



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF MARCH, 2024

PRESENT

THE HON'BLE MR N. V. ANJARIA, CHIEF JUSTICE

AND

THE HON'BLE MR JUSTICE KRISHNA S DIXIT

WRIT APPEAL NO. 1561 OF 2023 (KLR-RES)

BETWEEN:

FR. VALERIAN FERNANDES,
S/O LATE LIGORY FERNANDES,
AGED ABOUT 55 YEARS,
PARISH PRIEST,
R.AT ST ANTHONY CHRUCH, NARAVI,
NARAVI POST, BELTHANGADY TALUK,
DAKSHINA KANNNADA – 574 214.

...APPELLANT

(BY SRI. KESHAVA BHAT A.,ADVOCATE)

AND:

1. STATE OF KARNATAKA,
REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF LAND REVENUE,
VIDHANA SOUDHA, BANGALORE – 560 001.

2. THE DEPUTY COMMISSIONER,
DAKSHINA KANNADA DISTRICT,
MANGALORE – 575 001.

...RESPONDENTS

(BY SMT.NILOUFER AKBAR., AGA)

THIS WRIT APPEAL FILED U/S 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE ORDER OF THE LEARNED SINGLE JUDGE DATED 07.11.2023 IN W.P.No.17710/2023 (KLR-LG), IN THE INTEREST OF JUSTICE.





THIS APPEAL, COMING ON FOR PRELIMINARY HEARING, THIS DAY, **KRISHNA S DIXIT.J.**, DELIVERED THE FOLLOWING:

JUDGEMENT

This intra-court appeal calls in question a learned Single Judge's order dated 7.11.2023 whereby, appellant's W.P.No.17710 of 2023 (KLR-LG) has been disposed off with the following observations:

"5. In view of the amendment made to the Rule 23 as per Notification dated 08th March, 2023, the petitioner is directed to approach jurisdictional Assistant Commissioner of the Sub-Division, seeking redressal of his grievance. If such an application is made by the petitioner to the jurisdictional Assistant Commissioner, the same shall be considered by the said authority in accordance with law, within an outer limit of six months from the date of receipt of such an application. Accordingly, writ petition is disposed of."

2. Learned counsel appearing for the appellant argues that the prayer in the petition was for a writ of mandamus to the respondents to grant the subject land by issuing Grant Certificate/Saguvali Chit; such a prayer was made in view of the order of the Karnataka Appellate Tribunal entered in Appeal No.340 of 1994 disposed off on 28.06.1996 which had directed determination of the amount payable, not setting aside the lease granted. Therefore, he finds fault with the impugned judgment and seeks a substantive direction.



3. Learned Additional Government Advocate appearing for the official respondents opposes the appeal contending that for relief of the kind, the learned Single Judge has rightly relegated the appellant to the office of Assistant Commissioner and he can work out his remedy there itself. Incidentally, she also draws attention of the court to the 2023 amendment to the Karnataka Land Grant Rules, 1969, to contend that the appellant has to make certain payment at the rates now revised, if at all relief is to be granted to him. So contending, she seeks dismissal of the appeal.

4. Having heard the learned counsel for the parties and having perused the appeal papers, we are inclined to grant indulgence in the matter broadly agreeing with the submission made by the counsel for the appellant. There is already the Grant Order and that the same is affirmed in appellant's appeal decided by the Appellate Tribunal. What has been left over for consideration at the hands of the authorities was only the question of the payment for the subject grant. When there is statutory Tribunal's order, relegating the appellant to the Assistant Commissioner for seeking a fresh grant is not justified.



5. Learned Additional Government Advocate submits that the amount payable for the grant in question has to be in terms of 2023 Amendment Rules, since the said amendment is by way of substitution. She specifically drew our attention to the Karnataka Land Grant Rules, 1969 of KLJ Publications, 2019, 5th Edition which in foot note 1 at page 48 states:

“Substituted for the words “on payment of fifty per cent of the market value” by Notification No.RD 09 LGP 2015(P), dated 19-9-2015 and shall be deemed to have come into force w.e.f. 9-6-2015”

However, a perusal of the said Notification does not indicate that the said amendment is by way of ‘substitution’, as rightly pointed out by the learned counsel appearing for the appellant. But for his intervention, we would have been swayed away by the mistaken version of the KLJ Publications, Bengaluru, to the enormous detriment of citizens. It goes without saying that if for the ‘mistake of law’, none should suffer, none should suffer for the ‘mistake of Law Publisher’ too. It is high time to state that those who print & publish statutes and statutory instruments should be extra cautious, or else, they run the risk of being hauled up for the contempt of court, perjury & the like offences, in addition to being black-listed from public tenders for the supply of books of their publication.



In the above circumstances, this appeal succeeds; a writ of mandamus issues to the second respondent to formalize the grant in favour of the appellant in terms of extant rules; the appellant is liable to pay the charges under the pre-amendment Rules of 2023.

Registry to send a copy of this order by Speed Post to:

- [i] The Principal Secretary, Department of Law, Government of Karnataka, Vidhana Soudha, Bengaluru.
- [ii] The Chief Librarian, High Court of Karnataka, Bangalore.
- [iii] The Karnataka Law Journal Publications, Ground Floor, Sujatha Complex, 1st Cross, Gandhinagar, Bengaluru-560009.

**Sd/-
CHIEF JUSTICE**

**Sd/-
JUDGE**

Snb, Bsv, cbc
List No.: 1 SI No.: 1