

**(2011) 01 KAR CK 0217**  
**In the Karnataka High Court**  
**Case No : Writ Petition No. 36457 of 2010**

Smt. Leelavathi

APPELLANT

Vs

State of Karnataka and Sri N. Krishne Gowda

RESPONDENT

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**Date of Decision :** 24-01-2011

**Acts Referred:**

Karnataka Land Revenue Act, 1964 — Section 127, 129, 135, 136 (3)

**Citation :** (2012) 1 KarLJ 141 : (2011) 4 KCCR 2544

**Hon'ble Judges :** D.V. Shylendra Kumar, J

**Bench :** Single Bench

**Advocate :** M. Thimmaraya Swamy, for the Appellant; R. Omkumar, AGA for R1 and R2, for the Respondent

**Final Decision :** Dismissed

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## Judgement

D.V. Shylendra Kumar, J.—The Petitioner claims to be a person who acquired right title and interest to an extent of land measuring 4 acres 3 guntas in Sy. No. 59 of Kuduregere village, Jala Hobli, Bangalore North Taluk, under Sale Deed dated 05.05.2005 said to have been executed by one Krishnegowda who is impleaded as 3rd Respondent and claims to be in possession and enjoyment of the said land.

2. It is the version of the Petitioner that the said land originally was Government land forming part of Sy. No. 59 and had been granted in favour of one R.P. Rudrappa under Darkhast by order of Tahsildar bearing No LND. SR. 169/61-62. dated 18.02.1962, copy of this grant order is produced as Annexure-A to the Writ Petition.

3. It appears after a series of transactions, the 3rd Respondent has purchased this land and had sought for conversion of the land for non-agricultural use. It is also the case of the Petitioner, that by order bearing No. ALN.SR.71/96-97, dated 15.05.1997, produced as Annexure-C, the Assistant Commissioner, Bangalore North Sub-Division, Bangalore had permitted the same and it is thereafter, the

Petitioner had purchased this land from the said Krishnegowda-3rd Respondent, as per sale deed dated 05.05.2005 registered at the Office of the Sub-Registrar, Yelahanka, a copy of which is produced as Annexure-D to the Writ Petition and based on such transaction, the Petitioner claims right title and interest.

4. Writ Petitioner's grievance, is that even when the Petitioner had applied to Airports Authority of India through an application dated 08.08.2005 requesting for issue of NOC for formation of residential sites in Sy. No. 59 of Kudurugere village to a total extent of 9 acres 18 guntas which was located at a distance of 7.5 kms south-west from the closest boundary of the proposed International Airport, with the site elevation of 910 mtrs and the authority had permitted the Petitioner to carry out formation of layout with civil works that was connected with the development of the site which is confined to the surface and below the surface of the earth and NOC is restricted to said activity including construction of compound wall and street lighting only above the earth and for construction of any other structure on the site to obtain fresh application form independently and applications are required to be made in respect of the structures and this fact is appraised by communication dated 18.08.2005 produced as Annexure-E to the Writ Petition.

5. It is also pleaded that the Special Deputy Commissioner, Bangalore District had suo motto initiated proceedings u/s 136 of the Act by issuing show cause notice to the 3rd Respondent as per notice dated 25.09.2009 produced as Annexure-F to the Writ Petition calling upon the said Krishnegowda to appear for enquiry to be held on 24.10.2009 at 3.00 p.m. to answer as to why necessary action should not be taken as subject-land in Sy. No. 59/P8 measuring up to an extent of 4 acres 3 guntas was not only gomal land but also that there were no records at the office to indicate that the same had been granted in accordance with law to any person but it is only the entries in revenue record which have been mutated without the basis of any authority to show that it had been granted and the grantee had presented etc., and such revenue entries are bogus entries being not based on any genuine transaction etc.

6. It is also pleaded that as the said Krishnegowda not being a resident of the subject-land, had not appeared through notice had been served and that the special Deputy Commissioner had proceeded to pass ex-parte order dated 25.02.2010 which is produced as Annexure-G. Aggrieved by this order, the Petitioner has sought for the following reliefs:--

Pleaded to issue writ of certiorari or any other writ of like nature quashing the impugned order passed by the Special Deputy Commissioner, Bangalore District in No. RRT/2/NA/CR/6/08-09, Dated 25.07.2010 Annexure-G in the interest of justice.

and filed the present Writ Petition.

7. Submission of Sri Thimmaraya Swamy, learned Counsel for the Petitioner is that the impugned order is not sustainable in law, particularly as it is not only in

violation of principles of natural justice as the order is passed without notice to the Petitioner but also in violation of proviso to Section 136(3) of the Karnataka Land Revenue Act which regulates exercise of suo motto power by the Deputy Commissioner which reads as under:

136. Appeal and Revision:-

(1) x x x x

(2) x x x x

(3) The Deputy Commissioner may, on his own motion or application of a party, call for and examine any records made u/s 127 and Section 129 and pass such orders as he may deem fit.

8. It is therefore submitted that the impugned order should be set aside and the matter should be remitted to the Deputy Commissioner for affording opportunity to the Petitioner and for passing appropriate orders in accordance with law.

9. On the other hand Sri Omkumar. learned AGA to whom copy of the Writ Petition has been served points out the provisions of Section 135 of Karnataka Land Revenue Act which reads thus:--

135. Bar of Suits: No suit shall lie against the State Government or any officer of the State Government in respect, of a claim to have an entry made in any record or register that is maintained under this Chapter or to have any such entry omitted or amended:

Provided that if any person is aggrieved as to any right of which he is in possession, by an entry made in any record or register maintained under this Chapter, he may institute a suit against any person denying or interested to deny his title to such right, for a declaration of his right under Chapter VI of the Specific Relief Act, 1877; and the entry in the record or register shall be amended in accordance with any such declaration.

Provides remedy to persons like the Petitioner even against the impugned order at Annexure-"G" and therefore urges for dismissal of the petition.

10. He has further submitted that if the Petitioner is aggrieved by any entry made in the revenue records which is contrary or perverse, such person who claims to be in possession of the land, under proviso to 135 of the Act should approach Civil Court to work out his or her rights or remedies and notwithstanding this order, it is open for the Petitioner to work out the remedies before the Civil Court.

11. The Deputy Commissioner even while exercising revisional power of Sub-section 3 of Section 136 is no doubt required to issue notice to the person who is affected by such order. There is no doubt that the Deputy Commissioner has such power and jurisdiction to pass orders in terms of Sub-section 3 of Section 136 of the Act, but the notice contemplated is to be issued to such person who is

actually affected by the order. For such purpose, it is inevitable that such person in whose name revenue entry stands should be notified if his/her name is to be deleted or some other name is to be put in place of the name of person whose name already figures in the revenue records. But the Petitioner has not placed any material before this Court to indicate revenue entries in the first instance had been mutated in the name of the Petitioner. However, the submission of Thimmaraya Swamy is that as per the sale deed dated 05.05.2005, it is automatically mutated and it has been so mutated. The copies of the revenue records have not been produced. This matter need not be adjourned only for such purpose and the question is examined as to whether proviso to Section 136(3) is attracted on the plea and on the material placed before this Court. On the other hand, submission of learned AGA is that the impugned Annexure-G to the Writ Petition is definitely regulated by proviso to Section 135 of the Act.

12. While the Petitioner can definitely avail this provision and work out his rights and remedies before the Civil Court, no interference is warranted in this Writ Petition.

13. It is inevitable to observe here that such orders passed by the particular officer by name H. Ramanjaneya, Special Deputy Commissioner, Bangalore have been reaching this Court in a good number of Writ Petitions and it appears that the particular officer had become active to for issuance of such notices to many persons who claims to have purchased the land in and around Bangalore City.

14. In the wake of a boom in land value, in and around this area on the shifting of Airport from HAL which was in HAL Sanitary Board to the present location, value of land in and around this place has been sky-rocketing and land commands high premium. Agricultural land in the State of Karnataka cannot be purchased by a non-agriculturist and if at all it can be purchased if one seeks permission for the purchase within the scope of provisions of the Karnataka Land Reforms Act, 1961 with necessary prior permission.

15. There are lot of transactions in agricultural lands and non-agriculturists keep buying agricultural lands without any impediment and revenue authorities who are to grant permission and that too in favour of a bona fide agriculturists issue of such certificate is one which has resulted in rampant malpractices taking place and manipulation of the revenue entries by the revenue authorities, who are highly corrupt, has become the order of the day resulting in illegal orders being passed.

16. The particular Special Deputy Commissioner appears to be a rank example for passing such orders which could affect the interest of land buyers whether genuine agriculturist or whether genuine transaction or whether the land is available. Such power in the lands of revenue authorities has been grossly misused for making illegal gains by erratic exercise of the power. While many such matters have gone before Karnataka Lokayukta for further enquiry, I am of the opinion the present case is also a matter, in the wake of the order at

Annexure-G dated 25.02.2010, which requires to be investigated by the Karnataka Lokayukta and therefore, the Karnataka Lokayukta, to investigate this case and such other cases, where the particular officer Sri H. Ramanjaneya, Special Deputy Commissioner has passed orders.

17. The Lokayukta is also to enquire into the back ground and nature of agricultural lands and what orders have been passed, who are all parties involved to claim interest in the land and for what reason and for what consideration such orders have come into existence. This will be necessary in the larger public interest and to instill a sense of assurance to the people.

It is therefore, while dismissing the Writ Petition, the Registrar General is directed to forward a copy of this order along with necessary Writ Petition papers with Annexures to the petition, to the Karnataka Lokayukta with a further direction to the Lokayukta to hold an enquiry in respect of not only passing of this order under Annexure-G but also such orders which have been passed by the particular officer and so also his predecessors for the past 5 years and to take follow up by necessary action, in accordance with law if it is so warranted. But for this direction, this Writ Petition is dismissed.