

(2007) 01 KAR CK 0022
In the Karnataka High Court
Case No : Writ Petition No. 41387 of 1999

Nevy D"souza and Others

APPELLANT

Vs

Karnataka Appellate Tribunal and Others

RESPONDENT

Date of Decision : 09-01-2007

Acts Referred:

Karnataka Land Reforms Act, 1961 — Section 61

Citation : (2007) 3 KarLJ 378 : (2007) 3 KCCR 109 SN

Hon'ble Judges : K. Sreedhar Rao, J

Bench : Single Bench

Advocate : B.L. Patil, for the Appellant; Nadiga Shivnandappa, High Court Government Pleader for Respondents 1 to 3, for the Respondent

Judgement

K. Sreedhar Rao, J.—The petitioner 1 was granted occupancy rights in respect of Sy. Nos. 101/2 and 101/3 of Kukkala Village, Belthangadi Taluk. The first petitioner sold 20 cents of land to 2nd petitioner and another 20 cents of land to the third petitioner in the year 1992. The Assistant Commissioner issued notice that the sale of agricultural land in favour of the 2nd and 3rd respondents is bad in law. Hence, directed resumption of the land, as it is sold in contravention of the terms of Form 10.

2. Petitioners 2 and 3 submit that after purchase they made an application for conversion of non-agricultural purpose and it has been granted. The petitioners have put up residential house after obtaining necessary sanction from the local authority and revenue authorities. The provisions of Section 61 of the Karnataka Land Reforms Act, 1961 are amended. 15 years block period is to be now computed from the date of the order of the Tribunal and not the grant of Form 10. In the instant case, if the period is reckoned from the date of the order, the purchase is made beyond 15 years.

3. The Government Advocate submits that the amendment to Section 61 was effected in the year 1999. The purchase is made in the year 1992.

4. It is untenable to contend that the amendment shall have only a prospective effect, as a liberal policy, the amendment is effected. Therefore, the transactions that have taken place earlier to the amendment shall have to be given the same benefit without discrimination. In that view, the petition is allowed. The impugned order of the 2nd respondent-Assistant Commissioner is quashed.

5. Government Advocate is permitted to file memo of appearance within four weeks.