

Government of Karnataka

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Karnataka Government Secretariat,  
Vidhana Soudha,  
Bangalore, Dated: 4.6.1980.

CIRCULAR

Sub: Land Reforms - Precautions against  
collusive withdrawal of applications  
by tenants - regarding - Instructions  
issued.

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A case has come to the notice of the Government where a person who was a relative of the land-holder applied to the Tribunal for conferment of ownership rights and the Tribunal granted the same. Subsequently on a writ petition filed against the order of the Tribunal by the land-owner, the applicant tenant withdrew his interest in claiming occupancy rights before the High Court. In the result, the High Court quashing the order of the Tribunal did not remit the case for further fresh disposal. It was his case before the High Court as admitted to by the tenant-applicant before the Tribunal by means of an affidavit that he filed an application in Form No.7 in order to get his name in the record of rights deleted and that there was no relationship of landlord and tenant between the parties. Though the RTC contained the name of the applicant as the cultivator, the High Court Order disclosed that the applicant's own sister had been given in marriage to the land-holder, that the land-holder being a spend-thrift, the applicant got his name entered in the RTC after loaning some money to the land-holder and that the applicant never cultivated the land as a tenant. If the Tahsildar had taken sufficient pains to collect all materials relevant to the entry of the applicant's name in the RTC, the Tribunal would not have been led to the grant of occupancy rights over the land in question.

2. The provisions of Section 48A of the Karnataka Land Reforms Act and rules 19 of the Karnataka Land Reforms Rules have been ignored in the case. If as required under rule 19, the Tahsildar had verified the particulars mentioned in the application with reference to the Revenue records including the record of rights, and had noted the result on the application, the collusive proceedings before the Tribunal could not have occurred in this case. It need hardly be said that the successful functioning of the Tribunal will depend on the interest the Assistant Commissioner as Chairman and the Tahsildar as Secretary take in assisting the Tribunal to reach fair and quick decisions. In the very nature of things, the Tribunals are solely dependent on the Tahsildar to marshal all the evidence before it and on the Assistant Commissioner (as Chairman) to advise it as to the alternatives and grounds for or against such alternatives.

3. Further, it must be observed that if the provisions of Sections 128, 129 and 136 of the Karnataka Land Revenue Act had been taken note of in the above cases by the authorities concerned, the wrong entry of the name of the applicant as

cultivator in the R.T.C. would have come to light. The entries in the Record of Rights are controlled by the provision of rule 62 to 71 of the Karnataka Land Revenue Rules. The provision of rule 71 of the same rules have also not been properly followed. Due to these serious lapses, the name of the applicant must have been inserted in the R.T.C. as cultivator. In these circumstances, the Government wish the Deputy Commissioner's to impress upon the Tahsildars and Special Tahsildars of the following:

(1) The enforcement of Sections 128 and 129 of the Karnataka Land Revenue Act by the Tahsildar of the Taluk and the Assistant Commissioner of the Sub-Division in the maintenance of Land Records and faithful compliance of the provisions of rules 62 to 71 of the Karnataka Land Revenue Rules should be closely supervised by the Deputy Commissioner. The Assistant Commissioner is responsible for keeping the record of rights written up and maintained properly. In this connection the provision of rule 71 of the Karnataka Land Revenue Rules is very significant.

(2) If the entry in the R.T.C. is to have a presumptive value the procedure prescribed in rule 71 in the maintenance of the R.T.C. ought to have been followed. In this connection, the provision of Section 133 of the Karnataka Land Revenue Act 1964 which is quoted below is relevant.

"An entry in the record of rights and a certified entry in the register of mutations shall be presumed to be true until the contrary is proved or a new entry is lawfully substituted therefor".

(3) Therefore, it is imperative that the Tahsildar / Special Tahsildar during the verification under rule 19 of the Karnataka Land Reforms Rules should verify whether every change in the name of the cultivator in the R.T.C. over a period from 1961 is supported by relevant mutation entries. If such changes are not so supported, then the R.T.C. entry will not have the required presumptive value. If the Tahsildar / Special Tahsildar follows the above procedure in verifying the particulars in the Form No. 7, applications and note the result, as revealed, on the application, there is no likelihood of the Tribunal being misled as in the case referred to above.

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To:

All the Deputy Commissioner's / Spl. Deputy Commissioner's.

Copy to:

All Divisional Commissioner's / All Chairmen of Tribunals /  
All Secretaries of Tribunals.

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