

THE  
KARNATAKA  
LAND GRANT RULES, 1969

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# THE KARNATAKA LAND GRANT RULES, 1969

GSR 385.—In exercise of the powers conferred by Section 197 of the Karnataka Land Revenue Act, 1964 (Karnataka Act 12 of 1964), the Government of Karnataka, hereby makes the following rules, the draft of the same having been published as required by sub-section (1) of Section 197 of the said Act, in the Karnataka Gazette, dated 12th June, 1969 as GSR 204, dated 3rd June, 1969.

1. **Title and commencement.**—(1) These rules may be called the Karnataka Land Grant Rules, 1969.

(2) They shall come into force at once.

2. **Definitions.**—In these rules, unless the context otherwise require.—

(1) "Act" means the Karnataka Land Revenue Act, 1964;

(2) "Agriculture" means.—

(a) Horticulture;

(b) the raising of crops, grass or garden produce;

<sup>2</sup>[(c) dairy farming, poultry farming, the use by an agriculturist of land held by him or a part thereof for the grazing of cattle, but does not include allied pursuits like breeding of live-stock, grazing (other than pasturage of ones own agricultural cattle) and such other pursuits as may be prescribed or the cutting of wood only.]

<sup>3</sup>[(d) aboriculture.]

(3) "Displaced holder" means a person who has been deprived of an agricultural land owned by him by acquisition of such land under the Land Acquisition Act;

(4) "Displaced tenant" means a person who has been deprived of agricultural land of which he was a tenant, on account of acquisition of such land under the Land Acquisition Act;

(5) "Ex-serviceman" means a person who has been permanently returned from the former Karnataka State Forces, the former

1. Published in the Karnataka Gazette, dated 6-11-1969, *vide* Notification No. RD 252 GNA 68, dated 3-11-1969.

2. Clause (c) substituted by GSR 88, dated 28-2-1977, w.e.f. 10-3-1977.

3. Clause (d) inserted by GSR 90, dated 19-7-1985, w.e.f. 16-1-1986.

Hyderabad State Forces or the former Indian Army or from the Armed Force of the Union <sup>1</sup>or from the para-military forces of the Union];

(6) "Family" in relation to a person means such person, and if married, the wife or husband as the case may be, and the dependant children and grand children of such person;

(7) "Form" means a form appended to these rules;

(8) "Insufficient holder" means a person who is not a sufficient holder;

(9) "Plantation Crops" means Cardamom, Coffee, Pepper, Rubber and Tea;

(10) "Political Sufferer" means any person who on account of participation in the national movement—

(a) had been sentenced to imprisonment for not less than six months; or

(b) had been kept in detention (including detention as under trial prisoner) for not less than six months; or

(c) lost his job or means of livelihood or the whole or substantial part of his property.

and who has domicile in the State of Karnataka for a period of not less than five years immediately preceding the date on which such person applies for grant of land under these rules.

(11) "Reserved trees" means Teak or Saguvani (*technona grandis*), black wood or Bite (*Dalbergia Latifolia*), Myroblan or gallanot or Atale (*Terminalinehulal*), yhile Cedar or Davangere (*Dysoxylum Malabaricum*), Jalari (*Shorea Lacotera*), Benteak or Nandi (*Lewistoemia Lancellatta*), Satin wood or Huragalu (*Cloresylon Swietenia*), Soapnut or Antawala (*Salonidus Emerginatus*), Karachi Kamara (*Hardwhickia birtal*), oil tree or Yenne mara (*Hdrawicka Pinnata*), Hebbhalasu (*Artocarpus Hirsula*), Ebony or Karimara or Bate (*Disopyrose benum*), Iron wood or Jombeee (*Xytila Xylocarpa*), Poon-par, or Sarahonne (*Calaphullumelatum*), Chittagong wood (*Chickrassia tabularis*), Kiralboggi (*Hopsea Parviflora*), Kachu or Kaggali (*Acceia catechu*), Bore (*Ziypus Jujubal Sagade*) (*Scheleichere trifuga*), Yethega (*Venteak*), (*Aridina cordifolia*), Tamarindus (*Indica*), Karimatti (*Ternuna liathomtosall*), Mavu (*Mangitera Indica*), Kasarka (*Stricanos nuxvomica*), Alasu (*Arracorpus integrifolio*). Billi hatti (*Terninalla arjana*), Chop (*Atlantus Malberica*), Sandal Tree (*Santalum album*), and such other trees as the State Government may, by notification, declare to be reserved trees for purposes of Karnataka Forest Act, 1963 (Karnataka Act 5 of 1964).

(12) "Section" means a section of the Act.

1. Inserted by Notification No. RD 14 LGP 99, dated 11-12-2001, w.e.f. 31-1-2002

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(13) "Soldier" means a person in the service of the <sup>1</sup>Armed Forces or para-military forces of the Union] and includes in the case of a soldier who has died while <sup>2</sup>[in service], the father, the mother, the spouse, the child and grand-child who were dependent upon such soldier at the time of his death.

Provided that if a question arises whether any person is soldier or whether any soldier died while <sup>3</sup>[in service], such question shall be decided by the State Government and its decision shall be final.

(14) "To cultivate personally" and "Land possessing facilities for assured irrigation" shall have the same meaning as assigned to them in the Karnataka Land Reforms Act, 1961 (Karnataka Act 10 of 1962);

(15) "Sufficient holder" means a person who owns not less than four hectares of garden or wet land possessing facilities for assured irrigation or 8 hectares of dry or rainfed wet land.

**Explanation.**—If a person owns more than one class of land, the extent owned by him for purposes of this clause shall be determined by converting the extent of different classes of lands into the equivalent extent of lands as follows:—

One hectare of garden land or one hectare of wet land possessing facilities for assured irrigation shall be deemed to be equivalent to two hectares of rainfed wet land or dry land.

(16) Words and expressions used in these rules, but not defined shall have the meaning assigned to them in the Karnataka Land Revenue Act, 1964 and rules thereunder.

#### CASE LAW

**Rule 2(15)** — "Sufficient holder" — Definition of, not applicable to applicants seeking grant of lands on ground that they have lost their land in acquisition for projects by State Government — *Smt. Channabasamma (Deceased) v The Karnataka Appellate Tribunal and Others*, 1989(3) Kar. L.J. 485 : ILR 1989 Kar. 1285.

**3. Preparation and publication of list of lands available for disposal.**—(1) For determining the lands available for disposal in any village the Tahsildar of the taluk shall prepare a list of lands which have been or have to be assigned for special purposes under <sup>4</sup>Section 71 of the Act and the lands which have been classified as belonging to Categories C and D by

1. Substituted for the words "Armed Forces of the Union" by Notification No. RD 14 LGP 99, dated 11-12-2001, w.e.f. 31-1-2002

2. Substituted for the words "engaged in operation for the defence of India" by GSR 15, dated 11-2-1991, w.e.f. 14-2-1991.

3. Substituted for the words "engaged in operation for the defence of India" by GSR 15, dated 11-2-1991, w.e.f. 14-2-1991.

4. Substituted for the words and figures "Section 71 of the Act" by GSR 424, dated 22-12-1971, w.e.f. 30-12-1971.

A KIJ PUBLICATION

the Department of Agriculture] and the lands which have been classified as belonging to categories C and D by the Department of Agriculture. [Unoccupied lands other than lands classified as belonging to Categories C and D by the Department of Agriculture] other than lands classified as belonging to categories C and D by the Department of Agriculture fit for cultivation remaining after reserving sufficient extent for the aforesaid special purposes, shall be included in the list of lands available for disposal.

(2) Such lists in so far as they relate to all the villages in a taluk shall be notified in the Taluk Office and so far as they relate to each village shall be notified in the Chavadi of the Village and the Office of the <sup>2</sup>[Grama Panchayat]. The list relating to each village shall be available for inspection with the concerned Village Accountant.

(3) Every list shall be prepared, revised and brought up-to-date each year and notified not later than the 1st day of July of that year.

**4. Persons eligible for grant of land for agricultural purposes.—**(1) Lands available for disposal may be granted for agricultural purposes under these rules to a person.—

- (i) who has attained the age of eighteen; and
- <sup>3</sup>(ii) whose gross annual income does not exceed rupees eight thousand; and]
- (iii) who is either a *bona fide* agriculturist cultivating the land personally or has *bona fide* intention to take up personal cultivation; and
- (iv) who is not a sufficient holder.

<sup>4</sup>[<sup>5</sup>Provided that in the case of ex-servicemen and soldiers land may be granted if the gross annual income of the applicant does not exceed rupees two lakhs, so however, there shall be no income limit for grant of land to applicants who are widows or other dependants of soldiers who have died in action and in the case of ex-servicemen who have become totally handicapped in action.]

Provided further that the extent of land granted to any person shall not together with the land already held by such person exceed the limits prescribed for a sufficient holder in Rule 2(15).]

(2) Notwithstanding anything contained in sub-rule (1) any person may be granted the land adjacent or close to the land already held by him on collection of market value as on the date of grant to be determined by the

1. Substituted for the words "Unoccupied lands" by GSR 424, dated 22-12-1971, w.e.f. 30-12-1971.
2. Substituted for the words "Village Panchayat" by Notification No. RD 59 LCP 99, dated 22-1-1999, w.e.f. 24-1-2000.
3. Item (i) of sub-rule (1) substituted by GSR 314, dated 10-12-1987, w.e.f. 11-12-1987.
4. Proviso to sub-rule (1) substituted for the proviso by GSR 382, dated 7-11-1970, w.e.f. 12-11-1970.
5. Substituted by Notification No. RD 14 LCP 99, dated 11-12-2001, w.e.f. 31-1-2002

authority granting the land, if such land is, in the opinion of such authority required for better enjoyment or better cultivation of the land so held.

Provided that no such grant shall be made of an extent exceeding in the case of wet or garden land half hectare and in the case of dry land one hectare and that the total extent of land held after such grant does not exceed the ceiling area according to the Karnataka Land Reforms Act, 1961.

#### CASE LAW

**Rule 4** — Grant of land — More than one application for — All applications must be considered and disposed of together — Where authority has considered only one application and made grant, without disposing of rival application and without notice to rival applicant, authority is deemed to have acted deliberately illegally — Grant of Governmental land is not largesse to be granted as authorities deem fit, irrespective of merits of individual cases.

*Mohamed Anwar, J., Held:* It is settled law that where there are more than one application made for grant of the same land, all the applications will have to be considered and disposed of together by the Competent Authority and failure to do so would render his order of grant illegal. Indisputably, in the instant case petitioner's said application dated 4-8-1982 was pending consideration of the Revenue Authority and that the grant of the said land to the petitioner on her said application was recommended by the Land Grant Committee as required under Rule 24, and the concerned Assistant Commissioner also recommended the grant thereof to her on collection of its market value from her; and that the impugned order dated 4-4-1983 granting the land to R-1 was passed by R-2 during pendency of petitioner's said application and without notice to her. Respondent 2's order impugned is an illegal order passed by him in gross violation of the principles of natural justice. The concerned Revenue Authority was required in law to consider the applications of both petitioner and R-1 for grant of land and decide them simultaneously by a speaking order. — *Radhika Bai v Smt. Shashikata and Others, 1998(2) Kar. L.J. 62C : ILR 1998 Kar. 302.*

**Rule 4(2)** — Grant of land to ex-military personnel — Appellant, an ex-military personnel applied for land of 10 acres but his application was not considered — Instead, land was allotted to first respondent — Appellant Tribunal rejecting application on ground that applicant had not produced document to show that he was ex-military personnel — Appellant's assertion that he was ex-service personnel not denied by the State — Whether appellant's application for land of 10 acres should have been considered at the time the application of first respondent was considered by Deputy Commissioner — Whether order granting land to the latter sustainable.

*S.P. Bhanucha, C.J. and K. Shivanshanker Bhat, J., Held:*—The State of Karnataka was a party before the Appellate Tribunal and it was not its contention that the appellant's application did not claim the grant under the category of ex-military personnel and therefore his application should not be considered. This position is not different in any manner even before this Court. The question is whether appellant's application should have been considered at the time the claim of first respondent was considered by the Deputy Commissioner. The Land Grant Rules specifically do not provide for the consideration of several applications simultaneously. The procedure to be followed by the authorities granting the land in this regard will have to be inferred having regard to the principles of equity and justice and the purpose of the Land Grant Rules. The available lands are notified to afford an opportunity for the needy persons to file their application seeking the grant. In such a situation when the claimant files an application it is but most natural that his claim will have to be

considered along with the claim of any other claimants. No useful purpose purpose will be served by considering the claim of one of the claimants and granting the land to such a claimant, because the claims of the applicant whose application was not considered will be lost for want of land. The grant of Governmental land cannot be a mere largesse to be granted as the authorities deem it fit, irrespective of the merits of the individual cases. The appeal as well as the writ petition is allowed, so as to set aside the order made in favour of the first respondent granting 10 acres of land on 29-11-1983. — *M.P. Krishne Gowda v A.R. Lobo and Others*, 1992(2) Kar. L.J. 154 (DB); ILR 1992 Kar. 1382 (DB).

**Rule 4(2)** — Granting of land — Issue of provisional Saguvalli Chit which prescribed conditions against alienation for 15 years and obtaining permission from Coffee Board within 5 years to raise coffee on granted land — Permanent Saguvalli Chit confirming grant of land issued after second condition was complied with — Whether fresh condition not to alienate land for 15 years from date of permanent Saguvalli Chit, valid.

*M. Ramakrishna, J., Held.*—In the instant case, admittedly, provisional Saguvalli Chit was issued under which the petitioner was put in possession of the land. Pursuant to the direction contained therein, he also obtained permission from the Coffee Board within the stipulated time. Thereafter, permanent Saguvalli Chit containing the impugned stipulation that the petitioner shall not alienate the land for a period of 15 years has been issued. That cannot be accepted in view of the ruling of this Court in the case of *Dr. K.P. Raghunath v Tahsildar, Chickmagalur*, 1991(1) Kar. L.J. 48. Following the said ruling the impugned condition as imposed in para 8 of the Saguvalli Chit is quashed. — *K.B. Udde Gowda v State of Karnataka and Another*, 1992(2) Kar. L.J. 129.

**5. Reservations.**—(1) The land available for disposal in any village shall be granted observing the reservations indicated below. —

(i) Ex-servicemen and Soldiers	10 per cent
(ii) Persons belonging to Scheduled Castes and Scheduled Tribes	50 per cent
<sup>1</sup> (ii-a) Backward Tribes	5 per cent <sup>1</sup>
(iii) Political sufferers	10 per cent
(iv) Others	<sup>2</sup> [25 per cent]

(2) Where the extent reserved under (ii) and (iii) is in excess of the extent that can be granted to the persons belonging to those categories, the excess land shall with the approval of the Deputy Commissioner be disposed of among persons in category (iv).

1. Item (ii-a) inserted by GSR 365, dated 5-12-1977, w.e.f. 7-12-1977.
2. Substituted for the figures and words "30 per cent" by GSR 365, dated 5-12-1977, w.e.f. 7-12-1977.

<sup>1</sup>[Explanation.—"Backward Tribes" means the Backward Tribes, as mentioned in the list appended to the Government Order No. SWL 12 TBS 77, dated 22nd February, 1977.]

(3) Notwithstanding anything in sub-rule (1), where the land available for disposal in village is less than four hectares, the whole of such land shall be disposed of to persons belonging to the Scheduled Castes and Scheduled Tribes who are ordinarily residents of such village or who reside in the neighbouring village and where no persons belonging to Scheduled Castes and Tribes apply, it shall be disposed of to others.

**5-A. Lands disposed of to Scheduled Castes and Scheduled Tribes in a Taluk to be not less than fifty per cent.**—Where, in any taluk, the total extent of lands disposed of from the date of commencement of these rules till the date of commencement of the Karnataka Land Grant (Amendment) Rules, 1979, to persons belonging to Scheduled Castes and Scheduled Tribes is less than fifty per cent of the lands which were available for disposal in the taluk during that period then until such disposal reaches such percentage for the taluk, the percentage of reservation of lands in each village in the taluk shall be <sup>2</sup>five per cent for the purpose of item (i) of sub-rule (1) of Rule 5 in respect of ex-servicemen and soldiers, seventy-five per cent for the purpose of item (ii) of the said sub-rule in respect of persons belonging to Schedule Castes and Scheduled Tribes, five per cent for the purpose of item (iii) of the said sub-rule in respect of political sufferers and ten per cent for the purpose of item (iv) of the said sub-rule in respect of others.]

**6. Order of Priority.**—In disposing of land among persons belonging to Category (iv) of sub-rule (1) of Rule 5, the following order of priority shall be observed. —

- (i) landless persons residing in the village;
- (ii) insufficient holders residing in the village;
- (iii) landless persons residing in other villages in the same or adjacent taluk;
- (iv) others:

Provided that when Government directs under Section 71 of the Act that in any particular area Government land shall be reserved for grant to displaced persons and tenants affected by any Government [x x x x] Project, provisions of Rules 5 and 6 will not apply.

#### CASE LAW

**Rule 6** — Section 56(1) to (3) of Karnataka Land Revenue Act 1964 — Necessary to record finding after an enquiry in terms of Rule 6 before revisional jurisdiction is

1. Explanation to sub-rule (2) inserted by GSR 365, dated 5-12-1977, w.e.f. 7-12-1977.
2. Substituted for the words, brackets and figures "sixty per cent for the purpose of item (ii) of sub-rule (1) of Rule 5 in respect of persons belonging to Scheduled Castes and Scheduled Tribes and fifteen per cent for the purpose of item (iv) of the said sub-rule in respect of others" by GSR 152, dated 5-9-1991.
3. The word "irrigation" omitted by GSR 382, dated 7-11-1970, w.e.f. 12-11-1970.

exercised by Deputy Commissioner. — *Samaila v Deputy Commissioner, Kodagu and Others, 1988(3) Kar. L.J. 174; ILR 1988 Kar. 3316.*

**7. Powers of Revenue Officers to grant lands.—**(1) The following Revenue Officers shall be competent to grant land for agricultural purposes other than cultivation of plantation crops to the extent noted against each.—

(i) **Tahsildar in charge of a Taluk.—**  
Up to two hectares of dry land or one hectare of wet land or garden land;

(ii) Assistant Commissioner in-charge of the Revenue Sub-Division or any Assistant Commissioner in a District to whom the powers of the Deputy Commissioner to grant lands are delegated.—  
Up to four hectares of dry land or two hectares of wet or garden land;

(iii) Deputy Commissioner of a District.—  
Not exceeding six hectares of dry land or three hectares of wet or garden land;

(iv) Divisional Commissioner.—  
Exceeding six hectares of dry land or three hectares of wet or garden land but not exceeding ten hectares of dry land or five hectares of wet or garden land;

(v) In any other case in excess of the extent specified in sub-clause (iv), the proposals shall be submitted to Government for sanction.

<sup>1</sup>(1-A) Notwithstanding anything contained in sub-rule (1), where Special Assistant Commissioners for grant of land under these rules are appointed, the Revenue Officers specified in items (i) and (ii) of sub-rule (1) shall not be competent to grant land and the said Special Assistant Commissioners shall, within their jurisdiction, be competent to grant land for the purpose specified in sub-rule (1) upto four hectares of dry land or two hectares of wet or garden land.]

(2) For the purpose of cultivation of plantation crops, the Deputy Commissioner of a district may grant lands upto an extent of 10 hectares and the Divisional Commissioner may grant lands upto an extent of fifteen hectares. In all other cases the proposals have to be submitted to Government for sanction.

(3) For non-agricultural purposes other than building sites the following Revenue Officers may subject to the provisions of Rule 10(3) grant lands to the extent noted against each on collection of market value which should include conversion fine also to be determined by them.

(i) **Deputy Commissioner.—**Up to an extent of four hectares;

1. Sub-rule (1-A) inserted by GSR 223, dated 14-7-1971, w.e.f. 22-7-1971.

(ii) **Divisional Commissioner.—**Exceeding four hectares but not exceeding 8 hectares;

(iii) In any other case in excess of the extent specified in sub-clause (ii) the proposals shall be submitted to Government for sanction.

#### CASE LAW

**Rule 7 —** Karnataka Land Revenue Act, 1964, Section 49 — Grant of land — Extent of power delegated to authorities competent to make — Where hierarchy of Statutory Authorities is created, each authority in hierarchy must be allowed to exercise its power independently within defined limit, without encroaching upon or ousting or affecting or limiting power of another authority, in order that smooth functioning of administrative machinery is not hindered — If Superior Authority who is also Appellate Authority in hierarchy decides matter which is within power of Subordinate Authority to decide upon, party affected by such decision is deprived of his statutory right to appeal — Where matter regarding grant of land is within power of Tahsildar to decide but Deputy Commissioner takes away matter to himself from Tahsildar and decides and passes order, party affected by such order is deprived of his right to appeal provided in Section 49 of Act — Such order of Deputy Commissioner is in excess of his jurisdiction and is liable to be set aside.

*Mohamed Anwar, J., Held:* Sub-clauses (i) to (v) of Rule 7(1) of the Rules provide for grant of land upto certain extent by various Revenue Officers enumerated therein in the order of their hierarchy. Sub-clause (i) confers powers on the Tahsildar to make grant of dry land upto two hectares or one hectare of wet land or garden land. Assistant Commissioner is empowered to grant land upto 4 acres if it is dry or two hectares of wet or garden land and the Deputy Commissioner of a District has the power to make grant of land not exceeding 6 hectares of dry land or 3 hectares of wet or garden land. . . . Under sub-clause (i) of Rule 7(1) of the Rules, the Tahsildar is empowered to make grant of land in question, which was 30 guntas in extent. Section 49 of the Act, provides for appeals from original orders. Under this section an order passed by the Tahsildar is made appealable to the Asst. Commissioner, an order passed by the Assistant Commissioner is appealable to the Deputy Commissioner, and an appeal to the Tribunal is provided from an order passed by the Deputy Commissioner or the Divisional Commissioner. These are the Revenue Officers who are empowered under Rule 7 to make grant of various extents of lands stated therein. Section 50 of the Act provides for second appeal from an order of the Assistant Commissioner to the Deputy Commissioner, and from an order passed by the Deputy Commissioner to the Tribunal. Section 56 confers power on the Tribunal, on any Revenue Officer not inferior in rank to an Assistant Commissioner, and on the Survey Officer stated therein, to call for and examine the record of any enquiry or the proceedings of any Subordinate Officer under the Act to satisfy itself or himself as to the legality or propriety of the proceedings and to pass such orders as deemed fit-modifying, annulling or reversing the order of that Officer. In the context of these provisions *viz.*, Sections 49, 50 and 56, it becomes obvious that if the grant order in question had been passed by the concerned competent Tahsildar, the petitioner or any person aggrieved by that order would have had the statutory remedy of first and second appeals under the respective provisions under Sections 49(c) and 50 of the Act. If the same were to be passed by the Deputy Commissioner, then remedy of only one appeal (to the Tribunal) would be available to the aggrieved party thus depriving him of the statutory remedy of second appeal which otherwise would have been available to him under Section 50 of the Act. This apart, if Deputy Commissioner is also to be held competent to pass an order granting the extent of land within the limits which the Tahsildar is empowered to make the grant such a construction on his

power would rob him of the statutory empowerment as Second Appellate Authority in relation to such grant on the one hand and, on the other, it would impinge on the power of the Tahsildar. In that case the provision of second appeal under Section 50 would get defeated. Such a construction on the statutory power of Deputy Commissioner under the Act and the Rules thereunder would be obviously impermissible since it is the duty of the Court to see that the various provisions in an enactment should operate in harmony with each other and with full inter-play. . . . Therefore, the hierarchy of Statutory Authorities created under the Act being invested with certain powers to decide certain matters in a certain manner must be allowed to fully and independently exercise their respective statutory powers in relation to such matters without any of them either encroaching upon or ousting or affecting or limiting the power of one another in any manner whatsoever, lest such provisions of an enactment providing for smooth functioning of its machinery intended to secure its objective would get either constricted or hindered in their operation. Therefore, it is clear that the impugned order is passed by R-2 in excess of his jurisdiction and, therefore, it is liable to be quashed. — *Radhia Bai v Smt. Shashikala and Others*, 1998(2) Kar. L.J. 62D : ILR 1998 Kar. 302.

**Rules 7(3), 10(2)(iv), 10(3) and 21** — Grant of land — Powers of Deputy Commissioner to make — Approval of State Government for Deputy Commissioner to make grant for charitable purpose, is not necessary — Where in writ proceeding to revoke grant on ground that State Government has not approved grant, State Government which has been implemented as party, has supported grant, such support can be taken as approval even if approval of State Government is considered necessary for valid grant.

*P. Vishwanatha Shetty, J., Hald.* Even accepting the statement that there was no previous approval of the State Government, is correct, the State Government, which is a party to this petition, has supported the grant made by the Deputy Commissioner. Pursuant to the grant made, the grantee has made substantial progress in the matter of construction of the office and students' hostel by investing huge money and for the said purpose, raising donations from the public. Further, Rule 21 of the Rules also empowers the Deputy Commissioner to grant the land to a charitable institution even without the previous approval of the State Government. Therefore, even if there is any infirmity in the order of the grant of land, this is not a fit case to exercise power under Article 226 of the Constitution of India at the instance of the petitioners to nullify the said grant or the licence granted to put up the students' hostel. — *Grana Seva Pratishthana, Manipal and Another v State of Karnataka and Others*, 1997(7) Kar. L.J. 157D : ILR 1998 Kar. 116.

**8. Procedure for grant of lands for agricultural purposes.**—(1) Any person who under these rules is eligible for grant of lands for agricultural purposes shall make an application in writing to the Tahsildar of the taluk in Form 1 giving the following particulars.—

- (i) name, age and address of [the applicant and his wife],
- (ii) the extent and particulars of the land asked for namely, survey number, village, taluk, sub-division in which the land is situated,

1. Substituted for the words "the applicant" by Notification No. RD 68 LGP 87, dated 17-12-1999, w.e.f. 18-12-1999.

(iii) the extent and details of the land if any already owned or held by him or by any member of his family;

(iv) whether he belongs to the scheduled caste or the Scheduled Tribe or is a displaced person, displaced holder, displaced tenant, an ex-serviceman, soldier or political sufferer;

(v) whether he or any member of his family had previously applied for land, if so, the particulars of the endorsement received thereon;

(vi) the particulars of any land previously granted to him or any member of his family.

(2) Immediately on receipt of such application, the Tahsildar shall cause the particulars of the application to be entered in a register which shall be in Form 11 kept in his office.

(3) The Tahsildar shall after the last day of September of each year scrutinise the applications received and classify them according to the priorities specified in Rule 6. Applications received after 30th November, 1969 (for the year 1969) and after 30th September (subsequent years) shall be scrutinised and classified by the Tahsildar once a month.

(4) Thereafter, the Tahsildar shall make such enquiry as he thinks fit and if satisfied that the applicant is eligible under these rules for the grant of land applied for he may, subject to the provisions of Rules [15, 6, 7 and 24] pass an order granting the land.

<sup>2</sup>Provided that such an order may be passed in the joint name of the applicant and his wife, where the Tahsildar is satisfied that the wife is living with the applicant and she fulfills the requirement as to eligibility and other conditions referred to under these rules for the grant of land.]

(5) Where the land applied for is not available for grant or the Tahsildar is satisfied that the applicant is not eligible for grant, he may reject the application and inform the applicant accordingly.

(6) <sup>3</sup>[Where the Tahsildar is not competent to grant land under these rules or where the extent of land applied for is more than the extent of land which he is competent to grant] he shall submit the application to the Officer who is competent under these rules to grant such extent of land along with the report in the matter and such competent officer may pass orders granting the land.

(7) The Tahsildar shall record a certificate whenever the grant of land is taken up to the effect that the reservations specified in Rule 5 have been observed.

1. Substituted for the figures and word "5, 6 and 7" by GSR 297, dated 31-8-1972, w.e.f. 1-9-1972.

2. Proviso inserted by Notification No. RD 68 LGP 87, dated 17-12-1999, w.e.f. 18-12-1999.

3. Substituted for the words "Where the extent of land applied for is more than the extent of land which the Tahsildar is competent to grant" by GSR 223, dated 14-7-1971, w.e.f. 22-7-1971.



### CASE LAW

**Rule 8** — Grant of land — Form of application for — Application not made in Form 1 prescribed, but made in form of letter is not invalid for that reason alone — What is material is substance, not form — If application contains information necessary for its effective consideration, same cannot be rejected on technical ground that it is not in prescribed form.

*Mohammad Anwar, J., Held:* What remains beyond dispute in regard to an application by a person seeking certain relief under any Act or Rules thereunder is that it is not its 'Form' but the 'substance' thereof which is the material consideration. And if the substance of the application is found to be containing requisite information with sufficient particulars then the same cannot be rejected on the technical ground of it not being in the prescribed form. One of the two grounds for grant urged in her application is that the same being situate adjacent to her lands, its grant to her is necessary for their better cultivation. The second ground on which she lays claim to the land is that it has been under her unauthorised occupation and cultivation. Therefore, sub-rule (2) of Rule 4 is clearly attracted to her claim to the grant of land and hence the requirements stipulated in sub-clauses (iii) to (vi) in sub-rule (1) of Rule 8 would be irrelevant to consider petitioner's claim to the grant of the land. In that view of the matter, her address and description of the land having been furnished in her application at Ex. R and the substantial information necessary for its grant therein, it is obvious that it contains the substantial information necessary for its effective consideration for grant or refusal of the land to her. In effect, therefore, there cannot be any valid reason not to treat her application as a valid one for the purpose of consideration and disposal thereof by the concerned Authority and the same cannot be rejected simply because it was not in the prescribed Form 1. — *Radhia Bai v Smt. Shashikala and Others, 1998(2) Kar. L.J. 62A : ILR 1998 Kar. 302.*

**9. Conditions of grant**—(1) The grant of lands under these rules <sup>1</sup>[for agricultural purposes] shall be subject to the following conditions namely:—

(i) the grantee shall not alienate the land for a period of fifteen years from the date of taking possession:

Provided that he may, after a period of five years, with the previous permission of, and subject to <sup>2</sup>[the provisions of the Karnataka Scheduled Castes and Scheduled Tribes (Prohibition of Transfer of Certain Lands) Act, 1978 (Karnataka Act 2 of 1979), and] such conditions as may be specified by the Deputy Commissioner, alienate the whole or any portion of such land. But however, the Deputy Commissioner shall not grant such permission unless he is satisfied that the alienation is for the purpose of acquiring other land or for improving the remaining land and the grantee credits to Government an amount equal to fifty per cent of the market value of such land as on the date of sanction of such alienation as determined by the Deputy Commissioner:

Provided that no person who has obtained permission to alienate land under the rule shall, notwithstanding the provisions of Rule 4 be eligible for grant of any Government Land.

1. Inserted by GSR 300, dated 1-9-1972, w.e.f. 7-9-1972.
2. Inserted by GSR 169, dated 26-8-1993, w.e.f. 6-9-1993.

(ii) the land granted shall be brought under cultivation within three years from the date of taking possession:

Provided that the Deputy Commissioner, may, if he is satisfied that the grantee could not do so for *bona fide* reasons extend the aforesaid period upto 5 years;

(iii) the grantee shall cultivate the land personally;

<sup>1</sup>[(iii-a) where the land is granted for coffee cultivation the grantee shall apply within the period specified in Section 14 of the Coffee Act, 1942 (Central Act 7 of 1945) to the Registering Officer appointed under the said section to be registered as an owner of such land];

(iv) the land shall not be appropriated for any purpose other than that for which it was granted, except with the prior approval of the Granting Authority who may grant such permission subject to such conditions as he may consider proper and subject to payment of additional upset price as he may consider fit provided the conversion is for a non-agricultural purpose and the price is within the maximum specified in Rule 12;

<sup>2</sup>[(iv-a) the grantee shall within a period of one year from the date of his taking possession of the granted land plant and maintain not less than one tree per every 10 (ten) acres of land or ten trees per hectare of land, at his cost.

In case the tree/trees planted were to die or get damaged due to causes beyond his control, he shall replant in its place another tree/trees and rear them];

(v) for contravention of any of the above conditions the grant shall be liable to be cancelled and resumed to Government free from all encumbrances by the authority granting the land:

Provided that before cancelling the grant, the grantee is afforded with an opportunity of being heard. Provided further that where the grant has been cancelled for non-payment of upset price, the Deputy Commissioner may restore the grant on payment of upset price with a penalty of 10 per cent of the upset price, within a period of 2 years after the grant if the land in question has not been disposed of otherwise.

(2) The following shall not be regarded as alienation for purposes of sub-rule (1).—

(a) mortgage of the land in favour of State Government or a Co-operative Society or the Indian Coffee Board or a Scheduled Bank <sup>3</sup>[or the Agricultural Refinancing Corporation or the Karnataka State Agro Industries Corporation] for loans obtained

1. Clause (iii-a) inserted by GSR 93, dated 6-3-1975, w.e.f. 3-4-1975.
2. Clause (iv) inserted by GSR 162, dated 20-5-1977, w.e.f. 2-6-1977.
3. Inserted by GSR 382, dated 7-11-1970, w.e.f. 12-11-1970.

for improvement of such land or for buying cattle or agricultural implements for the cultivation of such land; and

(b) leasing of the land in accordance with the provisions of the Karnataka Land Reforms Act, 1961.

<sup>1</sup>(3) The grant of lands other than building sites under these rules, for non-agricultural purposes shall be subject to the following conditions, namely.—

(i) the land shall be utilised for the purpose for which it was granted within two years from the date of taking possession:

Provided that the authority granting the land may, if satisfied, that the grantee could not for *bona fide* reasons utilise the land within the said period, by order, in writing, extend the time for a further period not exceeding two years,

(ii) the land shall not be appropriated for any purpose other than that for which it was granted except with the prior approval of the Granting Authority who may grant such permission subject to such conditions as he may consider proper and fit;

(iii) for contravention of any of the above conditions, the grant shall be liable to be cancelled and resumed by the Granting Authority, free from all encumbrances and without payment of any compensation.]

#### CASE LAW

**Rules 9 and 12** — Upset price payable as ordered by Competent Authority cannot be equated to Market Value referred to in Proviso to Rule 9 — In view of specific prohibition in Rule 9, grantee cannot alienate land for a period of 15 years — Explained. — *Gangamallamma v State of Karnataka, 1989(1) Kar. L.J. 285 : ILR 1989 Kar. 768.*

**10. Restriction on disposal of land in certain cases.**—(1) No land with more than fifty reserved trees in a hectare shall be disposed of for cultivation except under the orders of the Deputy Commissioner.

<sup>1</sup>(2) No land.—

(i) within the municipal limits of the City of Bangalore and in any village situated within a radius of sixteen kilometres from the municipal limits of the City of Bangalore:

<sup>3</sup>Provided that the Deputy Commissioner may, if satisfied that any such land is not required for a public purpose grant such land for agricultural purposes;] or

1. Sub-rule (3) inserted by GSR 300, dated 1-9-1972, w.e.f. 7-9-1972.

2. Sub-rule (2) substituted by GSR 382, dated 7-11-1970, w.e.f. 12-11-1970.

3. Proviso to clause (i) inserted by GSR 288, dated 18-9-1978, w.e.f. 19-9-1978.

(ii) within the municipal limits of cities of Mysore, Davangere, Mangalore, Hubli-Dharwar, [Belgaum], Kolar Gold Fields area and Bagalkote Town in any village situated within a radius of seven kilometres from the municipal limits of the said places; or

(iii) within the municipal limits of District Headquarters and towns of Gadag-Betegeeri and Dandeli and in any village situated within a radius of five kilometres from the municipal or town limits of the said places; or

(iv) within the municipal limits of Taluk Headquarters and towns connected by railway and in any village situated within a radius of three kilometres from the municipal or town limits of the said places; or

(v) within the limits of other municipalities, other Taluk Headquarters and Town Panchayats and in any village situated within a radius of one and a half kilometre from the said places, shall be granted under these rules for the purpose of agriculture.

**Explanation.**—For the purpose of this sub-rule, if the headquarters, gramathana or chavadi of a village is within the radius specified in this sub-rule, the whole of such village shall be deemed to be within the radius specified in this sub-rule;

(vi) One mile from the municipal limits of other Taluk Headquarters, towns and other Municipal and Panchayat town;

shall be granted under these rules for the purpose of agriculture.]

(3) Notwithstanding anything contained in Rules 7(3) and 18, lands within the radius specified in sub-rule (2) shall not be granted for non-agricultural purposes without the previous approval of the State Government:

<sup>2</sup>Provided that such approval shall not be necessary for grant of building sites within the radius specified in clauses (iii), (iv) and (v) of sub-rule (2) excluding the municipal limits of District Headquarters:]

<sup>3</sup>Provided that such approval shall not be necessary for grant of building sites within the radius specified in clauses (iii), (iv) and (v) of sub-rule (2) excluding the Municipal limits of District Head Quarters.]

**11. Disposal of tree growth on lands granted.**—(1) The value of all trees standing on the land granted under these rules shall be assessed by the authorities of the Forest Department.

<sup>4</sup>(2) Where the value of trees so assessed is not more than rupees twenty-five thousand in case of lands granted for the cultivation of planation

1. Inserted by GSR 357, dated 24-11-1978, w.e.f. 30-11-1978.

2. First Proviso to sub-rule (3) inserted by GSR 41, dated 17-1-1972, w.e.f. 27-1-1972.

3. Second Proviso to sub-rule (3) inserted by GSR 180, dated 11-10-1994, w.e.f. 15-11-1994.

4. Sub-rules (2) and (3) substituted by GSR 10, dated 30-12-1986, w.e.f. 6-1-1987.

crops and is not more than rupees five thousand in case of other lands, the grantee should be given the option of paying that estimated price within a time to be stipulated by the granting authority and the trees sold to him. If he once agrees to pay the value of trees the default should occasion cancellation. If the grantee is not willing to pay the value of trees assessed by the Forest Department, the trees shall be disposed so by the authorities of the Forest Department by tender-cum-auction sale.

1[(3) Where the value of trees so assessed is more than Rupees Twenty-five thousand in case of land granted for the cultivation of Planation Crops and is more than Rupees Five thousand in case of other Lands the Trees shall be removed by the authorities of the Forests Department within One Year from the date of the grant of land:]

Provided that the Divisional Commissioner may, on the recommendation of the Divisional Forest Officer having jurisdiction over the area in which such land is situate, extend the period by one more year, and, in exceptional circumstances, by such further period as to coincide with the end of one more working season.

(4) If within the aforesaid period, such trees are not so removed, the trees may be sold to the grantee of the land on payment of the value of such trees as assessed by the authorities of the Forest Department with reference to the prevailing market rate.

(4-A) Subject to the provisions of sub-rule (4) in cases where trees standing on the land granted are required by these rules, to be removed by the authorities of the Forest Department, possession of the land shall not be given until such trees are removed by the authorities of the Forest Department:]

(5) Where the grantee desires that any fruit yielding trees like 'Mavu', 'Halsu', 'Nerale', 'Hunse', 'Neli', 'Seehaphal', 'Cashew' and any manural trees like 'Honge', 'Seemethangadi', 'Basavanapada' and 'Glyricidia' standing on such land be granted to him, such trees shall not be extracted or disposed of by the authorities of the Forest Department, if the grantee pays the value of such tree or trees assessed by the authorities of the Forest Department.

### CASE LAW

**Rule 11** — As amended by Notification No. RD 45 LGP 83, dated 30-12-1986 — Disposal of tree growth on lands granted — Incumbent upon authorities not to deliver land until trees standing on land are removed by Forest Department — If Forest Department is not in a position to remove, grantee may be asked to pay market value of the trees and cut and remove the same — Forest Department will not lose their authority to cut and remove trees even after expiry of period specified in sub-rules (2) and (3) of Rule 11 — On facts, Writ of *mandamus* issued to authorities to either to cut and remove the trees or to assess value of trees and on payment by grantees permit them to cut and remove the same — *Aditappa Bhatappa Hulsara and Others v*

1. Sub-rules (3), (4) and (4-A) substituted for sub-rules (3) and (4) by GSR 323, dated 12-10-1971, w.e.f. 21-10-1971.

*Divisional Forest Officer, Belgaum Division and Others, 1988(3) Kar. L.J. 211 : ILR 1989 Kar. 1228.*

**12. Price payable for the land granted under these rules.**—(1) In respect of lands granted under these rules for purpose of agriculture.—

(i) the price payable for dry land and rained wet land shall be, not less than fifty times and not more than [five hundred times] the land revenue payable on such land;

(ii) the price payable for garden lands or wet lands with assured irrigation facilities from tanks or channels shall ordinarily be not less than rupees five hundred and not more than [ten thousand] rupees per hectare.

(2) Notwithstanding anything contained in sub-rule (1), where the land is very valuable, the Deputy Commissioner or the other Officer authorised by him in this behalf may sell such land by public auction.

(3) The price payable in respect of lands granted for cultivation of plantation crops shall be the market value of such land to be determined by the Deputy Commissioner subject to a minimum of [five thousand] rupees per hectare:

Provided that where the market value is lower than the minimum prescribed in Rules 1(1) and (3), it shall be competent to the granting authority to grant the land on collection of market value:

4[Provided further that in respect of lands granted <sup>5</sup>for coffee, tea, cardamom or rubber cultivation] to persons belonging to Scheduled Castes and Scheduled Tribes, who are members of a Co-operative Society which grants loan to its members, for cultivation of plantation crops, the price payable for such land shall be recovered at the time the lands are confirmed in their favour:]

6[Provided further that where a person who owns <sup>7</sup>coffee, tea, cardamom or rubber lands] not exceeding ten acres in extent or a person who does not own any lands applies for lands <sup>8</sup>for growing coffee, tea, cardamom or rubber] he may be granted lands upto five acres or an extent required to

1. Substituted for the words "two hundred times" by Notification No. RD 95 TRR 94(2), dated 31-10-2001, w.e.f. 1-2-2001
2. Substituted for the words "two thousand five hundred" by Notification No. RD 95 TRR 94(2), dated 31-10-2001, w.e.f. 1-2-2001
3. Substituted for the words "one thousand two hundred and fifty" by Notification No. RD 95 TRR 94(2), dated 31-10-2001, w.e.f. 1-2-2001
4. Second proviso inserted by GSR 424, dated 22-12-1971, w.e.f. 30-12-1971.
5. Substituted for the words "for coffee cultivation" by GSR 294, dated 31-8-1976, w.e.f. 9-9-1976.
6. Third proviso inserted by GSR 12, dated 28-12-1971, w.e.f. 6-1-1972.
7. Substituted for the words "coffee lands" by GSR 294, dated 31-8-1976, w.e.f. 9-9-1976.
8. Substituted for the words "for growing coffee" by GSR 294, dated 31-8-1976, w.e.f. 9-9-1976.