by filing a writ appeal questioning the validity and correctness of the order made by the learned Single Judge. The Division Bench of the High Court, by the order under challenge

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in this appeal, did not agree with the order made by the learned Single Judge and in that view, allowed the writ appeal and set aside the order made by the learned Single Judge. Hence, this is appeal. The learned counsel for the appellant made submissions that the Division Bench of the High Court, in the impugned order, has not correctly applied Sections 4 and 5 of the Act to the facts of the present case. According to him, the second sale deed executed on 25.7.1975 being

beyond the period of prohibited period of 20 years, the alienation was perfectly valid and it was not hit by Section 4 of the Act.
Per contra, learned counsel for the respondent No.1, in his argument, supported the impugned order.
The facts are not in dispute. The Division Bench of the High Court in the impugned order has stated thus :
The subsequent sale deed dated 25-07-1974 is void ab initio. When the condition of the grant has already been violated by an alienation, the same cannot be validated by a subsequent deed. This was the view of this Court in 1987 (3) KLJ 566."
It is further stated in the same order that -
"Invalid sale deed as held by this Court cannot be validated by a subsequent sale deed. The impugned order, therefore, cannot be sustained."

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In our view, the Division Bench of the High Court was right in setting aside the order of the learned Single Judge in view of what is extracted above from the impugned judgment. Thus, we find no merit in the appeal. Consequently, it is dismissed with no order as to costs.

[SHIVARAJ V. PATIL]J.

New Delhi, April 29, 2004. ITEM No.101 (PH)	[D.M. DHARMADHIKARI] COURT NO.8	SECTION IVA
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S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No.3711/1999

H. NARAYANA GOWDA APPELLANT (S)

VERSUS

H.M. MUNIHANUMAPPA & ANR. RESPONDENT (S)
(With office report)

Date : 29/04/2004 This appeal was called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE SHIVARAJ V. PATIL
HON'BLE MR. JUSTICE D.M. DHARMADHIKARI

For Appellant (s)Mr. S.N. Bhat, Adv.

For Respondent (s)Mr. B.V. Niren, Adv.
No.1for Mr. M. Veerappa, Adv.

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

Mr. S.N. Bhat, learned counsel for the appellant started his arguments at 11.15 a.m. and concluded at 11.50 a.m. Then, Mr. B.V. Niren, learned counsel for the respondent No.1 made his submissions for 5 minutes.
The appeal is dismissed with no order as to costs in terms of the signed order.

Sarita (Shelly Sengupta)
Court Master

(Signed order is placed on the file)