

**(2003) 10 KAR CK 0044**

**In the Karnataka High Court**

**Case No : Writ Petition No. 43036 of 2003 (LR)**

D. Natarvali

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

**Date of Decision : 29-10-2003**

**Acts Referred:**

Constitution of India, 1950 — Article 226  
Karnataka Land Reforms Act, 1961 — Section 61

**Citation : (2003) 7 KarLJ 265**

**Hon'ble Judges : V. Gopala Gowda, J**

## **Judgement**

1. Annexure-G is the order dated 5-4-2003 passed by the Assistant Commissioner rejecting the application of the petitioner seeking permission to sell the lands in Regular Suit Nos. 314/2 and 315/2, Old Sy. No. 607 measuring 4.62 acres of Bellary. By the endorsement at Annexure-H dated 28-7-2003, the petitioner has been informed that since the order passed by the Assistant Commissioner is in accordance with law, the revision petition filed against the same cannot be considered. The petitioner is seeking to quash Annexures-G and H.

2. Occupancy rights was granted in favour of the petitioner in respect of the lands in question by order dated 9-11-1976. The same was quashed by this Court in Writ Petition No. 1767 of 1980 and the matter was remanded to the Land Tribunal. Thereafter, once again occupancy right was granted in favour of the petitioner by order dated 29-10-1991. Pursuant to the same, Form 10 was issued on 3-12-1991. When the petitioner applied for permission to sell the land, the Assistant Commissioner rejected the same on the ground that 15 years period was not over. That became the subject-matter in Writ Petition No. 16236 of 2002 and the matter was remanded to the Assistant Commissioner. Thereafter, the impugned order at Annexure-G was passed and the endorsement at Annexure-H was issued.

3. From the facts narrated above, it is clear that the order 9-11-1976 granting

occupancy was quashed by this Court. Hence, Form 10 issued as per Annexure-C on the basis of the said order does not survive. The order dated 29-10-1991 granting occupancy rights became final and the Form 10 at Annexure-E issued is valid. It was dated 3-2-1991. As per Section 61 of the Karnataka Land Reforms Act, 1961, land in respect of which occupancy right is granted shall not be sold for 15 years from the date of issuing Form 10 under Section 55 of the Act. In the instant case, the 15 years period cannot be computed from the date on which Form 10 was issued at the first instance as the order granting occupancy rights was quashed. Therefore, the Assistant Commissioner was justified in rejecting the permission sought for by the petitioner. Rightly the Deputy Commissioner issued the impugned endorsement at Annexure-H.

4. For the foregoing reasons, the third prayer of the petitioner to declare that there is no impediment for the petitioner to alienate the lands in question, cannot be granted. There is impediment for him to sell the land for a period of 15 years from the date of issuing Form 10 on 3-12-1991. If the land is sold within the said period, it will be in contravention of Section 61 of the Act.

5. Writ petition is devoid of merit and is liable to be dismissed.

6. Accordingly, the writ petition is dismissed.