

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-22/2016-17



**Between**

1. Ibrahim Khan Ahmed Khan Pathan  
S/o Mohammed Khan Pathan  
R/O Bommanahalli, Tq: Hangal, Haveri.
2. Maqbul Ahmed Khan Pathan,  
S/o Mohammed Khan Pathan  
R/o Bommanahalli, Tq:- Hangal, Haveri  
(Represented through Advocate Sri A. R. Hegde Hudlmane)

.... Appellants

**V/s**

1. Dakappa S/o Taverappa Lamani  
R/O. Lamani Tandc, Tq: Mundgod.

.... Respondent

**Sub:** Appeal filed u/s 5 of Karnataka Scheduled Caste and Scheduled Tribes (Prohibition of Transfer of Certain Lands) Act 1978 against the order of Assistant Commissioner, Sirsi in file No.PTCL-Appeal-Viva-2/2014-15, dated:24-10-2016.

**Preamble:**

The instant appeal has been filed against the order of Assistant Commissioner, Sirsi in file No.PTCL-Appeal-Viva-2/2014-15 dated 24-10-2016. Notices were issued to both parties.

1. Appellant has submitted appeal memo on 19-12-2016 and the same was admitted for hearing. The respondent side was served notices. 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. 141(old Sy. No. 44) of Salgaon villag in Mundgod Taluka land measuring an extent of 9-28-1 (A-G-A) of Salgaon village in Mundgod Taluk was granted Lokappa S/o Limbanna Lamani as per prant Hukum No. TRD 1834 dated 5-4-1950.
3. The property was originally bearing Sy. No. 44 later it is re-numbered as 178 and now re-numbered as 141 as per mutation entry No. 766 and 983 of Salgaon village.
4. Original grantee died on 16-5-1952 the land was transferred in the name of daughter of the grantee Smt Puttavva Lokappa Lamani as per Varsa Mutation Entry No. 863 dated 22-10-1952. Subsequently this land was transferred in the name of Smt. Janaki bai Kom Lokappa lamani mother of Puttavva Lokappa Lamani as per Mutation entry No. 1336 dated 10-4-1965. Later this land was again transferred to Pandurang Ramkrishna Palekar as per sale deed executed by Smt Janakibai Lokappa Lamani as per mutation entry No. 1510 dated 1-11-1971.
5. Respondent claims to be grandson of original grantee. This fact is not admitted by the appellants. No. proof is produced to prove this aspect.
6. The suit land Sy no. 141 an extent of 9-28-0 (A-G-A) was transfer from Ramkrishna Pandurang Palckar to Nazir Ahmed Babusab Pedewala as per Sale deed mutation entry

- no. 2105 dated 1-6-1992. Again this land was sold to appellant Ibrahim Khan Pathan and Maqbul Ahmed Khan Pathan by Sri. Nazir Ahmed Babusab Pedewala.
7. The respondent claiming to be grandson of original grantee filed petition before Assistant Commissioner, Sirsi claiming that the original grantee is schedule caste and the land in transferred to violation of proving of PTCL Act.
  8. It also urged by the appellant that original grantee was not schedule caste and land was granted and same has been sold prior to the commencement of PTCL Act and prayed for dismissal of Petition.
  9. Assistant Commissioner after hearing a matter allowed the application and directed confiscation of land in favor of government.
  10. In support of his contentions counsel for the appellant has submitted the following documents:
    - a) Judgment copy of Hon'ble Supreme Court in Manchegouda v/s State of Karnataka reported in AIR 1984 supreme page no. 1151 and contented that PTCL Act has no application to a property as a property was sold prior to the commencement of PTCL Act.
    - b) Certified copy of the order of Assistant Commissioner, Sirsi.
    - c) Certified copy of the Mutation entry no.1510, 2103, 2104

**The brief facts of the case are as follows:**

An extent of 9-28-1 (A-G-A) is in original Sy. No. 141 (old Sy no.44) of Salagaon village was granted to one Lokappa S/o Limbanna Lamani as per prant Hukum No. TRD 1834 dated 5-4-1950. Original grantee Lokappa S/o Limbanna Lamani died on 16-5-1952 the land was transferred in the name of daughter of the grantee Smt Puttavva Lokappa Lamani as per Varsa Mutation Entry No. 863 dated 22-10-1952. Subsequently this land was transferred in the name of Smt. Janaki hai Kom Lokappa lamani mother of Puttavva Lokappa Lamani as per Mutation entry No. 1336 dated 10-4-1965. Later this land was again transferred to Sri. Pandurang Ramkrishna Palekar as per sale deed by Smt Janakibai Lokappa Lamani as per mutation entry No. 1510 dated 1-11-1971. The suit land Sy no. 141 an extent of 9-28-0 (A-G-A) was transfer from Sri. Ramkrishna Pandurang Palekar to Nazir Ahmed Babusab Pedewala as per Sale deed mutation entry no. 2105 dated 1-6-1992. Again this land was sold to appellant Ibrahim Khan Ahmed Khan Pathan and Maqbul Ahmed Khan Pathan from Nazir Ahmed Babusab Pedewala as per registered sale deed. The respondent claiming to be grandson of original grantee filed petition before Assistant Commissioner, Sirsi claiming that the original grantee is schedule caste and the land in transferred to violation of PTCL Act. Hence, Assistant Commissioner Sirsi conducted enquiry and by his order dated 24-10-2016 allow the appeal and directed to vest the land in the name of Government.

The Advocate for the Appellant argued that.

1. The order passed by Assistant Commissioner is contrary the law and facts of the case.
2. Mutation entry no. 515 of Salagaon village in Mundgod Taluka reveals that the property granted in 1950 and the said mutation is not set aside.
3. Assistant Commissioner, Sirsi should have noted that the condition relating to non alivnation have been relaxed before sale of 1971.

4. Assistant Commissioner should have noted that the grantee did not belong to schedule caste as such the PTCL Act-1978 did not applicable to the present transaction.
5. Assistant Commissioner, Sirsi did not insist original grant order.
6. Appellant has produced certificate dated 25-4-2015 issued by Tahashildar Mundgod to the effect that property is not governed by PTCL Act.
7. Assistant Commissioner ignored said document and pass the impugned order.

Hence he requested to allow the appeal.

The case was taken up for hearing on 16-1-2017. Respondent was present at the time of hearing and he states no objection against the appellant.

**Issues to be answered:**

1. Whether the original grantee in this case belongs to the scheduled caste?

Ans: Negative.

2. Does the appellant prove that the land is 'granted land' as per Sec 3(b) of the Act?

Ans: On perusal entire records it shows said land has been granted to Lokappa S/o Limbanna Lamani as only land less person. Absolutely there is no reliable documents it was granted to him as he belonged to Scheduled Caste/ Scheduled Tribe. At the time of grant, grantee was not belonging to scheduled caste. Hence, negative.

3. Does the appellant prove that there have been sale/transfers of the granted land in violation of Sec 4 of the Act?

Ans: Admittedly this grant was made in the year 1950. As per Gazette notification published by Government of India Ministry of home affairs New Delhi published on 29-10-1956 the Banjara or Lambani caste was notified as Schedule caste/Schedule tribes. As per this notification it is evident that grantee was not belonging to Scheduled Caste/ Scheduled Tribe at the time of grant. Thus PTCL Act does not attract in this case. Hence, negative.

Hence, I proceed to order as follows:

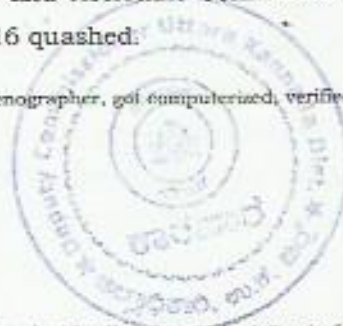
**No.RB/LND-II/PTCL/CR-22/2016-17**

**Date:20-03-2017**

**Order**

Appeal is allowed and Assistant Commissioner, Sirsi order No.PTCL-Appeal-Viva-2/2014-15 dated 24-10-2016 quashed.

(Order dictated to the Stenographer, got computerized, verified and pronounced in open court on 20-03-2017)



*J. S. S. S.*  
20/3  
**Deputy Commissioner,  
Uttar Kannada, Karwar**

**Copy to:-**

1. Advocate Sri. A. R. Hegde Hudlmane, Sirsi for information.
2. Assistant Commissioner, Sirsi for information and necessary action with Lower court file No. PTCL/Appeal/Viva 02/2014-15 dated: 24-10-2016. page No.1 to page No.
3. Tahasildar Mundgod for information and necessary action.