

GOVERNMENT OF KARNATAKA

No. RD 181 INM 92

Karnataka Government Secretariat,
M.S. Building,
Bangalore, Dated:- 19-10-1993.

CIRCULAR.

Subject:- The Karnataka Village Offices Abolition Act, 1961, as amended by Acts of 1978 & 1984-Implementation of the provisions of Section 5(3) of this Act Regarding.

The Division Bench of the Karnataka High Court in Laxmana Gowda-Vs-State of Karnataka and others (reported in ILR(Karnataka) 1980(2) P892; 1981(1)Kar L:J.I) at para 50 has set out two questions among others for determination and answered them at para 77 and 87 as indicated below:

Question No.(vi)

Did a transferee of a Service Inam Land from its holder or authorised holder after its regrant under Section 5 or 6 of the Principal Act, get title to or interest in such land, if such transfer had taken place without the previous sanction of the Deputy Commissioner under the un-amended sub-section(3) of section 5 of the Principal Act?

Answer
Para 77

Hence the omission to obtain the previous sanction of the Deputy Commissioner under original sub-section(3) of section 5 of the Principal Act, did not in our opinion render void a transfer of a land regranted under section 5 or 6 or 7 of the Principal Act prior to 7-8-78, but such transfer can be regularised by paying to the Government an amount equal to 15 times the full assessment of that Land.

Question No.(vii).

Is sub-section(4) of Section 5 of the Principal Act applicable to-

- (a) a transfer of a Service Inam Land in contravention of unamended sub-section(3) of that Section or
- (b) a transfer of such land in contravention of amended sub-section(3) of that section; or
- (c) both of them.

Para-87:

Sub-Section(4) of section 5 of of the Principal Act should be construed as being applicable only to transfers made subsequent to 6-7-8-1978 and not to transfers which had taken place prior to that date and that sub-section(3) occurring in that section should be construed as having reference to amended sub-section (3) and not to original sub-section(3) of that section.

(For detail refer to Paras 78 to 87 of the said judgement).

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2. The correctness of the decision of the Division Bench of the High court of Karnataka in the aforesaid case was called in question before the Hon'ble Supreme Court of India in the case of State of Karnataka-VS-Seenappa (LR 1992) . The Hon'ble Supreme Court upheld the above decision of the Hon'ble Karnataka High Court.

3. The effect of the above two decisions is that the omission to obtain the previous sanction of the Deputy Commissioner, under original sub-section(3) of section 5 of the principal act, did not render void a transfer of a land regranted under section 5 of 6 or 7 of the Principal Act prior to 7.8.1978 , but such transfer can be regularised by paying to the Government, an amount equal to 15 times the full assessment of that land.

4. In view of the interpretation given to Section 5(3) of the said Act by the Division Bench of the Hon'ble High Court which is affirmed by the Hon'ble Supreme Court of India, the Tahsildars, while exercising the powers of the Deputy Commissioners under the delegated authority, under the provisions of the KVOA, Act, should strictly go by the interpretation given to section 5(3) of the said Act by the Division Bench of the Hon'ble High Court in the aforesaid case.

5. Before the Amendment Act, 1978 came into force from 7.8.1978, there was provision in the principal act, 1961 for grant of permission for the transfer of regranted land under section 5(3) of the act subject to the condition that the regrantee should pay 15 times the assessment of

the land revenue of the regranted land. If such permission had been obtained from the competent authority by any regrantee before the Amendment Act, 1978 came into force from 7.8.1978, such regrantee cannot transfer the regranted land after the Amendment Act, 1978 came into force from 7.8.1978, because under the Amended Act, 1978, there is no provision for permission to alienate the lands resumed under Sub-Section (3) of Section 4 of the said Act. This legal position is brought to the notice of the Tahsildars, who are exercising the powers of the Deputy Commissioners under the delegated authority.

6. In the proviso to Section 5(3) of the Amendment Act, 1984, which came into force from 4.5.1984, there is a provision for grant of permission to alienate the lands resumed under Section 4(3) of the Act. The said proviso reads as hereunder:

" Provided that such occupancy or the ryotwari patta in respect of land granted to the holder of a village office in an enfranchised inam shall be transferable with the previous sanction of the Deputy Commissioner which shall be granted on payment of an amount equal to fifteen times the amount of full assessment of the land".

It is to be noted that the land in respect of which permission is to be granted for transfer subject to certain conditions, is an enfranchised Inam attached to the village

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office. In the amended Act, 1984, the enfranchised Inam have been defined as an Inam of which there is proof of enfranchisement as required under the Madras Enfranchised Inam Act, 1862 (Madras Act IV of 1862). The proviso to section 5(3) of the Amendment Act 1984, is applicable only to the areas of the erst-which Madras province viz. Bellary District and Kollegal Taluk of Mysore District which were integrated into Karnataka after the States Re-organisation Act came into force. In otherwards, this proviso is not applicable to areas other than the areas of the erstwhile Madras province, which were integrated into Karnataka.

7. The Deputy Commissioners are requested to bring to the notice of the Tahsildars, the legal position pointed out in the foregoing paras, for their guidance and strict compliance.

B.M.K. Munivenkatasappa

(B.M. MUNIVENKATAPPA)

UNDER SECRETARY TO GOVERNMENT
REVENUE DEPARTMENT (LR)

To
All the Divisional Commissioners,
All the Deputy Commissioners
All the Asst. Commissioners
All the tahsildars,
S.G. File/Spare copies.



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