

95

Government of Karnataka

No.RD 538 LRM 75

Karnataka Government Secretariat,
Vidhana Soudha,
Bangalore, dated 15th April 1977

CIRCULAR

It has been reported that some of the Tahsildars/Special Tahsildars are under the impression that after effecting notional partition of the joint family properties as required under Section 63(4) of the Karnataka Land Reforms Act, 1961, for purposes of determining surplus lands, proceedings will have to be taken under Section 79A in respect of the lands within the ceiling falling to the share of a person who has got income of more than Rs.12,000/- per annum from sources other than agricultural lands. Further they are under the impression that since the notional partition takes place after 1-3-1974, the share of such a person in the joint family property passes to him after 1-3-1974 and that as he gets lands by inheritance, he should declare such lands under sub-section (4) of Section 79-A and surrender them to Government. The above confusion arises out of an incorrect appreciation of the meaning of the term "Inheritance".

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2. A notional partition is not the same as an actual partition. For the purposes of Section 63(4) of the Karnataka Land Reforms Act, 1961, it becomes necessary to conceive of a partition and count the lands coming to a land-holder's share in such partition as notionally belonging to him. The reckoning of such notional partition is not the same thing as the transfer of land as the result of an actual partition or of actual survivorship in a joint family. A coparcener acquires at birth a right to his share in the joint family property and there is no question of his getting such share at any date subsequent to his birth. Therefore, if he had a right to a share in the co-parcenership at his birth, and if he was born before 1-3-1974, the mere fact that the notional partition is taking place after 1-3-1974, does not make him liable for action under 79(A) though his income may exceed Rs.12,000/- per year from sources other than agricultural lands.

3. These instructions may be observed for purposes of determining the surplus lands held by joint families and application of section 79A.

Signature
(B.M. Nagaraj),

Asst. Spl. Officer for Land Reforms & Ex-officio Under Secy. to Govt. Rev. Deptt.

- To
- All the Divisional Commissioners.
- All the Deputy Commissioners/Special Deputy Commissioners.
- All the Assistant Commissioners/Spl. Assistant Commissioners/ Addl. Spl. Assistant Commissioners.
- All the Tahsildars/Spl. Tahsildars/Addl. Spl. Tahsildars.
- All the other Chairmen of the Tribunals.
- Spare Copy.