

(2003) 08 KAR CK 0079
In the Karnataka High Court
Case No : Writ Petition No. 33043 of 2001

Ninge Gowda

APPELLANT

Vs

The Sub-Divisional Officer, Pandavapura Sub-Division and
Others

RESPONDENT

Date of Decision : 08-08-2003

Acts Referred:

Karnataka Scheduled Castes and Scheduled Tribes (Prohibition of Transfer of Certain Lands) Act, 1978 — Section 4 (2)

Citation : (2003) 5 KarLJ 372 : (2003) 4 KCCR 230 SN

Hon'ble Judges : V. Gopala Gowda, J

Bench : Single Bench

Advocate : Somashekar Angadi and M. Papanna, for the Appellant; M.G. Anjana Murthy, High Court Government Pleader for Respondents 1, 2 and 5 and S.S. Guttal, for Respondents 3 and 4, for the Respondent

Final Decision : Dismissed

Judgement

V. Gopala Gowda, J.—The first prayer to declare Sub-section (2) of Section 4 of the Karnataka Scheduled Castes and Scheduled Tribes (Prohibition of Transfer of Certain Lands) Act, 1978 as unconstitutional, cannot be granted as the constitutional validity of the said Act has been upheld long ago.

2. The second prayer is to quash the impugned orders at Annexure-B and C. In Annexure-B the Assistant Commissioner held that the sale of land bearing Sy. No. 11 of Koppa Village in Nagamangala Taluk in favour of the petitioner as null and void and directed restoration of the land to the legal representatives of the grantee. The said order is affirmed by the Deputy Commissioner in Annexure-C. It is not in dispute that the land was granted on 13-7-1967 to the petitioner's vendor. Saguvali Chit was issued on 14-3-1975. The period of non-alienation was 15 years. Petitioner purchased the same on 21-12-1990. Though the Assistant Commissioner has found that 15 years period remains upto 14-3-1990, wrongly stated that the sale of land on 21-12-1990 was within the non-alienation period.

Since the sale was after 14-3-1990, it was not within the non-alienation period calculated by the Assistant Commissioner. To this extent the order of the Assistant Commissioner is bad in law.

3. The Deputy Commissioner found the aforesaid mistake of the Assistant Commissioner and rightly held that the sale of the land cannot be declared null and void on such wrong basis. However, in view of Sub-section (2) of Section 4 of the Act, which prohibits transfer or acquisition of granted land in favour of persons belonging to either Scheduled Caste or Scheduled Tribe without the previous permission of the Government, he found that the land in question was purchased by the petitioner after the Act came into force in the year 1978 without obtaining such permission from the Government and therefore concurred with the finding of the Assistant Commissioner that the sale of the land was null and void. Consequently, he dismissed the appeal. Since the petitioner purchased the granted land without obtaining prior permission of the Government, the impugned orders cannot be interfered with. There is no merit in the writ petition and it is liable to be dismissed.

4. For the reasons stated above, the reliance placed by the learned Counsel for the petitioner on the decision in Pedda Reddy Vs. State of Karnataka, will not be helpful to the petitioner.

5. Accordingly, the writ petition is dismissed.