

**(2011) 12 KAR CK 0256**  
**In the Karnataka High Court**  
**Case No : Writ Petition No. 21660 of 2009 (LR)**

Sri. Narasegowda

APPELLANT

Vs

The Assistant Commisisoner Hassan Sub-Division Hassan and  
Others

RESPONDENT

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**Date of Decision :** 08-12-2011

**Acts Referred:**

Karnataka Land Reforms Act, 1961 — Section 61, 61 (3)  
Karnataka Land Reforms Rules, 1974 — Rule 17  
Karnataka Land Revenue Act, 1964 — Section 34

**Citation :** (2011) 12 KAR CK 0256

**Hon'ble Judges :** Ajit J. Gunjal, J

**Bench :** Single Bench

**Advocate :** M.R. Rajagopal and Sri. H.N. Basavaraju, for the Appellant;  
Shashidhar S. Karmadi, HCGP for R1 and R2, Smt. H.C. Lokeshwari, for R3 and  
Sri. A. Ravi Shankar, for R4 and R5, for the Respondent

**Final Decision :** Allowed

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## Judgement

Ajit J. Gunjal

1. The petitioner is questioning the order passed by the Land Tribunal confirming the order passed by the Competent Authority.
2. Suffice it to note that the proceedings were initiated on an application filed by respondent u/s 61 of the Karnataka Land Reforms act.
3. It is not in dispute that during the pendency of the proceedings before the Competent Authority an application is moved by the children of respondent to come on record inasmuch as they have a subsisting interest in the subject matter. They would contend that the occupancy rights were granted in favour of their grand father. Hence, they have a legitimate share. The Competent Authority having regard to the provisions of Section 61 of the Act prima facie was of the view that there is a clear violation. Hence, has set aside the sale. But however, did not proceed u/s 61(3) of the Act regarding forfeiture. Nevertheless the

petitioner files an appeal before the Tribunal and the Tribunal confirms the said order, as against which the purchaser is before this Court.

4. I have heard Mr. M.R. Rajagopal, learned counsel appearing for the petitioner and Mr. A. Ravi Shankar, learned counsel appearing for respondent Nos.4 & 5.

5. Mr. M.R. Rajagopal learned counsel appearing for the petitioner would contend that the order passed by the Competent Authority stands vitiated inasmuch as no opportunity was given to the petitioner. He further submits that the matter was not adjudicated on merits but on the application filed by the sons of respondent No.3. Hence, no enquiry was conducted.

6. Mr. A. Ravi Shankar, learned counsel appearing for respondents 4 and 5 supports the impugned orders.

7. It is not in dispute that the order conferring occupancy rights was granted on 28.11.1988 and the sale has taken place on 5.3.2001. Indeed, I am of the view that it is an unrighteous claim made by respondents inasmuch as after the sale he has made an application to the Competent Authority u/s 61 of the Act. Nevertheless, law is required to take its own course. But however, before considering such a request an enquiry is required to be conducted inasmuch as along with statement of objections it appears the petitioner had produced certain documents. Having regard to the totality of the circumstances, I am of the view that an opportunity is required to be given to the petitioner to completely participate in the proceeding's and the Competent Authority is also required to hold an enquiry as contemplated u/s 34 of Karnataka Land Revenue Act r/w Rule 17 of the Karnataka Land Reforms Rules. Hence, the following order is passed:

(i) Petition is allowed.

(ii) The impugned order is set aside and the matter stands remitted to the Competent Authority for fresh disposal in accordance with law.

(iii) Rule is issued and made absolute.

Mr. Shashidhar S. Karmadi learned High Court Government Pleader appearing for respondents 1 & 2 is permitted to file memo of appearance within four weeks.