



IN THE HIGH COURT OF KARNATAKA AT BENGALURU



DATED THIS THE 9TH DAY OF APRIL, 2025

BEFORE

THE HON'BLE MR JUSTICE N S SANJAY GOWDA

WRIT PETITION NO. 29559 OF 2018 (SCST)

BETWEEN:

1. SMT. RUDRAMMA.,
W/O LATE SIDDAPPA,
@ BADE SIDDAPPA,
AGED ABOUT 52 YEARS,
2. SRI. MANJAPPA.,
S/O LATE SIDDAPPA,
AGED ABOUT 38 YEARS,
3. SRI. REVANASIDDAPPA.,
S/O LATE SIDDAPPA.,
AGED ABOUT 36 YEARS.,
4. SMT. RATHNAMMA.,
D/O LATE SIDDAPPA.,
AGED ABOUT 29 YEARS,

ALL ARE AGRICULTURIST/COOLI
& R/O KENCHAMMANAHALLI VILLAGE,
DAVANAGERE TALUK AND DISTRICT.

...PETITIONERS

(BY SRI. G.BALAKRISHNA SHASTRY., ADVOCATE)

AND:

1. THE STATE OF KARNATAKA.,
REP. BY ITS SECRETARY.,
REVENUE DEPARTMENT





M.S.BUILDING., BANGALORE-560 001.

2. THE DEPUTY COMMISSIONER,
DAVANAGERE DISTRICT.,
DAVANAGERE-577 001.
3. THE ASSISTANT COMMISSIONER,
DAVANAGERE SUB-DIVISION.,
DAVANAGERE-577 001.
4. THE THASILDAR.,
DAVANAGERE,
DAVANAGERE-577001.
5. SRI. SHIVAPPA @ SHIVAKUMAR,
S/O MANGAMMA @ THUNGAMMA.,
AGED ABOUT 47 YEARS,
OCC:AGRICULTURE
R/AT KENCHAMMANAHALLI VILLAGE,
GUDAL POST.,
TQ & DATED DAVANAGERE-577 201.

...RESPONDENTS

(BY SMT. SAVITHRAMMA., AGA FOR R-1 TO R-4;
SRI. BHOJARAJA.S.V., ADVOCATE FOR C/R-5)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226
AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO
QUASH THE IMPUGNED ORDER DATED:15.06.2018 PASSED BY
THE R-2 PRODUCED AT ANNEXURE-C., ETC.

THIS PETITION HAVING BEEN HEARD AND RESERVED
FOR ORDERS ON 06.12.2024, COMING ON FOR
PRONOUNCEMENT THIS DAY, THE COURT MADE THE
FOLLOWING:

CORAM: THE HON'BLE MR JUSTICE N S SANJAY GOWDA



CAV ORDER

1. On 31.11.1961, the land bearing R.Sy.No.29(37) measuring 02 acres 20 guntas situated at Kenchammanahalli village of Gudal post, Davanagere District was granted by the Tahsildar to one Siddappa son of Badesiddappa with a condition that said land should not be alienated for a period of fifteen years.
2. However, on 02.04.1970, Siddappa sold said land to one G. Kotrappa son of Jimbagi Pachaksharappa under a registered sale deed conveying the property for a sale consideration of Rs.400/-.
3. Kotrappa, thereafter, proceeded to sell said land to one K. G. Sharanappa son of Goudra Channappa under the sale deed dated 28.02.1972 for a sale consideration of Rs.1,000/-.
4. Ten years thereafter, on 19.07.1982, Siddappa—the grantee approached the Assistant Commissioner by



filing an application for resumption under the provisions of *the Karnataka Scheduled Castes and Scheduled Tribes (Prohibition of Transfer of Certain Lands) Act, 1978* (for short, "**the PTCL Act**").

5. The Assistant Commissioner by an order dated 06.03.1984 directed resumption of the land in favour of Siddappa and the same was also resumed in his favour.
6. Siddappa, within a month of the above order being passed, proceeded to alienate the land that was resumed in his favour once again, by executing a sale deed on 06.04.1985 in favour of Gowdra Shivappa and Tungamma.
7. The Tahsildar submitted a report in the year 2002 informing the Assistant Commissioner about the alienation, and the Assistant Commissioner thereafter proceeded to initiate proceedings for a second time under the PTCL Act for resumption.



8. The Assistant Commissioner, ultimately, passed an order on 20.02.2002 ordering resumption of the land for the second time and held that the land was vested in favour of the State Government.
9. Against this order of the Assistant Commissioner, an appeal was preferred before the Deputy Commissioner and the same was dismissed for non-prosecution by the order dated 27.02.2006.
10. This order was challenged by Gowdra Shivappa—the purchaser in Writ Petition No.11956 of 2006 and said petition was allowed on 18.11.2008, remanding the matter to the Assistant Commissioner to re-hear the matter on merits.
11. On remand, the Assistant Commissioner proceeded to come to the conclusion that the grantee had sold the land on 06.04.1985 i.e., after the PTCL Act came into force, without obtaining the permission under



Section 4(2) of the Act and, consequently, ordered for resumption of the subject land.

12. Aggrieved, Shivappa—the purchaser preferred an appeal before the Deputy Commissioner and the Deputy Commissioner by the impugned order dated 15.06.2018 has proceeded to allow the appeal, principally, on the ground that there was an inordinate delay in invoking the provisions of the PTCL Act.

13. The Deputy Commissioner noticed that the alienation was made in the year 1985 and proceedings for resumption were initiated seventeen years thereafter in the year 2002 and, in light of the order passed by the Hon'ble Supreme Court in **Civil Appeal No.3131 of 2007**¹, came to the conclusion that the proceedings had not been initiated within a reasonable time and were consequently liable to be set aside.

¹ Ningappa v. Deputy Commissioner and Others, Civil Appeal No.3131/2007 disposed of on 14.07.2011



14. Being aggrieved by this order of the Deputy Commissioner refusing to resume the land, the present petition is filed by the legal representatives of Siddappa, the grantee.
15. The learned counsel for the petitioners, Sri. G. Balakrishna Shastry, contended that the lands had been sold after the PTCL Act had come into force on 06.04.1985 and was thus in clear violation of Section 4(2) of the Act. He submitted that once this clear contravention was pointed out, the Deputy Commissioner was bound to order for resumption. He submitted that the question of delay would be inconsequential, more so in light of the recent amendment to the Act.
16. The learned counsel appearing for the purchaser, on the other hand, contended that the order of the Deputy Commissioner could not be found fault with, in view of the inordinate delay of 20 years in initiating the resumption proceedings.



17. It was also contended that the proceedings for resumption under the PTCL Act could not be invoked more than once. It was contended that once an application for resumption was filed and allowed, restoring the lands to the grantee, the grantee could not take advantage of the PTCL Act and once again sell the land, seek cancellation of the sale deed and then its resumption.

18. In light of the submission canvassed by the Learned Counsel, the following questions would arise for consideration in this petition.

- i. Whether the order of the Deputy Commissioner, refusing to resume the land on the ground that resumption proceedings had been initiated belatedly, is correct; and***
- ii. When once the granted lands have been resumed and restored to the grantee under the provisions of the PTCL Act, can the provisions of the PTCL Act be invoked for a second***



***time to annul a sale made after
restoration of the lands in favour of
the grantee?***

19. The answer to the first question would have to be in the ***affirmative***, in light of the three Division Bench rulings of this Hon'ble Court in the cases of ***Gouramma***², ***Akkayamma***³ and ***Manjula***⁴ which have categorically held that invoking the provisions of the PTCL Act belatedly—at any rate, after 12 years⁵—would be illegal.
20. In the reported judgment rendered in ***Gouramma***'s case, the Division Bench considered a decision of the Apex Court rendered in the cases of ***Nekkanti Rama Lakshmi***⁶ and ***N. Murugesan***⁷ to observe and hold as follows:

² *Gouramma @Gangamma v. the Deputy Commissioner & Ors.*, 2024:KHC-D:10666-DB.

³ *Smt. Akkayamma v. the State of Karnataka & Ors.*, 2024:KHC:48227-DB.

⁴ *Smt. M. Manjula & Ors. v. the Deputy Commissioner & Ors.*, 2024:KHC:51015-DB.

⁵ *Ibid.*

⁶ *Nekkanti Rama Lakshmi v. State of Karnataka*, (2020) 14 SCC 232.

⁷ *Union of India v. N. Murugesan*, (2022) 2 SCC 25.



"3(b) When above was the state of things as per record, it is ununderstandable as to how persons claiming under the original grantee could move another application afresh on 27.08.2004... Apparently, there is a time gap of about thirty two years spanning between alienation and the filing of resumption application. There is absolutely no explanation whatsoever for the laches that militate on record and against justice. Thus, the case squarely fits into the Apex Court decision in Nekkanti Rama Lakshmi vs State Of Karnataka, that tardy and belated claims should not be favoured. This reasoning has animated the impugned judgment, rightly and therefore, the same cannot be faltered.

(c) x x x

(d) The Amendment Act that is made applicable with retrospective effect is only a duplication of the existing legal position. Such duplication happened even in English legislative history, hardly needs to be mentioned. The question of delay is a matter of limitation which this statute is silent about. Clauses (c) and (d), now introduced to Section 5(1) of the Act, do not bring any change in the statutory scheme. At the most, they are declaratory of what the statute has been all through, so far as the limitation period is



concerned. Nobody disputes that there was no limitation period earlier and there is no limitation period now too. Laches, which would involve a host of factors, pertains to the Domain of Equity.

(e) Nekkanti supra does not speak of “limitation period” at all. What it discusses is, the long lapse of time between alienation of granted land and the filing of claim for its resumption...

(f) It may be true, that the legislative debates might have taken place about the observations of the Apex Court in Nekkanti and other such cases while passing the Amendment Bill. That per se does not lend credence to the contention that the said amendment intends to invalidate the law declared by the highest court of the country which it did after considering all aspects of the matter including the sense of equity & justice. If the Legislature intended to silence the voice of Nekkanti, it would have employed a different terminology. We repeat that, ordinarily, delay is decided by computing the period of limitation prescribed by law, whereas “laches” is decided keeping in view a host of factors. Cases are replete in Law Reports relating to delay and laches in writ jurisdiction under Articles 12, 226 & 227 of the Constitution of India. This is only to illustrate.



(g) There is a marked difference between 'delay & laches' that operate in equity and 'limitation & delay' that obtain in law. The following observations of the Apex Court in *Union of India Vs. N.Murugesan* make out this point..."

21. Furthermore, in ***Akkayamma's*** case as well, ***Nekkanti Rama Lakshmi*** was considered by another Division Bench of this Court along with the above-mentioned order passed in ***Gouramma's*** case, thus affirming said position of law.
22. Even in the ***Manjula's*** case decided by a Division Bench of this Court, the decision rendered in ***Gouramma's*** case was considered along with ***Nekkanti Rama Lakshmi*** and ***N. Murugesan*** (both *supra*) to deny the relief of restoration of the granted land since the applicants had approached the relevant authorities or the Court with an unreasonable delay. The relevant extracts of this order are produced for ease of reference:



"4.7 From the decision of the Supreme Court in Union of India vs. N. Murugesan [(2022) 2 SCC 25], the division bench highlighted the nice distinction between 'delay and *laches', as against 'limitation'. It was observed that the 'limitation' is a prescription of time for taking an action as contemplated by the legislature, whereas the concept of 'delay and *laches' has a different connotation to operate.

4.8 The coordinate bench of this Court in Smt. Gouramma (supra), proceeded on the above reasoning to clarify that the issues were examined without touching the aspects of validity of amendment which is pending adjudication. It was held in Smt. Gouramma (supra) that on the ground of *laches, the court would be justified in denying the relief of setting aside the transfer and restoring the land to the applicant when he has approached the court after unreasonable delay and his approaching the court is marred by *laches.

5.1 The Supreme Court proceeded to observe that the remedy for which the party knocks the doors of the Court may not be provided to him on equitable grounds when such party is guilty of indolence and his action suffers from *laches,

5.2 Though the principles governing overlap, the delay and *laches has the facet in equity. Delay is



the genus to which the *laches and acquiescence are species. The jurisprudential concepts of delay, *laches and acquiescence have their own colour and connotation and conceptually often different from crossing the period of limitation prescribed in the statutory provision. Limitation binds the litigant in terms of initiating a legal action or filing any proceedings. Laches concedes an element of culpability in allowing time to pass by in commencing the action in law.

6. In light of the above discussion and the position of law that would emerge, in the facts of the case, the restoration of the land cannot be permitted after 12 years. The question of *laches would come into play. 12 years having been passed, it would be highly unreasonable, unjust and inequitable, as well as against law to grant any relief to the original grantee-the petitioner-appellant, permitting restoration of the land and to treat the transfer of the land taken place long back to be null and void."

(emphasis supplied)

23. As could be seen from the above, various Division Benches of this Court have noticed that even if the recent amendment of 2023 to the PTCL Act is taken



into consideration, the proceedings are, nevertheless, required to be annulled if they are vitiated due to delay and laches.

24. However, notwithstanding the answer to the first question—which would result in the dismissal of the writ petition—in my view, the second question would also have to be considered in light of several cases where the grantees, on getting their granted lands resumed in their favour, have proceeded to once again sell the land and are thereafter seeking restoration of the lands for a second time.

25. In order to consider this question, the provisions of the PTCL Act are required to be examined and analysed. At the outset, it would be useful to examine the Statement of Objects and Reasons in the enactment, which read as follows:

“The non-alienation clause contained in the existing Land Grant Rules and the provision for cancellation of grants where



the land is alienated in contravention of the above said provision are found not sufficient to help the Scheduled Castes and Scheduled Tribes grantees whose ignorance and poverty have been exploited by persons belonging to the affluent and powerful sections to obtain sales or mortgages either for a nominal consideration or for no consideration at all and they have become the victims of circumstances. To fulfill the purposes of the grant, the land even if it has been alienated, should be restored to the original grantee or his heirs.

The Government of India has also been urging the State Government for enacting a legislation to prevent alienation of lands granted to Scheduled Castes and Scheduled Tribes by Government on the lines of the model legislation prepared by it and circulated to the State Government.

Hence the Bill.”

26. For interpreting the provisions of the PTCL Act, though the Statement of Objects and Reasons would not be conclusive for interpreting a statute,



nevertheless, the same can be looked into to gather the Intent of the Legislature in passing said enactment.

27. As could be seen from the Statement of Objects and Reasons, the PTCL Act was enacted after the Legislature noticed two aspects which related to grants made to persons belonging to the Scheduled Castes and Scheduled Tribes ("**SC/ST**"). The first aspect was that the non-alienation clause contained in the existing land grant rules was inadequate, and the second aspect was in relation to the provisions covering the cancellation of grants— when the land is alienated in contravention of the terms of the grant—which were also felt as being insufficient to help the SC/ST grantees whose ignorance and poverty had been exploited by persons belonging to the affluent and powerful sections of the society.

28. The Statement of Objects and Reasons also categorically observe that in order to fulfil the



purposes of the grant, the land, even if it has been alienated, would have to be restored to the original grantee or his heirs.

29. Basically, the Statement of Objects and Reasons would indicate that the Legislature was concerned mainly with alienations made prior to the PTCL Act being enacted—in contravention of the terms of the grant, the manner in which they were to be declared as being void, and the manner in which they were required to be restored to the grantee who had lost the land.

30. This Act was also brought in to strengthen the provisions which provided for cancellation of the grants when they had been made in contravention of the terms of the grant.

31. It must be noticed that in both the cases, where alienations had been made prior to the Act and the alienations that could be made after the Act came



into force, the clear emphasis of the law was to cover those granted lands *which had been sold in contravention of the terms of the grant.*

32. It is obvious that the Legislature basically wanted to remedy a situation where the SC/ST grantees were exploited due to their ignorance and poverty and were deprived of the lands which had been granted to them by the State with the objective of uplifting them, both in economic terms and in social terms. In that sense, the PTCL Act can be considered as a remedial statute designed to remedy a wrong done in the past and a wrong which could be committed in the future.

33. Section 3(1)(b) of the Act defines the expression "**granted land**"⁸ and as per said definition, it would

⁸ **3. Definitions.-** (1) In this Act, unless the context otherwise requires,-

(a) x x x

(b) "**granted land**" means any land granted by the Government to a person belonging to any of the Scheduled Castes or the Scheduled Tribes and includes land allotted or granted to such person under the relevant law for the time being in force relating to agrarian reforms or land ceilings or



be a land which had been granted by the Government to a person belonging to any of the Scheduled Castes and Scheduled Tribes and would include land allotted to a grantee to such a person under the relevant law for the time being in force relating to agrarian reforms or land ceilings or abolition of inams.

34. The word "**transfer**" has been defined under Section 3(1)(e)⁹ of the Act to mean sale, gift, exchange, mortgage, lease or any other transaction not being a partition among the members of a family and also states that it includes any other transaction, including the creation of a charge or an agreement to sell, exchange, mortgage or lease.

abolition of inams, other than that relating to hereditary offices or rights and the word "granted" shall be construed accordingly;

⁹ **3. Definitions.-** (1) In this Act, unless the context otherwise requires,-

(a) x x x

(e) "**transfer**" means a sale , gift, exchange, mortgage (with or without possession), lease or any other transaction not being a partition among members of a family or a testamentary disposition and includes the creation of a charge or an agreement to sell, exchange, mortgage or lease or enter into any other transaction.



35. Thus, not only would a transfer effected in accordance with the provisions of *the Transfer of Property Act, 1882*, but even mere agreements to transfer the granted lands would attract the provisions of the Act.

36. Section 4 of the PTCL Act creates the statutory bar for transfer of granted land, and the same reads as follows:

"4. Prohibition of transfer of granted lands.- (1) Notwithstanding anything in any law, agreement, contract or instrument, any transfer of granted land made either before or after the commencement of this Act, in contravention of the terms of the grant of such land or the law providing for such grant, or sub-section (2) shall be null and void and no right, title or interest in such land shall be conveyed or be deemed ever to have conveyed by such transfer.

(2) No person shall, after the commencement of this Act, transfer or acquire by transfer any granted land without the previous permission of the Government.



(3) The provisions of sub-sections (1) and (2) shall apply also to the sale of any land in execution of a decree or order of a civil court or of any award or order of any other authority.”

37. As can be noticed from the above extraction of Section 4, sub-section (1) declares that any transfer of granted lands made either before or after the commencement of the Act would be null and void, if they were made in contravention of the terms of the grant of such land or the law providing for such grant and no right, title or interest in the granted lands would stand conveyed to the purchaser.
38. Any alienation made in contravention of Section 4(2) i.e., without obtaining the prior approval of the Government, would also be null and void.
39. Section 4 basically deals with the act of alienation which has been done prior to the Act and an alienation which may be made after the commencement of the act, both alienations having been done in violation of the terms of the grant.



Thus, on a plain reading, the provision will stand attracted only when the granted lands have been transferred for the first time in contravention of the terms of the grant and it does not contemplate to govern the transfer made after the lands have been resumed and restored to the grantee under the Act.

40. Section 5 provides the manner in which a transfer made in contravention of the terms of the grant is to be resumed and restored to the original grantee or his legal heirs, and if there are no legal heirs, then to be granted to other persons belonging to SC/ST.
41. The intent of the law is thus manifestly clear, that it is designed to undo a wrong by declaring the alienation void and restore the land to the grantee so that he can utilize the land for the purpose that it is granted, which was to uplift them from their social and financial backwardness.



42. The question that however arises now is whether these provisions could be invoked for a second time, after the lands have been resumed and restored to the grantee.
43. As already noticed above, a grantee who had alienated the land in contravention of the terms of the grant is enabled by the provisions of the PTCL Act to get the land back, notwithstanding that he had lost it by his own act. Such a grantee is conscious and aware of the fact that there is an enactment which seeks to protect him and his granted land. He is, as a consequence, also aware that he could not have sold the land. He would also therefore be aware of the fact that he cannot sell the land which has been restored to him by virtue of Section 4(2) of the PTCL Act. In short, the grantee, by invoking the provisions of the Act and getting back his land, is also clearly aware of the fact that the PTCL Act prohibits himself from alienating said



land without securing the prior permission of the Government.

44. The question as to whether the transfer sought to be made by the grantee for a second time is in accordance with the terms of the grant or the law relating to the grant, is not being considered in this case, and for the purpose of considering the effect of the alienation after such land is resumed, it is assumed that prior permission of the Government was necessary.

45. While dealing with a challenge to the validity of the PTCL Act and considering a case where the alienation was made in contravention of the terms of the grant prior to the commencement of the PTCL Act, specifically considering the contention of the transferee's right, the Apex Court in the case of **Manchegowda**¹⁰ has held as follows:

¹⁰ Manchegowda & Ors. v. the State of Karnataka & Ors., (1984) 3 SCC 301.



"15. Any person who acquires such granted land by transfer from the original grantee in breach of the condition relating to prohibition on such transfer must necessarily be presumed to be aware of the prohibition imposed on the transfer of such granted land. Anybody who acquires such granted land in contravention of the prohibition relating to transfer of such granted land cannot be considered to be a bona fide purchaser for value; and every such transferee acquires to his knowledge only a voidable title to the granted land. The title acquired by such transfer is defeasible and is liable to be defeated by an appropriate action taken in this regard. If the Legislature under such circumstances seek to intervene in the interests of these weaker sections of the community and choose to substitute a speedier and cheaper method of recovery of these granted lands which were otherwise liable to be resumed through legal process, it cannot, in our opinion, be said that any vested rights of the transferees are affected. Transferees of granted lands with full knowledge of the legal position that the transfers made in their favour in contravention of the terms of grant or any law, rule or regulation governing such grant are liable to be defeated in law, cannot and do not



have in law or equity, a genuine or real grievance that their defeasible title in such granted lands so transferred is, in fact, being defeated and they are being dispossessed of such lands from which they were in law liable to be dispossessed by process of law. The position will, however, be somewhat different where the transferees have acquired such granted lands not in violation of any term of the grant or any law regulating such grant as also where any transferee who may have acquired a defeasible title in such granted lands by the transfer thereof in contravention of the terms of the grant or any law regulating such grant has perfected his title by prescription of time or otherwise. We shall consider such cases later on. But where the transferee acquires only a defeasible title liable to be defeated in accordance with law, avoidance of such defeasible title which still remains liable to be defeated in accordance with law at the date of commencement of the Act and recovery of possession of such granted land on the basis of the provisions contained in Section 4 and Section 5 of the Act cannot be said to be constitutionally invalid and such a provision cannot be termed as unconscionable, unjust and arbitrary. The first two contentions raised



on behalf of the petitioners are, therefore, overruled.”

46. Though the Apex Court was dealing with the case of persons who had purchased the granted land, said principle would apply with even more vigour in its application to the grantee in respect of alienations made after the land was resumed in his favour, simply because the grantee had also become aware of the restrictive provisions of the PTCL Act, having invoked it to secure a benefit.

47. If a grantee has secured the benefit under the provisions of the PTCL Act, surely, he would also be bound by the provisions of the very same Act which curtails his benefit of alienating the land without the permission of the Government. If a grantee seeks to disregard the prohibition contained in the remedial statute and essentially abuses it, he cannot obviously be given the benefit of the beneficial provisions of the Act. A grantee, while being entitled



to the benefits of the Act, would also be bound by the restrictive clauses in the Act and is liable for the consequences of disregarding the provisions of the PTCL Act.

48. The provisions of the PTCL Act were not meant to grant a licence to grantees to sell the lands that were resumed in their favour and once again seek restoration. In other words, a grantee who is aware of the beneficial provisions of the PTCL Act is also presumed to be aware of the restrictive clauses in the same Act which curtails his benefit in dealing with the resumed land. A grantee cannot abuse a remedial statute to perpetuate an illegality and, at the same time, secure a process which legitimizes his illegal act repeatedly. The Act was designed to help the weak and downtrodden and not abuse their weakness in order to unjustly enrich themselves.

49. In fact, if such a procedure—of selling the granted lands in contravention of the terms of the grant,



then securing its resumption and thereafter, once again selling the resumed land before seeking its resumption again—is allowed, it would clearly amount to a mockery of the law, making the entire procedure of resumption a mere parody.

50. The PTCL Act was designed to safeguard the interests of the persons belonging to SC/ST who were socially and financially weak and the provisions of the Act cannot be used by persons belonging to the SC/ST to do an illegal act and reap an immoral and unethical benefit by invoking the provisions of the Act. A legislative armour, designed to protect a deprived class, cannot be used by the deprived class to perpetuate an illegality and gain immunity from such illegal acts.

51. A Division Bench of this Court in **Bhadre Gowda's** case¹¹ has held as follows:

¹¹ Bhadre Gowda v. Deputy Commissioner, (2012) 2 KCCR 1529.



"6. Despite our aforesaid conclusion, it is imperative for us not to leave the matter without examining the further consequences which are liable to flow after the grantee succeeds in getting the sale made by him, set aside. It is essential for us to travel a little further and determine the matters arising out of violation of Section 4 of the PTCL Act, wherein, the original grantee repeatedly sells the grant land, and then seeks annulment of the sale. These are cases where the vendor successfully reaps the benefit of his own wrong. This case, like others dealt with by us, reveals the misuse of a legislative enactment for personal gains. In the first instance, the original grantee Cheluvaiah sold the grant land on 01.10.1962. Having succeeded in getting the aforesaid sale declared as void, the grant land came to be restored back to him. Fully aware of the fact that he could not have sold the grant land, he sold it yet again to Somegowda on 03.02.1992. Cheluvaiah again succeeded in getting the second sale made by him set aside, so as to retrieve the land. The question that we wish to determine is, whether having got the sale revoked, the original grantee is entitled to retain the consideration amount received by him?. We are satisfied, that repeated sales at the hands of the original grantee constitutes the offence of



cheating under the Section 420 of the Penal Code, 1860. A person who cheats, is definitely not entitled to seek restoration of the grant land and retain the consideration received by him by sale thereof. It is therefore, that we desire to hereby grant liberty to the appellants to recover the sale consideration paid by Somegowda to Cheluvaiah on 03.02.1992 as the grant land has been restored to Cheluvaiah (now his legal heirs). The other alternative, as we have concluded hereinabove, is not available to the appellants in view of the Section 4 of the PTCL Act. Cheluvaiah (his legal heirs as is the position in this case) are certainly not entitled to retain the consideration received by them, based on a sale in violation of Section 4 of the PTCL Act. Thus, it shall be open to the appellants herein to seek the refund of the sale consideration along with interest thereon, if they are so advised, by proceeding against the respondents through a civil litigation, if the amount is unilaterally not refunded.

7. It also needs to be recorded here, that when a grantee repeatedly sells the grant land, it is open to the vendee to initiate criminal prosecution against him. Such repeated sale is nothing but a process of cheating. Even though the instant determination at our hands may not be available to the appellants herein against Cheluvaiah, who



has since died, but this determination shall certainly deter to the original grantees from misusing the legislative enactment under reference for personal monitory (monetary) gains.”

(emphasis supplied)

52. It is therefore clear that this Court has clearly held that the act of a grantee in repeatedly selling the granted lands which had been resumed in his favour would be a criminal offence amounting to cheating. The provisions of a remedial statute cannot be utilized for perpetuating a crime.

53. Learned Counsel appearing for the grantee, Sri. Shastry, however, sought to rely upon a Constitutional Bench judgment of the Apex Court rendered in the case of **Hansoli Devi**¹² to contend that a literal interpretation of statutory provision would have to be adopted when the language of the provision was clear and unambiguous, and it was

¹² Union of India v. Hansoli Devi & Ors., AIR 2002 SC 3240.



only when there was a doubt that a plain reading would lead to anomalies or injustice should a purposive interpretation be adopted.

54. It is to be stated here that there is no ambiguity in Section 4 of the PTCL Act. On a plain reading of Section 4, it cannot be in doubt that an alienation made in contravention of the terms of the grant or under a transfer in violation of Section 4(2) would be null and void. However, Section 4 only contemplated that a transfer made for the first time alone was required to be annulled and it did not contemplate subsequent alienations made by a grantee after the lands were restored to his favour. In fact, if the argument that the grantee, on getting the land resumed, can once again proceed to sell the lands without obtaining the permission of the Government is accepted, this would only mean that a literal interpretation would only lead to an anomalous situation where the provisions of the PTCL Act was



capable of rampant abuse. Such an argument would also lead to an unjust situation where a grantee is being granted a benefit despite his illegal action. Thus, in this case, a literal interpretation of Section 4 would not be appropriate, and a purposive interpretation would be absolutely needed. In fact, it would be the need of the hour since the Division Bench of this Court in **Bhadre Gowda's** case (extracted *supra*) has clearly held that the action of a grantee, in once again (or repeatedly) selling the lands which are resumed in his favour, amounts to a crime.

55. In this view of the matter, the clear proposition of law that would emerge is that *if a grantee or his legal heirs, on getting the lands resumed and restored in their favour, once again choose to sell the lands that are restored to them, then, they would not be entitled to invoke the provisions of the PTCL Act for the second time and seek resumption and*



restoration of the lands. The ***second question*** is accordingly answered.

56. It therefore follows that the proceedings initiated under the PTCL Act for resuming the lands which had been sold after they had been earlier resumed under the provisions of the PTCL Act would be illegal and without jurisdiction.

57. This writ petition is therefore ***dismissed***.

**SD/-
(N S SANJAY GOWDA)
JUDGE**

RK
List No.: 1 Sl No.: 117