IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 26TH DAY OF SEPTEMBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE R. DEVDAS

WRIT PETITION NO.14207 OF 2025 (SC-ST)

BETWEEN

SRI. DODDAGIRIYAPPACHARI
S/O. LATE GIRIYAPPACHARI,
AGED ABOUT 82 YEARS
R/OF KHAJI SONNENAHALLI VILLAGE,
KANNAMANGALA POST,
BIDARAHALLI HOBLI,
BENGALURU EAST TALUK,
BENGALURU-560067
REP. BY HIS POWER OF ATTORNEY HOLDER
SRI V. S. MANOJ,
S/O. SRI V. V. SADANANDA,
AGED ABOUT 29 YEARS

...PETITIONER

(BY SRI. MOHAMMED AKHIL, ADVOCATE)

AND

1 . THE DEPUTY COMMISSIONER
BENGALURU URBAN DISTRICT,
KANDAYA BHAVAN, K.G.ROAD,
BENGALURU-560009.

2 . THE ASSISTANT COMMISSIONER
BENGALURU NORTH SUB-DIVISION.

KANDAYA BHAVAN, K.G.ROAD,
BENGALURU-560009.

3 . SRI B.M.RAMESH
S/O. LATE MUNISHAMAPPA
AGED ABOUT 53 YEARS
R/OF BOMMANABANDI VILLAGE,
KATTIGENAHALLI POST,
JADIGENAHALLI HOBLI,
HOSKOTE TALUK
BENGALURU RURAL – 562114

4 . SRI M. HARISHA
S/O. LATE MUNINARAYANAPPA
AGED ABOUT 36 YEARS
R/OF KHAJI SONNENAHALLI VILLAGE,
BIDARAHALLI HOBLI,
KANNAMANGALA POST,
BENGALURU EAST TALUK,
BENGALURU-560067.

…RESPONDENTS

(BY SRI. ARUNA G.S., HCGP, FOR R1 & R2;
SRI. GURDAS S KANNUR, SENIOR COUNSEL FOR
SRI. SHIVAKUMAR C., FOR RESPONDENT NO.3;
SRI. Y. ESHWARAPPA, ADVOCATE FOR R4)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE ORDER DATED 22.04.2025 PASSED BY THE RESPONDENT NO.1 IN APPEAL NO.PTCL/79/2024 PRODUCED AT ANNEXURE-W AND THE ORDER DATED 27.09.2024 PASSED BY THE RESPONDENT NO.2 IN CASE NO.PTCL (BET) 16/2024 PRODUCED AT ANNEXURE-T, IN THE INTEREST OF JUSTICE AND ETC.

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED ON 02.09.2025 AND COMING ON FOR PRONOUNCEMENT OF ORDERS, THIS DAY, THIS COURT MADE THE FOLLOWING:

CORAM: HON'BLE MR JUSTICE R DEVDAS

CAV ORDER

(PER: HON'BLE MR JUSTICE R DEVDAS)

The petitioner is aggrieved of the impugned order at Annexure-W dated 22.04.2025 passed by the respondent No.1-Deputy Commissioner, Bengaluru Urban District and the order dated 27.09.2024 passed by respondent No.2-Assistant Commissioner at Annexure-T.

2. The undisputed facts leading to the writ petition are that Smt.Kenchamma and her son Sri Muninarayanappa had earlier invoked the jurisdiction of the Assistant Commissioner, under the provisions of the Karnataka Scheduled Castes and Scheduled Tribes (Prohibition of Transfer of Certain Lands) Act, 1978, (hereinafter referred to as 'the PTCL Act' for short) calling in question the sale deed dated 25.10.1956, under which 3 acres 26 guntas of land in Sy.No.143 of Khaji Sonnenahalli Village, Bidarahalli

Hobli, Bengaluru East Taluk, were sold by Smt.Kenchamma and her son Sri Muninarayanappa, in favour of one Smt. Basamma. The Assistant Commissioner allowed the petition annulling the sale deed while directing resumption and restoration of the lands in favour of the original grantee or his legal heirs. The appeal filed by Smt.Basamma and her daughters were dismissed by the Deputy Commissioner. This Court in W.P.No.31871/2000, upheld the orders passed by the authorities and accordingly, the lands were restored in favour of the legal heirs of the original grantee.

3. It is contended by the petitioner that Sri Muninarayanappa applied for and sought permission to sell the lands, in terms of Section 4(2) of the PTCL Act, on 15.11.2005. It is contended by the petitioner that in terms of the requirement of the Rules, viz., the Karnataka Scheduled Castes and Scheduled Tribes (PTCL) Rules, 1979 (hereinafter referred to as 'the PTCL Rules' for short) and the conditions imposed by the Government while granting

permission, Sri Muninarayanappa purchased 2 acres 27 guntas of land as an alternative. Thereafter, permission was granted to Sri Muninarayanappa vide Official Memorandum dated 07.12.2005 permitting Sri Muninarayanappa to sell the property in favour of respondent No.3-Sri B.M.Ramesh. However, Sri Muninarayanappa and his family members executed registered General Power of Attorney dated 19.04.2006 in favour of respondent No.3, permitting him to alienate 1 acre 36 guntas in Sy.No.143, and accordingly, respondent No.3, representing Sri Muninarayanappa and his family members, sold the property in favour of the petitioner, under registered sale deed dated 21.04.2006. Nevertheless, after the death of Sri Muninarayanappa, his legal heirs and family members executed a Deed of Confirmation, confirming the sale made in favour of the petitioner herein. The Deed of Confirmation was registered

on 20.08.2015, in the office of the Sub-registrar, Shivajinagar (Bidarahalli), Bengaluru.

4. The petitioner being the absolute owner of the lands in question executed a registered agreement of sale and also General Power Attorney in favour of one Sri V.S.Manoj. The 4th respondent Sri M.Harisha, S/o Late Muninarayanappa filed a petition before the Assistant Commissioner, invoking Section 5 of the PTCL Act, to annul the Sale Deed dated 21.04.2006. The Assistant Commissioner allowed the petition, while declaring the Sale Deed dated 21.04.2006 null and void and directed resumption and restoration of the lands in favour of the original grantee or his legal heirs. The Special Deputy Commissioner, before whom the appeal was filed by the petitioner, dismissed the appeal upholding the order passed by the Assistant Commissioner.

5. Learned counsel for the petitioner submitted that the sale could not have been annulled when admittedly

prior sanction was granted by the State Government, in terms of Section 4(2) of the PTCL Act. Secondly, delay of more than 18 years was not explained and having regard to the law declared by the Hon'ble Supreme Court in the case of ***Nekkanti Rama Lakshmi Vs. State of Karnataka And Another*** **(2020) 14 SCC 232** and ***Sri Vivek M Hinduja And Others Vs. M.Ashwatha And Others*** **(2020) 14 SCC 228**, although no period of limitation is prescribed in the Act for filing a petition, nevertheless, the petition has to be filed within reasonable period.

6. Learned counsel for the petitioner would also place reliance on a recent decision of a Co-ordinate bench of this Court in the case of ***Smt. Rudramma and others Vs. State of Karnataka and others,*** in ***W.P.No.29559/2018*** dated ***09.04.2025,*** where it is held that the provision contained in Section 4 of the Act are 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. It is held that the intent of 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. While framing the question, "Whether these provisions could be invoked for a second time after the lands have been resumed and restored to the grantee?", the Co-ordinate bench held that 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. It was held that 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 Co-ordinate bench also noticed a decision of a Division Bench of this Court in the case of ***Bhadre Gowda Vs. Deputy Commissioner - (2012) 2***

KCCR 1529, where it was held, *"we are satisfied that repeated sales at the hands of the original grantee constitutes the offence of cheating under Section 420 of the Penal Code, 1860. A person who cheats is definitely not entitled to seek restoration of the granted land and retain the consideration received by him by sale thereof…….. It also needs to be recorded here, that when a grantee repeatedly sells the granted land, it is open to the vendee to initiate criminal prosecution against him. Such repeated sale is nothing but a process of cheating."* Thus, the Co-ordinate Bench has proceeded to hold that 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, it was also held that 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 in his favour.

7. Learned Counsel for the petitioner further submitted that after the impugned orders are passed by the Assistant Commissioner and Deputy Commissioner, respondent No.4 has entered into an agreement with respondent No.3, agreeing to sell the lands in question. This shows that respondents No.3 and 4, in collusion with each other are trying to defraud the petitioner and are defrauding the Government, while misusing the provisions of the beneficial legislation. Respondent No.4 has further entered into an agreement with another Multinational Company, trying to make a windfall at the cost of the petitioner. It is submitted that the conduct of respondents No.3 and 4 should be taken into consideration, as held in the case of ***Bhadre Gowda*** (supra).

8. Per contra, learned Senior Counsel Sri.Gurudas S.Kannur, appearing for respondent No.4 submitted that

the petitioner, knowing fully well that sanction has been accorded by the State Government on 15.11.2005, at Annexure-H permitting Sri Muninarayanappa S/o T.Poojappa to sell the property in question in favour of respondent No.3-Sri.B.M.Ramesh on certain conditions that the purchaser should be eligible to purchase the land under the provisions of the Karnataka Land Reforms Act; that the applicant should sell the lands as per the prevailing market value; that the applicant shall purchase agricultural lands from the sale proceeds received from the transaction, nevertheless, the petitioner proceeded to purchase the property from respondent No.3. It is submitted that the petitioner cannot make allegations against respondent No.4, since the petitioner willfully purchased the lands from respondent No.3 who was not the owner of the property and he was not the person who was permitted to sell the property. Moreover, the permission granted by the State Government enabled sale by respondent No.4 in favour

respondent No.3 only. The conduct of the petitioner should fall under a scanner and not the conduct of respondent No.4.

9. Learned Senior Counsel submitted that since respondent No.4 did not sell the property in favour of the petitioner herein, the cause of action to invoke the provisions of the PTCL Act did not commence from the date of the sale deed or the registration of the same. The cause of action, at the most, may begin to run from the date of execution of the Deed of Confirmation dated 20.08.2015 and the second Deed of Confirmation dated 24.08.2015. The application under Section 5 was filed before the Assistant Commissioner on 08.02.2024, after delay of about 8 years and 05 months. It is submitted that in the case of ***Satyan Vs. Deputy Commissioner and others*** **(2020) 14 SCC 210** the Apex Court has held that a period of 8 years cannot be said to be such, as to amount to such delay and laches as would make the action void, considering that

it is in respect of beneficial legislation for the Scheduled Castes and Scheduled Tribes community.

10. Learned Senior Counsel submitted that this Court in the case of ***A K Chikkaveerappa and Others Vs. The Assistant Commissioner and Others*** reported in **2022 (3) KCCR 2022** has held as follows:

> *"8. As noticed in the beginning, this case presents another bleak picture of the manner in which the officials of the Revenue Department have been ignoring the guidelines issued by the State Government while considering an application seeking prior permission of the State Government in terms of Section 4(2) of the Act. This Court has been repeatedly bringing it to the notice of the State Government that while considering an application under Section 4(2) of the Act, persons claiming to be holders of Powers of Attorney should not be entertained by the State Government. The very purpose for which provisions are made under the Act, the Rules and the Circulars issued by the State Government in the matter of considering of an application under Section 4(2) of the Act is to ensure that the persons belonging to the depressed classes are not taken for a ride. This avowed objective of the*

statute is keeping in mind the poverty, illiteracy and innocence of such persons who have been granted with lands so that they cultivate the lands and eke out a living and stand shoulder to shoulder with other persons in the Society. This Court has come across numerous such instances where applications are made by third parties claiming to be the holders of Powers of Attorney, while the gullible grantees are kept in dark not only about the restrictions placed in the statute in the matter of transacting with such granted lands, but also provision being made to ensure that proper market value is paid by the purchasers to such grantees. It is in this regard that certain conditions are imposed while granting prior permission. One such conditions is that the grantee who is disposing of the agricultural lands, shall purchase an alternative agricultural land in order to maintain himself and his family. Conditions are also imposed that the prevailing market value shall be paid to the grantee. It is in order to ensure that these conditions are fulfilled, the authorities are required to find out from the original grantee as to whether he intends to sell the property; to whom he is selling the property and what is the sale consideration. After ascertaining all these aspects, the authorities are required to accord permission.

9. It is found that in many such instances, persons claiming to be Powers of Attorney of the original grantee approach the State Government and the persons manning the Department are not adhering to the guidelines issued by the State Government. As seen in the present case, a General Power of attorney is got registered at the hands of the original grantee. In the considered opinion of this Court, execution of a general Power of Attorney granting powers to deal with the property and sell the property is equally hit by the provisions of the Act…"

(emphasis supplied)

And further, in paragraphs No.11 and 12 it was held as follows:

"11. Going by the letter and spirit of the provision, this Court does not hesitate to hold that if such Powers of Attorney are permitted to be executed by the grantees empowering the Attorney to deal with the granted land, it will pave way to defraud gullible grantees. The present case is one such example. A look at the sale deed dated 13.04.2006 evidences the fact that no sale consideration is passed on to the original grantee and obviously the registered General Power of Attorney dated 07.04.2005 is not coupled

with interest. The words 'or enter into any other transaction' used in the provision would encompass Power of Attorney also. The law prohibits the grantee from transferring and any person from acquiring granted land, without the previous permission of the Government. This Court has come across several such instances where gullible grantees are tricked into executing Powers of Attorney on the premise that the Attorney will secure the permission from the State Government.

12. In that view of the matter, it is trite to hold that the Power of attorney registered by the original grantee in favour of the 5th respondent is hit by the provisions of the Act. Section 4(2) would definitely apply even in a case of Power of attorney, since the instrument seeks to grant power in favour of the attorney to sell the property in favour of any other person. In the considered opinion of this Court, such execution of powers of attorney granting powers to dispose of the property or to approach the State Government seeking prior permission under Section 4(2) of the Act, is also not permissible."

(emphasis supplied)

11. Consequently, it was held that when permission was accorded by the State Government to Sri.A K Chikkaveerappa to sell the lands in favour of Sri.Munianjanappa, a sale deed could not have been executed at the hands of the Power of Attorney holder in favour of respondent No.4, contrary to permission accorded by the State Government. Learned Senior Counsel submits that the situation is exactly the same in the present case. This Court held that under such circumstances, where a sale deed was executed by a Power of Attorney holder being without authority of law and in contravention of permission accorded by the State Government, the same is required to be held as null and void. It is submitted that the said judgment of this Court in the case of ***A K Chikkaveerpappa*** has been confirmed at the hands of the Hon'ble Division Bench in W.A.No.1402/2021 dated 21.01.2025. The Hon'ble Division Bench has held that the contentions raised by the appellants therein that appellant

No.1 had purchased the property for due consideration and that he had acted on the permission granted by the State Government cannot make a difference to the factual situation as available in the instant case. It was held that the permission clearly has to be specific with regard to the person selling the property as also buying the same. The transferee as well as the transferor have to be specific in the order of permission. It was held that if such permission is not granted, same would not be valid.

12. Learned Senior Counsel would also submit that the sale deed dated 21.11.2005 under which Sri Muninarayanappa purchased 2 Acres 27 Guntas of land in Sy.No.29/3 of Sonnawadi village, Kasaba Hobli, Mulabagilu Taluk, Kolar District, has nothing to do with the petitioner or respondent No.3. The sale consideration in the said sale deed is Rs.1,90,000/- and whereas the sale consideration in the sale deed dated 21.04.2006 executed by respondent No.3 in favour of the petitioner herein is Rs.19,00,000/-

and no part of the sale consideration is given to respondent No.4 or his family members. This clearly shows that the petitioner herein, knowing fully well that permission is accorded by the State Government to respondent No.4 to sell the property in favour of respondent No.3, the petitioner has ignored the same and transacted with respondent No.3 and has paid no part of the sale consideration to respondent No.4 or his family members. Learned Senior Counsel therefore submits that the petitioner cannot make allegations against respondent No.4 or cast aspersions on respondent No.4.

13. Insofar as the judgment relied upon by the learned Counsel petitioner in the case of ***Smt.Rudramma*** (supra), learned Senior Counsel Sri.Gurudas S. Kannur, submitted that a plain reading of the provisions contained in Section 5 of the PTCL Act, does not give any impression that the provisions are attracted only in respect of one transaction or that the provisions are not attracted in

respect of a second transaction or subsequent transactions. It is submitted that Section 4 of the Act, does not prescribe that once granted lands are resumed and restored in favour of the original grantee or his/her legal heirs, there is no need to obtain permission at the hands of the State Government. Learned Senior Counsel submits that the said judgment is contrary to the express provisions of the Act and the Rules.

14. Even otherwise, it is submitted that the petitioner has proceeded to purchase the property on the strength of the sanction accorded by the State Government. In that view of the matter, learned Senior Counsel submits that the petitioner is blowing hot and cold, if on the one hand, he is contending that in terms of the judgment in the case of ***Smt.Rudramma,*** there is no need for a grantee or his legal heirs to obtain prior sanction of the Government for a subsequent sale since the property has been resumed and restored under the provisions of the PTCL Act in terms of

the previous proceedings and on the other hand, the petitioner is contending that he has purchased the lands after obtaining permission from the Government.

15. Heard learned Counsel Sri.Mohammed Akil, for the petitioner, learned Counsel Sri.C.Shivashankar for respondent No.3, learned Senior Counsel Sri.Gurudas S. Kannur for respondent No.4 and learned High Court Government Pleader for respondents No.1 and 2 and perused the petition papers.

16. It remains undisputed that an application was filed in the name of Sri.Muninarayanappa, on 15.11.2005 seeking permission from the Government in terms of Section 4(2) of the Act. Official Memorandum was issued on 07.12.2005 permitting Sri Muninarayanappa to sell the property in favour of Sri B.M.Ramesh, respondent No.3 herein. However, a General Power of Attorney dated 19.04.2006 is executed by Sri Muninarayanappa, his wife Smt.Gowramma and their children, minors represented by

their father Sri Muninarayanappa empowering the third respondent Sri B.M.Ramesh to sell the property and receive sale consideration on behalf of the executants therein. It is noticeable that there is a mention of the Official Memorandum dated 07.12.2005 stating that prior permission has been obtained from the Government. No sale consideration is shown to have been passed to the executants. The General Power of Attorney is registered in the office of the Sub-Registrar, K.R.Puram on 19.04.2006. On 21.04.2006 the third respondent executes a sale deed in favour of the petitioner herein on the strength of the registered Power of Attorney. It is stated in the sale deed that the entire sale consideration of Rs.19,00,000/- is paid by the petitioner to the third respondent, by cash.

17. It is under similar such circumstances that this Court held in the case of ***A.K.Chikkaveerappa*** (supra) that this Court has come across numerous such instances where applications are filed by third parties claiming to be holders

of Power of Attorney, seeking permission at the hands of the Government, while the gullible grantees are kept in dark not only about the restrictions placed in the statute in the matter of transacting with such granted lands, but also provision being made to ensure that proper market value is paid by the purchasers to such grantees. In this case, although it is not clear as to whether the third respondent got the permission from the Government in the name of Sri Muninarayanappa, however, it is clear that in violation of the terms of sanction granted by the Government, the third respondent got a General Power of Attorney executed in the place of a sale deed. No sale consideration is passed on to Sri Muninarayanappa or his legal heirs.

18. However, learned Counsel for the petitioner sought to place reliance on ***Sri A.K.Chikkaveerappa*** (supra) where this Court having regard to the definition of the word 'transfer' in Section 3(1)(e) of the Act held that execution of a General Power of Attorney granting powers

to deal with the property and sell the property would amount to transfer. Even if that argument is accepted, nevertheless there is utter violation of the conditions imposed in the sanction accorded by the Government. One of the conditions imposed on the purchaser viz., Sri B.M.Ramesh, respondent No.3 is that he shall pay the market value to Sri Muninarayanappa. The other condition is that out of the sale proceeds, Sri Muninarayanappa is required to purchase another piece of agricultural land, as an alternative for his livelihood.

19. Regarding the contention of the petitioner that there is compliance of the conditions imposed in the permission granted by the Government inasmuch as Sri Muninarayanappa purchased alternative lands under sale deed dated 21.11.2005, and having regard to the chronology of events, where permission was granted by the Government on 07.12.2005, it cannot be contended by the petitioner or respondent No.3 that Sri Muninarayanappa

purchased the lands from out of the sale proceeds flowing from the sale deed dated 21.04.2006 or that Sri Muninarayanappa, purchased the lands from any advance amount paid by the petitioner or respondent No.3. Neither the registered Power of Attorney dated 19.04.2006 nor the registered sale deed dated 21.04.2006 mention any such transaction or payment made to Sri Muninarayanappa. Therefore, such a contention raised by the learned Counsel for the petitioner that Sri Muninarayanappa purchased the lands under sale deed dated 21.11.2005 from out of the sale proceeds of the lands in question, cannot be accepted.

20. The third respondent and the petitioner herein have violated the conditions imposed in the sanction accorded by the Government inasmuch as the third respondent not purchasing the property from Sri Muninarayanappa. The petitioner too is guilty of violating the express conditions imposed by the Government. The learned Senior Counsel for respondent No.4 is right, while

pointing out to the decision of the Hon'ble Division Bench in W.A.No.1402/2021, where it was held as follows:

> *"9. In the above factual situation, we are of the opinion that the contentions raised by the appellants that appellant No.1 had purchased the property for due consideration and that he had acted on the permission granted by the State government cannot make a difference to the factual situation as available in the instant case.*
>
> *10. There is a clear bar as to transfer and acquisition of granted land without prior permission of the State government. The prior permission clearly has to be specific with regard to the person selling the property as also buying the same. The transferee as well as the transferor have to be specific in the order of permission. If such permission is not granted, same would not be valid."*
>
> *(emphasis supplied)*

21. In the above analysis, this Court does not find any infirmity in the impugned orders passed by the Assistant Commissioner and the Deputy Commissioner. The Deputy Commissioner has placed reliance on the decision of this Court in the case of ***A.K.Chikkaveerappa*** (supra) where it

was held that when permission was accorded by the State Government to Sri A.K.Chikkaveerappa to sell the properties in favour of Sri Munianjanappa, a sale deed could not have been executed at the hands of the Power of Attorney holder to a third party.

22. The learned Senior Counsel for respondent No.4 is also right in his submission that since admittedly Sri Muninarayanappa or his legal heirs did not execute the sale deed in favour of respondent No.3 or the petitioner herein, the cause of action for filing an application under Section 5 of the PTCL Act, did not arise from the date of the sale deed. At best, it can be said that the cause of action arose for respondent No.4 to move the Assistant Commissioner when he along with his family members executed the Deeds of Confirmation i.e., on 20.08.2015 and/or 24.08.2015. It is necessary to notice that Article 59 of the Limitation Act, 1963, prescribes three years for cancellation or setting aside an instrument and the time from which period begins

to run is when the facts entitling the plaintiff to have the instrument cancelled or set aside 'first became known to him'.

23. The delay from the date of the Deeds of Confirmation may be around 8 years 5 months or less than 8 years. The learned Senior Counsel is right while submitting that the Hon'ble Apex Court in the case of ***Satyan*** (supra) has held that delay of 8 years is not so enormous, having regard to the objective of the beneficial legislation. In fact, the Hon'ble Apex Court has held that the law of limitation does not apply to the Act.

24. Nevertheless, since the learned Counsel for the petitioner sought to place reliance on a decision rendered by a co-ordinate Bench of this Court in the case of ***Smt.Rudramma*** (supra) to contend 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, this Court is required to deal with such contention. For that purpose, it would be relevant to notice the provisions contained in Sections 4 and 5 of the PTCL Act, which read 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.*
>
> *(emphasis supplied)*
>
> *5.* ***Resumption and restitution of granted lands.-*** *(1) Where, on 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 sub-section (1) of section 4, he may,-

(a) by order take possession of such land after evicting all persons in possession thereof in such manner as may be prescribed:

Provided that no such order shall be made except after giving the person affected a reasonable opportunity of being heard;

(b) restore such land to the original grantee or his legal heir. Where it is not reasonably practicable to restore the land to such grantee or legal heir; such land shall be deemed to have vested in the Government free form all encumbrances. The Government may grant such land to a person belonging to any of the Scheduled Castes or Scheduled Tribes in accordance with the rules relating to grant of land.

[(1A) After an enquiry referred to in sub-section (1) the Assistant Commissioner may, if he is satisfied that transfer of any granted land is not null and void pass an order accordingly.]

(2) [Subject to the orders of the Deputy Commissioner under section 5A, any order passed] under [sub-section (1) and (1-A)] shall be final and shall not be questioned in any court of law and no injunction shall be granted by any court in respect of any proceeding taken or about to be taken by the Assistant Commissioner in pursuance of any power conferred by or under this Act.

(3) For the purposes of this section, where any granted land is in the possession of a person, other then the original grantee or his legal heir, it shall be presumed, until the contrary is proved, that such person has acquired the land by a transfer which is null and void under the provisions of Sub-section (1) of Section 4.

25. On a plain reading of the said provisions, this Court finds no such restriction, that an application invoking the provisions of the PTCL Act is prohibited if granted lands are transferred after they are resumed and restored in favour of the grantee or his legal heirs in an earlier round of litigation under the provisions of the Act. A larger Bench of the Apex Court, in the case of ***D.R.Venkatachalam and***

Others Vs. Dy. Transport Commissioner and Others **(1977) 2 SCC 273** held as follows:

> *"If we start from a theory as to what the real purpose or need is or could be, the danger is that we may be injecting a subjective notion or purpose of our own into what is, after all, a legal question of construction or interpretation, according to well recognised principles, although it may be necessary, in exceptional eases, to explain or fortify the interpretation adopted in the light of so well understood and well known a purpose or theory that we could take judicial notice of it and refer to it. The exposition of the well known purpose or theoretical foundation must, however, generally, flow from and explain an interpretation adopted, on the strength of legally acceptable and accepted canons of construction, if we are to avoid the danger of an a priori determination of the meaning of a provision based on our own pre-conceived notions of an ideological structure or scheme into which the provision to be interpreted is somehow fitted. The path of judicial certainty and predictability has to be paved with well settled principles of construction and interpretation."*
>
> *(emphasis supplied)*

26. In ***Gurudevdatta VKSSS Maryadit And Others Vs. State of Maharashtra And Others*** **(2001) 4 SCC 534** the Apex Court has held that an Ordinance, if does not infringe the constitutional safeguards, it cannot be examined nor can the motive for such a promulgation be in question. Courts cannot interfere with the legislative malice in passing a statute. Interference is restrictive in nature and that too on the constitutionality aspect and not beyond the same. Legislative malice is beyond the pale of jurisdiction of the law courts and since there is no constitutional invalidity nor the same been contended before the Court, question of interference does not arise. It was reiterated that,

> *"It is a cardinal principle of interpretation of statute that the words of a statute must be understood in their natural, ordinary or popular sense and construed according to their grammatical meaning, unless such construction leads to some absurdity or unless there is something in the context or in the object of the statute to suggest to the contrary. The golden rule is*

that the words of a statute must prima facie be given their ordinary meaning. It is yet another rule of construction that when the words of the statute are clear, plain and unambiguous, then the Courts are bound to give effect to that meaning, irrespective of the consequences. It is said that the words themselves best declare the intention of the law giver. The Courts have adhered to the principle that efforts should be made to give meaning to each and every word used by the legislature and it is not a sound principle of construction to brush aside words in a statute as being inapposite surpluses, if they can have a proper application in circumstances conceivable within the contemplation of the statute."

(emphasis supplied)

27. In ***Sangeeta Singh Vs. Union of India and Others*** **(2005) 7 SCC 484** it was held as follows:

"Two principles of construction one relating to casus omissus and the other in regard to reading the statute as a whole appear to be well settled. Under the first principle a casus omissus cannot be supplied by the Court except in the case of clear necessity and when reason for it is found in the four corners of the statute itself but at the same time a

casus omissus should not be readily inferred and for that purpose all the parts of a statute or section must be construed together and every clause of a section should be construed with reference to the context and other clauses thereof so that the construction to be put on a particular provision makes a consistent enactment of the whole statute. This would be more so if literal construction of a particular clause leads to manifestly absurd or anomalous results which could not have been intended by the Legislature. A casus omissus ought not to be created by interpretation, save in some cases of strong necessity."

(emphasis supplied)

28. In that view of the matter, this Court is unable to agree with the opinion of the co-ordinate Bench. A plain reading of Sections 4 and 5 of the Act, do not in any way suggest that a grantee or his legal heirs are barred from invoking the provisions of the Act alleging violation of the conditions of grant or violation of Section 4(2) of the Act which mandates prior permission of the Government for sale of granted lands in favour of Scheduled Caste and

Scheduled Tribe persons, after the commencement of the Act i.e., 01.01.1979. Such an opinion will also have a bearing on the express provisions contained in Section 4(2) of the PTCL Act, which mandates prior permission for sale.

29. For the reasons stated above, this Court is of the considered opinion that the writ petition lacks merit. The writ petition is accordingly ***dismissed***.

30. Pending Interlocutory Applications, if any, stand disposed of.

Sd/-
(R.DEVDAS)
JUDGE

KLY/DL/JT
CT:JL