



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 1<sup>ST</sup> DAY OF JUNE, 2017

B E F O R E

THE HON'BLE MR. JUSTICE A.N. VENUGOPALA GOWDA

WRIT PETITION NO.33287/2016 C/W

WRIT PETITION NO.33288/2016 (SC/ST)

BETWEEN:

P. BASAVARAJU  
S/O. PARASHURAMAIH  
AGED ABOUT 42 YEARS  
R/O. BIKKEGUDDA KAVALU  
2<sup>ND</sup> COLONY, GALAGA POST,  
GUBBI TALUK,  
TUMKUR DISTRICT.

... PETITIONER  
(COMMON)

(BY SRI JAGDISH SHASTRI, ADV.)

AND:

1. THE DEPUTY COMMISSIONER  
TUMKUR DISTRICT  
TUMKUR - 572 101.

2. THE ASST. COMMISSIONER  
TUMKUR SUB-DIVISION,  
TUMKUR DISTRICT,  
TUMKUR-572 101.

... RESPONDENTS  
(COMMON)

(BY SRI A.G. SHIVANNA, AAG ALONG WITH  
SRI M.A. SUBRAMANI, HCGP)

W.P.NO.33287/2016 IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO DIRECT THE DEPUTY COMMISSIONER, TUMKUR TO DISPOSE OF AS EARLY AS POSSIBLE CASE NO.PTCL 06/2013-14 AT ANNEXURE-D PENDING BEFORE THE RESPONDENT NO.1.

W.P.NO.33288/2016 IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO DIRECT THE DEPUTY COMMISSIONER, TUMKUR TO DISPOSE OF AS EARLY AS POSSIBLE CASE NO.PTCL 19/2012-13 AT ANNEXURE-E PENDING BEFORE THE RESPONDENT NO.1 FILED BY THE PETITIONER AGAINST THE RESPONDENT ACCORDING TO LAW.

THESE PETITIONS COMING ON FOR ORDERS THIS DAY, THE COURT MADE THE FOLLOWING:

### ORDER

The petitioner, arrayed as a respondent, in Appeal bearing PTCL Nos. 19/2012-13 and 06/2013-14, filed under S.5A of the Karnataka Scheduled Castes and Scheduled Tribes (Prohibition of Transfer of Certain Lands) Act, 1978 before the Deputy Commissioner, Tumkur

District, filed these petitions asking for issue of a writ of mandamus to decide the appeals with expedition.

2. W.P. Nos.6910/2014 and 6909/2014 filed by the petitioner with an identical prayer was disposed of on 20.02.2014 and 16.10.2014 respectively with an observation that he should make a request before the Deputy Commissioner for early disposal of the cases. Despite the request made, the appeals having not been decided, these petitions were filed on 13.06.2016 to direct the 1<sup>st</sup> respondent to decide the said appeals within a stipulated period.

3. Though the aforesaid appeals were filed during 2013 and 2014 and hearing dates fixed, not even on a single hearing date the Deputy Commissioner held the sitting. The Order Sheets of the appeals show that on all the hearing dates the cases were adjourned citing administrative grounds. The reason for adjournment(s) has not even been recorded and only the rubber stamp affixed

and the blank showing the adjourned date(s) was filled by hand.

4. Notice of the petitions was directed and the respondents appeared through the learned Government Counsel, who stated that the two appeals will be decided by the 1<sup>st</sup> respondent without any delay.

5. When the matter came up for consideration, though the main prayer in the petitions has become infructuous on account of deciding of both the appeals by the Deputy Commissioner, Tumkur District on 03.10.2016, having regard to the nature of issue raised and these petitions being not isolated cases of delay in deciding of cases by statutory authorities exercising quasi judicial powers, to prevent the filing of similar petitions by others who may be similarly placed, it was felt necessary to deal with the matter keeping public interest in view.

6. The Order sheet of the case maintained by the Deputy Commissioner vide Annexure-D pertaining to PTCL

No.06/2013-14 shows that except on 13.06.2014, no sitting was held for a period of more than 2½ years. Similarly, the Order sheet of the case maintained by the Deputy Commissioner vide Annexure-E pertaining to PTCL No.19/2012-13 shows that the matter has been adjourned on every hearing date from 12.04.2013 and no sittings held by the Presiding Officer till the date these petitions were filed.

7. Both parties and their learned advocates have been made to appear and return back on every hearing date. The cases point out a disturbing feature in the matter of conducting cases by the statutory authorities performing the quasi judicial functions.

8. Recording the submission of learned Government Advocate that a Circular would be issued to all the quasi judicial authorities to take up cases on the scheduled hearing dates, to avoid inordinate delay / inconvenience to parties and their learned advocates, these petitions were adjourned to 03.08.2016.

9. On 27.09.2016, Sri A.G. Shivanna, learned Additional Advocate General submitted that Government of Karnataka as having taken a decision on 26.09.2016 in the matter of streamlining the speedy disposal of the cases pending before all the quasi judicial authorities. A memo was filed enclosing copy of the proceedings held under the Chairmanship of Addl. Chief Secretary.

10. On 05.10.2016, learned AAG was directed to obtain instructions with regard to appointment of nodal officers at all the levels for effectively monitoring of the quasi judicial cases and webhosting of day-to-day proceedings and orders passed by the statutory authorities. Nodal Officers having been appointed at the Secretariat, Division and District levels, to monitor the cases, a Circular issued on 06.10.2016 to monitor the cases on the files of quasi judicial authorities within their respective jurisdiction and another Circular issued on 18.10.2016 notifying the quasi judicial authorities to decide cases with expedition, webhost the daily

proceedings / final orders without any delay, was placed on record.

11. Heads of the Departments of the Government of Karnataka having been notified to develop a software in the line of "Revenue Court Cases Monitoring System" (RCCMS) for disposal of cases by the respective departmental authorities, a memo filed in that regard on 10.02.2017 was taken on record. The RCCMS software was presented for viewing by a team of Officers accompanied by the Prl. Secretary to Government, Department of Revenue during the lunch recess on 22.02.2017. The software has been developed on par with the "Case Information System" developed for the Civil Courts. The submission made that training Sessions would be conducted by the Nodal officers i.e., Deputy Commissioner / Assistant Commissioner / Tahsildar in 30 Districts, to train the staff concerned for efficient working of the system in the matter of consideration and disposal

of cases by the authorities in Revenue Department was recorded.

12. Pursuant to the order passed on 09.03.2017, the Chief Secretary, Government of Karnataka having held a meeting of the Departmental Secretaries, the Departments have been notified to appoint nodal officers to liaise with National Informatics Centre. Chief Secretary has directed that software for computerization of quasi judicial work in all the departments to be made operational in two months' period and the Principal Secretaries of the concerned department made responsible.

13. Government of Karnataka has constituted separate Committees at the District level, Sub-Divisional level and Taluk level in the matter of effective implementation of RCCMS. A proposal having been submitted to Finance Department in the matter of providing additional manpower in places where pendency of cases is large in number, on 17.03.2017, learned AAG submitted that follow-up action will be taken.



14. Data furnished by learned AAG shows that large number of cases pending before the statutory authorities in different Departments of the Government. Therefore, in public interest the matter deserves serious consideration.

15. Heard Sri Jagdish Shastri, learned advocate for the petitioner and Sri A.G. Shivanna, learned AAG for the respondents. The main issue is with regard to delay in administration of justice by the statutory authorities performing quasi judicial functions.

16. A person's access to justice is a guaranteed fundamental right under the Constitution as per the expansive meaning given to Article 21 of the Constitution, in catena of cases by the Apex Court. Article 39A of the Constitution recognizes the right of citizens to equal justice and free legal aid. Article 21 takes within its sweep the right to access to Justice. The State must provide effective adjudicatory mechanism and the process of adjudication must be speedy. Justice delayed, it is famously said, is

Justice denied. It is the Constitutional duty of the Government to provide the citizens with means of access to justice by providing the infrastructure and means to access to justice, so that every person is able to receive expeditious and inexpensive adjudication of the rights. Unduly long delay has the effect of bringing in a blatant violation of the rule of law and adverse impact on common man's access to justice. Denial of the right to easy access justice and speedy adjudication undermines public confidence in the justice delivery system and incentivises people to look for short cuts and other fora, where they feel that justice will be done quicker.

17. Authorities have been empowered to deal with cases under the relevant statutes to provide for inexpensive, specialized and speedy adjudication of matters. When there is a lis between two contesting parties and a statutory authority is required to decide such dispute between them, such an authority is called "quasi judicial authority" i.e., a situation where, (a) a statutory

authority empowered under a statute to do any act; (b) order of such authority would adversely affect the subject; (c) although there is no lis or two contending parties and contest is between the authority and the subject; and (d) the statutory authority is required to act judicially under the statute. An authority may be described as quasi judicial authority when it possesses certain attributes or trappings of a "court", but not all, as has been held by the Apex Court in the case of STATE OF GUJARAT Vs. GUJARAT REVENUE TRIBUNAL BAR ASSOCIATION reported in (2012) 10 SCC 353.

18. The object behind establishing statutory forums and conferring jurisdiction to decide summarily the specified category of cases which need to be and are capable of being disposed of by adopting summary procedure is to secure expeditious disposal and curtail lengthy procedure of litigation. The word *summary* implies a short and quick procedure as an alternative tool to curtail the more elaborate procedure ordinarily adopted or

prescribed for deciding cases. The proceeding before a Tribunal or an Authority is called *summary proceeding* if it is not required to follow the regular formal procedure but is authorised to follow a short and quick procedure for expeditious disposal. Hence the authorities concerned should keep in mind whether the case is required to be decided by adopting the summary procedure or otherwise.

19. These petitions disclose that on account of the undue long delay committed by the Deputy Commissioner in taking up the cases for consideration, the petitioner was made to approach this Court twice and incur unnecessary expenditure. Delay, particularly in summary proceedings, would frustrate the very object of providing the forum for deciding of rights by the concerned authority. Delay in deciding of the case would only benefit a litigant who has the longer purse and would be detrimental to the interest of others who cannot afford to wait endlessly and keep spending their hard earnings and valuable time.

20. Common man in the country expects that the statutory authority should decide the case with expedition and without making him to spend either time or money unnecessarily. Mere providing of a forum for adjudication of the case is not sufficient, particularly to weaker sections of the community. The data furnished shows that the statutory authorities, performing the quasi judicial functions have not decided the cases within reasonable period(s). The cases are pending for long periods at all the levels, i.e., original, appellate and revisional stages.

21. This Court has been conferred with the power of superintendence under Article 227 of the Constitution. Having regard to the power of superintendence and the data of pending cases made available by the learned AAG, in public interest, the following directions are issued:

(i) The Chief Secretary, Government of Karnataka, shall take necessary measures to provide the hardware and the required software for all the Authorities performing quasi judicial functions within a period of 4 months.

Simultaneous steps shall be taken for training all the concerned personnel to help in elimination of delays and promote expeditious disposal of cases.

(ii) The Chief Secretary, Government of Karnataka shall ensure that all the concerned authorities would act in terms of the undertaking given and the assurance held out to this Court during the course of hearing of these petitions. The Circulars issued pursuant to the orders passed on the earlier occasions in these petitions, shall be given effect to with promptness.

(iii) The Chief Secretary, Government of Karnataka shall ensure through the Departmental Heads that the Authorities performing quasi judicial functions give preference to quasi judicial cases and take up cases on the scheduled hearing dates and make an endeavour to expedite hearing of the cases which in turn will restore the confidence of the common man in the justice delivery system.

(iv) The nodal officers shall oversee the turnout of work in time bound manner by the statutory authorities performing the quasi judicial functions. As and when any deficiency is found, the same shall be brought to the notice of the Principal Secretary of the concerned Department and also the Chief Secretary who shall take up the matter on the administrative side.

(v) All the Authorities performing quasi judicial functions must make endeavour to expedite the hearing and decide the cases in a time-bound manner within 6 months' period from the time the case ripens for hearing oral arguments. The authorities shall webhost the proceedings of the cases and the final orders with promptness.

Petitions are disposed of accordingly with no order as to costs.

Before parting with this order, I acknowledge with gratitude the assistance rendered by Sri A.G. Shivanna, learned Addl. Advocate General. I place on record my

deep appreciation for the assistance rendered by him by taking up the issues raised during the course of hearing with the concerned authorities and coming up with suggestions for improvement of the system for the benefit of public at large.

The Registry is directed to send a copy of this Order to the Chief Secretary, Government of Karnataka for compliance. The Chief Secretary shall circulate the Order to all the Departmental Heads, who in turn shall circulate the same among all the authorities in the respective Departments performing quasi judicial functions.

Sd/-  
(A.N. VENUGOPALA GOWDA)  
JUDGE

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