

(2005) 03 KAR CK 0080
In the Karnataka High Court
Case No : Writ Petition No. 33297 of 2001

Girijamma

APPELLANT

Vs

The State of Karnataka and Others

RESPONDENT

Date of Decision : 11-03-2005

Acts Referred:

Karnataka Land Reforms Act, 1961 — Section 48 A (4), 48 A (5), 48 A (5-A), 61, 61 (1)
Karnataka Scheduled Castes and Scheduled Tribes (Prohibition of Transfer of Certain Lands) Act, 1978 — Section 5 (1) (b)

Citation : (2006) ILR (Kar) 1870 : (2006) 3 KarLJ 623 : (2006) 2 KCCR 1135

Hon'ble Judges : V. Gopala Gowda, J

Bench : Single Bench

Advocate : R.H. Chandana Gowdar, for the Appellant; Rathna Shivayogimath, GP for R1 and 2 and S.N. Hatti, for R3, for the Respondent

Final Decision : Dismissed

Judgement

V. Gopala Gowda, J.—The Constitutional validity of Section 61 of Karnataka Land Reforms Act, 1961, is no longer reintegrate in view of the Constitutional Bench decision of the Apex Court reported in the case of Srinivasa Raghavachar v. State of Karnataka AIR 1987 SC 1578, wherein the validity of Act No. 1/1974 is upheld. Hence, the contention urged in this regard cannot be accepted and the same are rejected.

2. Since the granted land was sold within a period of 15 years, by the impugned order the land has been restored to the original grantee. Learned Counsel for the petitioner submits that the order is also passed u/s 5(1)(b) of the Karnataka Scheduled Castes and Scheduled Tribes (Prohibition of Transfer of Certain Lands) Act restoring the land, which is not permissible.

3. In view of the Full Bench decision of this Court in the case of Mohammed Jaffar and Another Vs. State of Karnataka and Others, the provisions of PTCL Act are not applicable. Hence, the impugned order of restoration is passed exercising

the power u/s 61(3) of Karnataka Land Reforms Act. Against the impugned order, the petitioner has got right of appeal u/s 118 of the Act

4. The contention urged that 15 years of non-alienation shall be reckoned from the date of vesting of the land in the Government, is not tenable. Section 61(1) of the Act stipulates 15 years from the date of final order passed by the Tribunal under Sub-section (4), (5) or (5-A) of Section 48-A of the Act.

5. Writ Petition is dismissed with liberty to the petitioner to avail the alternative remedy.