

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NOS. 1061-1063 OF 2019

SHAKUNTALA

..... Appellant

Vs.

STATE OF KARNATAKA & OTHERS

..... Respondents

J U D G M E N T

SANJAY KUMAR, J.

1. The core issue in these appeals is whether passage of time would impact enforcement of statutory rights.

2. Facts, admitted as they are, may first be noted: Late Somalanayak, the father of Neelyanayak, respondent No.5 herein, was allotted 4 acres of agricultural land in Survey No. 56 (old), New Survey No. 86, Baragenahalli, Lakkavalli Hobli, Tarikere Taluk, Chikmagalur District, Karnataka, under Government Grant dated 22.03.1957. This grant was made under the Depressed Class Rules in the Land Revenue Code with an express condition that the land should not be alienated for a period of 15 years. However, Somalanayak sold the land under registered sale deed dated 20.02.1964 to one Bomme Gowda. In turn, Ningamma, the wife of late Bomme Gowda, sold the land to one K.G. Rajanna under registered sale deed dated 26.12.1974. K.G. Rajanna then sold the land to one N. Indramma and others under

registered sale deed dated 25.03.1996. On 02.03.2001, N. Indramma and others sold the land to the present appellant under a registered sale deed of the same date.

3. In the interregnum, the Karnataka Scheduled Castes and Scheduled Tribes (Prohibition of Transfer of Certain Lands) Act, 1978 [for short, 'the Act of 1978'] came into force with effect from 01.01.1979. Section 4 thereof is titled 'Prohibition of transfer of granted lands' and states that, notwithstanding anything in any law, agreement, contract or instrument, any transfer of granted land made either before or after the commencement of the said Act, in contravention of the terms of the grant of such land or the law providing for such grant, shall be null and void and no right, title or interest in such land shall be conveyed or be deemed ever to have been conveyed by such transfer. Section 5 thereof, titled 'Resumption and restitution of granted lands', provides under sub-section (1) to the effect that, on an application by any interested person or on information given in writing by any person or *suo motu*, and after such enquiry as he deems necessary, the Assistant Commissioner is satisfied that the transfer of any granted land is null and void under Section 4(1) of the Act of 1978, he may, by order, take possession of such land after evicting all persons in possession thereof, in such manner as may be prescribed, and restore such land to the original grantee or his legal heir. Notably, Somalanayak belonged to Lambani caste, a Scheduled Caste.

4. However, it was only in the year 2007 that Neelyanayak, respondent No.5, filed a petition under Section 4 of the Act of 1978 before the Assistant Commissioner, Tarikere, praying that the sale transactions in respect of the subject

land be declared null and void and to deliver possession to him. This petition was dated 17.09.2007/06.10.2007 and was taken on file in Case No.SC/ST.19/2007-08 by the Sub-Divisional Officer, Tarikere. By order dated 12.12.2008 passed therein, the Sub-Divisional Officer held that the original grant was made under the Depressed Class Rules in favour of Somalanayak, who belonged to a Scheduled Caste, and it was therefore covered by the prohibitory mandate of Section 4 of the Act of 1978. The Officer accordingly held that the first sale and all the transactions thereafter relating to the said land were null and void and ordered restitution under Section 5(1) to the widow of Somalanayak, the original grantee. Thereupon, the appellant filed an appeal before the Deputy Commissioner, Chikmagalur, in PTL No.30/2008-09, but the same was dismissed by order dated 07.12.2009.

5. Challenging both the orders, the appellant filed Writ Petition No.5246 of 2010 before the Karnataka High Court. By order dated 19.02.2010, a learned Single Judge of the Karnataka High Court dismissed the said writ petition. Aggrieved thereby, the appellant filed Writ Appeal No.1500 of 2010. She also filed an application in Misc.W.No.6108 of 2010 therein, seeking permission to urge additional grounds in the interest of justice and equity. Writ Appeal No.1500 of 2010 and Misc.W.No.6108 of 2010 were dismissed by a Division Bench of the Karnataka High Court, vide order dated 01.07.2014.

6. While so, Neelyanayak, respondent No.5, filed Writ Petition No.27293 of 2015 before the Karnataka High Court stating that he had submitted representation dated 11.08.2014 to the Assistant Commissioner, Sub-Division Tarikere, seeking restoration of the land pursuant to the order dated 12.12.2008 passed in Case

No.SC/ST.19/2007-08 and complaining of inaction thereon. The appellant herein was arrayed as respondent No.5 therein. This writ petition was disposed of by a learned Single Judge of the Karnataka High Court on 14.07.2015, directing the Assistant Commissioner to pass appropriate orders upon the petitioner's representation in accordance with law. Aggrieved thereby, the appellant filed Writ Appeal No.2662 of 2015, but it was dismissed by a Division Bench of the Karnataka High Court, by order dated 14.09.2015.

7. It is against the order dated 01.07.2014 in Writ Appeal No. 1500 of 2010 and Misc.W.No.6108 of 2010 and the order dated 14.09.2015 in Writ Appeal No. 2662 of 2015, passed by the Karnataka High Court, that the appellant has filed the present appeals.

8. By order dated 18.01.2016, this Court directed *status quo* existing as on that date to be maintained until further orders. Admittedly, the appellant still remains in possession of the land by virtue of the said order. Neelyanayak died *pendente lite* and his legal representatives have been brought on record as respondent Nos. 5/1 to 5/4.

9. Heard Mr. S.N.Bhat, learned senior counsel, appearing for the appellant; Mr. Shubhramshu Padhi, learned counsel, appearing for the State of Karnataka; and Dr. Sushil Balwada, learned counsel, appearing for respondent Nos. 5/1 to 5/4.

10. The only point urged before us by Mr. S.N.Bhat, learned senior counsel, is that the long delay on the part of respondent No.5 in initiating proceedings under Section 4 of the Act of 1978 should be deemed fatal, as more than 43 years had

passed by and the land had changed several hands. He would place reliance on case law to support his contention.

11. On the other hand, Dr. Sushil Balwada, learned counsel, would contend that the proscription in law would operate notwithstanding the lapse of time as the initial sale by Somalanayak was void and no valid title ever passed thereunder. He would further argue that the ground of delay and laches was never pressed by the appellant before the Karnataka High Court and that she should not be permitted to raise the same at this late stage.

12. Having perused the record, we find the aforesaid contention on behalf of contesting respondents to be factually incorrect. In W.P.No.5246 of 2010, the appellant specifically averred that after lapse of 50 years, respondent No.5 created problems in the village with the intention of grabbing her property. She pointed out that for 50 years, respondent No.5 kept quiet and had not raised a single objection regarding the sale transactions pertaining to the land and had now created problems. In the judgment dated 19.02.2010 passed in W.P.No.5246 of 2010, the learned Single Judge also noted the argument advanced that 44 years had gone by since the execution of the first sale deed by Somalanayak, thereby disentiing his legal heirs from seeking relief, but repelled the same on the ground that the transaction was null and void in the eyes of law.

13. In W.A.No.1500 of 2010 filed against the said judgment, the appellant again raised the ground that, after 50 years respondent No. 5 had raised a dispute before the authorities. However, the same was not taken into account by the Division Bench of the Karnataka High Court.

14. In any event, once the foundation was laid by the appellant in her pleadings and the factum of delay and laches is clear and patent on the face of the record, requiring no further enquiry or evidence, we are of the opinion that it would necessarily have to be considered.

15. The admitted facts indicate that Somalanayak was granted this agricultural land in 1957 and chose to sell it in the year 1964. The Act of 1978 came into force on 01.01.1979 but it was only in 2007 that respondent No. 5 woke up and filed a petition under Section 4 thereof. In the meantime, the land changed hands four times.

16. The effect and impact of delay and laches in the context of the Act of 1978 is no longer *res integra*. In ***Nekkanti Rama Lakshmi Vs. State of Karnataka and another* [(2020) 14 SCC 232]**, this Court noted that Section 4 of the Act of 1978 did not prescribe the period within which an application thereunder could be made nor did it prescribe the period within which *suo motu* action could be taken, but held that an application for resumption of land under Sections 4 and 5 of the Act of 1978 made after a delay of 25 years would be barred and no annulment of the transfer could be granted thereon.

17. Again, in ***Vivek M. Hinduja and others Vs. Ashwatha and others* [(2020) 14 SCC 228]**, this Court had occasion to deal with this issue. The delay in that case was just 20 years, when compared with the delay of 43 years presently, but despite the same, this Court held that the annulment of the illegal transfers under the Act of 1978 could not be sustained owing to that delay. It was pointed out that, even if no limitation is prescribed in the statute, the party concerned ought to approach the

competent Court or authority within reasonable time, beyond which no relief could be granted. This principle was held applicable to *suo motu* actions also. Referring to the earlier decisions in ***Chhedi Lal Yadav and others Vs. Hari Kishore Yadav (Dead) through Legal Representatives and others* [(2018) 12 SCC 527]** and ***Ningappa Vs. Deputy Commissioner and others* [(2020) 14 SCC 236]**, this Court reiterated the settled legal position that irrespective of whether a statute provided for a period of limitation, provisions of the statute must be invoked within a reasonable time. This Court, therefore, had no hesitation in holding that the application for restoration of the land made after a delay of 25 years was liable to be dismissed on that ground. The judgments of the Karnataka High Court which held to the contrary were overruled.

18. In ***Ningappa*** (supra), the delay in seeking cancellation of the sale transactions and restoration of the land in question was 16 years. In that scenario, this Court held that the application of the grantees should have been rejected on the short ground that there was considerable delay in filing the same as all acts have to be done within a reasonable period of time even if no limitation is prescribed by the statute.

19. In Civil Appeal No. 6212 of 2013, titled '***Shivanna (Dead) through Lrs. Vs. State of Karnataka and others***', decided on 25.11.2021, this Court again considered the issue. In that case also, the sale transaction was prior to the Act of 1978 coming into force, as it was in the year 1971. However, it was only in the year 2000 that an application for annulment of the transfer was filed under Section 4 of the Act of 1978. This Court, therefore, noted that annulment of the sale transaction

was sought 21 years after the Act of 1978 came into force and 30 years after the transaction itself. It was also noted that the legal heir of the original grantee took no steps till 12 years after he attained the age of majority. It was, accordingly, concluded that such inordinate delay could not be condoned, as by no stretch of imagination could it be said to be reasonable.

20. Dr. Sushil Balwada, learned counsel, placed reliance on ***Harishchandra Hegde Vs. State of Karnataka and others [(2004) 9 SCC 780]***. This decision is, however, distinguishable on facts as it proceeded on the premise that the transferees of the granted lands had full knowledge of the legal position that the transfers made in their favour were in contravention of the terms of the grant and, therefore, could not claim any rights in equity. Further, that was not a case involving inordinate delay as in the case on hand. Similarly, reliance placed on ***Guntaiah and others Vs. Hambamma and others [(2005) 6 SCC 228]*** is equally misplaced as that was also not a case where delay in seeking annulment was under consideration and the Court proceeded on the finding that the transferee had exploited the grantee's poverty, lack of education and general backwardness.

21. In the case on hand, Neelyanayak, son of Somalanayak, appears to have attained the age of majority in the year 1989, 10 years after the Act of 1978 came into force. However, he took no steps to seek annulment of the sale made by his father till the year 2007, nearly 18 years thereafter. As already noted hereinabove, the appellant is the fourth in the line of succession of transferees after the sale by Somalanayak in the year 1964. No evidence is brought on record of her being aware of the proscription in law as regards this land. In fact, she availed a loan

facility from Vijaya Bank and the Bank sanctioned the same, in all probability, after conducting due diligence. Being an innocent purchaser of the land in the year 2001, long after its first sale in 1964, the appellant is not liable to be ousted therefrom, overlooking the long delay and patent laches on the part of respondent No.5.

22. Viewed thus, we have no hesitation in holding that the Karnataka High Court and the authorities of the State of Karnataka erred in adopting a rather pedantic and hidebound approach in giving effect to the provisions of the Act of 1978 without reference to the material facts.

23. The Civil Appeals are accordingly allowed, setting aside the orders impugned as well as the underlying orders passed by the authorities.

Parties shall bear their own costs.

.....J
[DINESH MAHESHWARI]

.....J
[SANJAY KUMAR]

**NEW DELHI;
April 28, 2023.**