

IN THE COURT OF DEPUTY COMMISSIONER UTTARA KANNADA KARWAR

**Present:** Sri. S S Nakul, IAS,  
Deputy Commissioner,  
Uttar Kannada, Karwar

No. RB/LND-II/PTCL/CR-04/07-08



**Between**

Parvatappa Holeyappa Chatni  
R/o Nandikatta Tq: Mundgod  
(Represented through Advocate Sri. K R Desai)

.... Appellant

V/s

1. Tahsildar, Mundgod
2. Subbanna Irappa Thanekar  
since deceased by his LR  
Shetavappa Basappa Thanekar  
R/o Nandikatta Tq: Mundgod

.... Respondents

**Sub:** Appeal filed u/s 5(a) of Karnataka PTCL Act against the order of Assistant Commissioner, Sirsi dated: 30-04-2007 in file No. PTCL/CR-1/06-07.

**Preamble:**

The instant appeal has been filed against the order of Assistant Commissioner, Sirsi in file No. PTCL/CR-1/06-07 dated: 30-04-2007. Notices were issued to both parties.

1. Appellant has submitted appeal memo on 11-06-2007 and the same was admitted for hearing. The defendant's side was served and their counsel has filed Vakalat Nama and written argument on 23-8-2010. The original records were called from Tahsildar, Mundgod and same has been received. Respondent side was given opportunity to file objections and thereafter argument of both sides heard. Perused the documents filed by both parties.
2. Appellant states that Sy. No. 166 land measuring an extent of 7-15-0(A-G-A) of Nandikatta village in Mundgod Taluk was granted to One Subbanna Irappa Thanekar as per mutation entry No. 758 dated: 18-05-1967. The said Subbanna Irappa Thanekar died issueless on 27-04-1968. Thereafter his elder brother's son Shetavappa Basappa Thanekar was mutated vide Mutation entry No. 839 dated: 14-02-1970 as legal heir. He sold the said property to One K C Thomas as per mutation entry No. 1008 dated: 13-11-1978 and K C Thomas sold the property to Parvatappa Holeyappa Chatni as per Mutation entry No.1195 dated: 20-06-1988 his name got mutated.
3. Tahsildar, Mundgod as per his letter No. ಭೂಮಿ/ಬಿಟಿಸಿಎಲ್/ವಿವ-12/2006 reported to Assistant Commissioner, Sirsi that the transfer of land was in contravention of the provisions of the PTCL Act. Assistant Commissioner, Sirsi conducted enquiry and cancelled the Mutation entry.
4. Grantee doesn't belong to Scheduled Caste/ Scheduled Tribe there was no violation of provisions of PTCL Act. After purchase of land appellant has spent Rs. 5 Lakh and more by raising loan and improved the land. If he is dispossessed he will be put to great loss and hardship and inconvenience and therefore prayed for allow the appeal.

5. In support of his contentions counsel for the appellant has submitted the following documents:

- a) Certified copy of order of Assistant Commissioner, Sirsi in order No. PTCL/CR-1/06-07 dated: 30-04-2007.
- b) Mutation entry No. 758 of Nandikatta village.
- c) Mutation entry No. 1008 of Nandikatta village.
- d) Mutation entry No. 1195 of Nandikatta village.

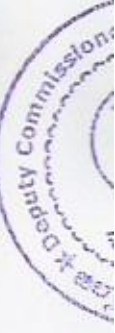
As per Deputy Commissioner, Karwar order No. LND-1/ESR/2829 dated: 20-12-1965 an extent of 7-15-0(A-G-A) land in Sy No. 166 was granted to one Subbanna Irappa Thanekar and as per the Kabulayat his name was mutated vide Mutation entry No. 758 dated: 18-05-1967. But this Subbanna Thanekar died on 27-04-1968. After his death the name of Shetavappa Basappa Thanekar was mutated vide Mutation entry No. 839 dated: 14-02-1970 as legal heir. as per mutation entry No. 1008 dated: 13-11-1978 and K C Thomas sold the property to Parvatappa Holeyappa Chatni as per Mutation entry No.1195 dated: 20-06-1988 his name got mutated.

1. Tahsildar, Mundgod as per his letter No. ಭೂಮಿ/ಪಿಟಿಸಿಎಲ್/ವಿವ-12/2006 reported to Assistant Commissioner, Sirsi that the transfer of land was in contravention of the provisions of the PTCL Act. Assistant Commissioner, Sirsi conducted enquiry and cancelled the Mutation entry. Being aggrieved by this order the Appellant filed appeal before this court.

The Advocate for Appellant argued that.

1. The disputed land was granted to one Subbanna Irappa Thanekar in general category not as Scheduled Caste person. But Assistant Commissioner, Sirsi passed the impugned order without any proof of documents to show that the original grantee belonged to Scheduled Caste on the date of grant.
2. Original grantee died issueless. The Respondent No.2 is not at all interested person or legal heir of late original grantee. Only on the base of Caste Certificate issued to Respondent, Assistant Commissioner, Sirsi came to the conclusion that the original grantee belonged to Scheduled Caste.
3. The lower court failed to show that the land was granted to original grantee as he belonged to SC/ST caste. So as per the High Court decision reported in 1983(1) KLJ Page 574 Venkateshwara B K v/s State of Karnataka which reads as " The transferee has the right to plead and establish that his transferors were not members of Scheduled caste. When such a plea is raised, the authority is bound to investigate and decide the same, for which purpose it is open to the parties to place evidence." Not unless it is proved that the original grantee belongs to SC/ST on the date of grant. Whether the suit land was granted as the original grantee, belonged to Scheduled Caste or Scheduled Tribe.
4. KC Thomas purchased the suit land through registered sale deed dated: 13-10-1979 in accordance with law and he sold the suit land to the Appellant through registered sale deed dated: 21-05-1988.
5. The sale transaction was done 28 years back. Now the appellant has built residential house and developed the land.

Hence he requested to allow the appeal.



The Respondent personally presented the written statement before the Court and prayed that the suit land was given on lease but the appellant is giving trouble. Hence he requested to grant the land in his name.

**Issues to be answered :**

1. Whether the original grantee in this case belongs to Scheduled Caste/ Scheduled Tribe ?
2. Ans: As per the provisions of Section 3 (b) of PTCL Act the grantee should be belongs to Scheduled Caste/ Scheduled Tribes. Here in instant case the original grantee is Subbanna Irappa Thanekar. On careful perusal of the entire records absolutely there is no evidence to show that grantee belongs to Scheduled Caste/ Scheduled Tribes. Tahsildar, Mundgod has produced xerox copies of caste certificate of Subhadra Laxman Thanekar and Basappa Thanekar they belong to Hulaswar community, but there is no connecting document to show their relationship with the original grantee.
3. Section 3(1) (b), 4 and 5 Constitution of India, Article 341 - Granted land - Definition of - It means Government land granted to person belonging to Scheduled Caste or Scheduled Tribe- Land granted to person belonging to Scheduled Caste or Scheduled Tribe - Land granted to person belonging to caste which was not specified as Scheduled Caste or Scheduled Tribe in notification issued under Article 341 which was in force when grant was made, but later came to be before commencement Karnataka Act of 1978, is also to be considered as "granted land" attracting provisions of Act. Alienation of such granted land in contravention of terms of grant is void. Nachimuthu Gounder and Others V/s H.B.Nagaraju and Others, 1999 (6) Kar.LJ.1 (DB). Since there is no document presented to show that original grantee was a member of Scheduled Caste/ Scheduled Tribe and respondents relation to original grantee, I proceed to order as follows:

Hence the following Order.

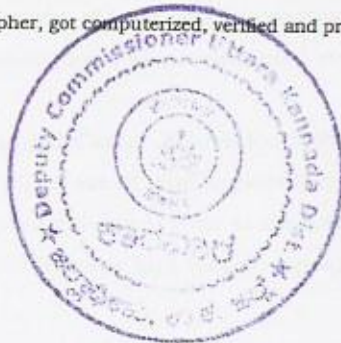
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**Date: 24-10-2016**

**Order**

Appeal is allowed. Assistant Commissioner, Sirsi order in file No. PTCL/CR-1/06-07 dated: 30-04-2007 is quashed. Revenue records to be corrected accordingly.

(Order dictated to the Stenographer, got computerized, verified and pronounced in open court on 24-10-2016)



*[Signature]*  
24/10/16  
Deputy Commissioner,  
Uttara Kannada, Karwar.