

# THE KARNATAKA SCHEDULED CASTES AND SCHEDULED TRIBES (PROHIBITION OF TRANSFER OF CERTAIN LANDS) ACT, 1978



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## STATEMENT OF OBJECTS AND REASONS

### I

**Act 2 of 1979.-** The non-alienation clause contained in the existing Land Grant Rules and the provision for cancellation of grants where the land is alienated in contravention of the above said provision are found not sufficient to help the Scheduled Castes and Scheduled Tribes grantees whose ignorance and poverty have been exploited by persons belonging to the affluent and powerful sections to obtain sales or mortgages either for a nominal consideration or for no consideration at all and they have become the victims of circumstances. To fulfil the purposes of the grant, the land even if it has been alienated, should be restored to the original grantee or his heirs.

The Government of India has also been urging the State Government for enacting a legislation to prevent alienation of lands granted to Scheduled Castes and Scheduled Tribes by Government on the lines of the model legislation prepared by it and circulated to the State Government.

Hence the Bill.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A dated 30-6-1978 as No. 1000 at page 7.)

### II

**Amending Act 3 of 1984.-** It has been considered necessary to make a provision for an appeal to District Judge against an order passed by Assistant Commissioner under the Act.

Hence the Bill.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A dated 23-1-1984 as No. 67 at page 4.)

**III**

**Amending Act 8 of 1992.-** The Karnataka Scheduled Castes and Scheduled Tribes (Prohibition of Transfer Certain Lands) Act, 1978 does not provide for preferring an appeal to the Deputy Commissioner, by the grantee of the granted land, if the Assistant Commissioner acting under sub-section (1) of section 5 holds that the transfer is not null and void.

With a view to eliminate hardship and to minimise the burden of cost to such a grantee, it is proposed to make a provision for preferring an appeal to the Deputy Commissioner against such order made by the Assistant Commissioner.

Hence the Bill.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A dated 16-3-1992 as No. 144 at page 66.)

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**KARNATAKA ACT NO. 2 OF 1979***(First published in the Karnataka Gazette Extraordinary on the First day of January, 1979)***THE KARNATAKA SCHEDULED CASTES AND SCHEDULED TRIBES (PROHIBITION OF TRANSFER OF CERTAIN LANDS) ACT, 1978***( Received the assent of the President on the Eighteenth day of December, 1978)**(As Amended by Acts of 3 of 1984 and 8 of 1992)*

An Act to provide for the prohibition of transfer of certain lands granted by government to persons belonging to the Scheduled Castes and Scheduled Tribes in the State.

WHEREAS it is expedient to provide for the prohibition of transfer and for restoration of lands granted by the Government to persons belonging to the Scheduled Castes and Scheduled Tribes in the State;

BE it enacted by the Karnataka State Legislature in the Twenty-ninth Year of the Republic of India as follows:-

**1. Short title and commencement.-** (1) This Act may be called the Karnataka Scheduled Castes and Scheduled Tribes (Prohibition of Transfer of Certain Lands) Act, 1978.

(2) It shall come into force at once.

**2. Declaration under article 31C of the Constitution.-** It is hereby declared that the provisions of this Act are for giving effect to the policy of the State towards securing the principles laid down in article 46 of the Constitution.

**3. Definitions.-** (1) In this Act, unless the context otherwise requires,-

(a) "bank" means,-

- (i) a co-operative society (including a co-operative bank);
- (ii) the Reserve Bank of India constituted under the Reserve Bank of India Act, 1934;
- (iii) a banking company as defined in the Banking Regulation Act, 1949;
- (iv) the State Bank of India constituted under the State Bank of India Act, 1955;
- (v) a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959;
- (vi) a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970;
- (vii) the Agricultural Refinance and Development Corporation constituted under the Agricultural Refinance Co-operation Act, 1963;
- (viii) the Karnataka State Agro-Industries Corporation, a company incorporated under the Companies Act, 1956;
- (ix) the Agricultural Finance Corporation Limited, a company incorporated under the Companies Act, 1956;

(x) any other financial institution owned or controlled by the Government or the Central Government and notified by the Government as a bank for the purpose of this Act;

(b) "granted land" means any land granted by the Government to a person belonging to any of the Scheduled Castes or the Scheduled Tribes and includes land allotted or granted to such person under the relevant law for the time being in force relating to agrarian reforms or land ceilings or abolition of inams, other than that relating to hereditary offices or rights and the word "granted" shall be construed accordingly;

(c) "Government" means the Government of Karnataka;

(d) “Scheduled Castes” and “Scheduled Tribes” shall have the meanings respectively assigned to them in the Constitution;

(e) “transfer” means a sale, gift, exchange, mortgage (with or without possession), lease or any other transaction not being a partition among members of a family or a testamentary disposition and includes the creation of a charge or an agreement to sell, exchange, mortgage or lease or enter into any other transaction.

(2) Words and expressions not defined in this Act shall have the meaning assigned to them in the Karnataka Land Revenue Act, 1964.

**4. Prohibition of transfer of granted lands.-** (1) Notwithstanding anything in any law, agreement, contract or instrument, any transfer of granted land made either before or after the commencement of this Act, in contravention of the terms of the grant of such land or the law providing for such grant, or sub-section (2) shall be null and void and no right, title or interest in such land shall be conveyed or be deemed ever to have conveyed by such transfer.

(2) No person shall, after the commencement of this Act, transfer or acquire by transfer any granted land without the previous permission of the Government.

(3) The provisions of sub-sections (1) and (2) shall apply also to the sale of any land in execution of a decree or order of a civil court or of any award or order of any other authority.

**5. Resumption and restitution of granted lands.-** (1) Where, on application by any interested person or on information given in writing by any person or *suo-motu*, and after such enquiry as he deems necessary, the Assistant Commissioner is satisfied that the transfer of any granted land is null and void under sub-section (1) of section 4, he may,-

(a) by order take possession of such land after evicting all persons in possession thereof in such manner as may be prescribed:

Provided that no such order shall be made except after giving the person affected a reasonable opportunity of being heard;

(b) restore such land to the original grantee or his legal heir. Where it is not reasonably practicable to restore the land to such grantee or legal heir; such land shall be deemed to have vested in the Government free from all encumbrances. The Government may grant such land to a person belonging to any of the Scheduled Castes or Scheduled Tribes in accordance with the rules relating to grant of land.

<sup>1</sup>[(1A) After an enquiry referred to in sub-section (1) the Assistant Commissioner may, if he is satisfied that transfer of any granted land is not null and void pass an order accordingly.]<sup>1</sup>

1. Inserted by Act 8 of 1992 w.e.f. 13.4.1992.

(2) <sup>1</sup>[Subject to the orders of the Deputy Commissioner under section 5A, any order passed]<sup>1</sup> under <sup>2</sup>[sub-section (1) and (1A)]<sup>2</sup> shall be final and shall not be questioned in any court of law and no injunction shall be granted by any court in respect of any proceeding taken or about to be taken by the Assistant Commissioner in pursuance of any power conferred by or under this Act.

1. Substituted by Act 3 of 1984 w.e.f. 3.3.1984.

2. Inserted by Act 8 of 1992 w.e.f. 13.4.1992.

(3) For the purposes of this section, where any granted land is in the possession of a person, other than the original grantee or his legal heir, it shall be presumed, until the contrary is proved, that such person has acquired the land by a transfer which is null and void under the provisions of sub-section (1) of section 4.

**<sup>1</sup>[5A. Appeal to the Deputy Commissioner.-** (1) Any person aggrieved by an order passed after the commencement of the Karnataka Scheduled Castes and Scheduled Tribes

(Prohibition of Transfer of Certain Lands) (Amendment) Act, 1984 by the Assistant Commissioner to take possession of land under clause (a) of sub-section (1) of section 5 or to restore the land under clause (b) of the said sub-section may prefer an appeal to the Deputy Commissioner having jurisdiction within a period of three months from the date on which the order was communicated to him:

1. Sub-section 1, 1A, 2 inserted by Act 3 of 1984 w.e.f. 3.3.1984.

Provided that the Deputy Commissioner may admit an appeal preferred against such order after the period referred to in sub-section (1) if satisfied that the appellant had sufficient cause for not preferring the appeal within that period:

Provided further that the Deputy Commissioner shall admit an appeal against an order passed by the Assistant Commissioner before the date of such commencement if, on the said date, a writ petition preferred against such order or an appeal preferred against the order passed in such writ petition is pending in any court.

<sup>1</sup>[(1A) Any person aggrieved by an order passed after the commencement of the Karnataka Scheduled Castes and Scheduled Tribes (Prohibition of Transfer of Certain Lands) (Amendment) Act, 1992, by the Assistant Commissioner under sub-section (1A) of section 5, may prefer an appeal to the Deputy Commissioner having jurisdiction within a period of three months from the date on which the order was communicated to him:

1. Inserted by Act 8 of 1992 w.e.f. 13.4.1992.

Provided that the Deputy Commissioner may admit an appeal preferred against such order after the period referred to in sub-section (1A), if satisfied that the appellant had sufficient cause for not preferring the appeal within that period:

Provided further that the Deputy Commissioner shall admit an appeal against an order passed by the Assistant Commissioner holding that transfer of any granted land is not null and void before the date of such commencement, if, on the said date, a writ petition preferred against such order or an appeal preferred against the order passed in such writ petition is pending in any court.]<sup>1</sup>

(2) The Deputy Commissioner shall dispose of the appeal in the prescribed manner and the order passed by him shall be final.]<sup>1</sup>

**6. Prohibition of registration of transfer of granted lands.**-Notwithstanding anything in the Registration Act, 1908 on or after the commencement of this Act, no registering officer shall accept for registration any document relating to the transfer of, or to the creation of any interest in, any granted land included in a list of granted lands furnished to the registering officer except where such transfer is in accordance with this Act or the terms of the grant of such land or the law providing for such grant.

**7. Exemption.**- Nothing in this Act shall apply to the transfer of granted lands in favour of the Government, the Central Government, a local authority or a bank either before or after the commencement of this Act.

**8. Penalty, etc.**- (1) Whoever acquires any granted land in contravention of the provisions of sub-section (2) of section 4 shall, on conviction, be punished with imprisonment which may extend to six months or with fine which may extend to two thousand rupees or with both.

(2) Notwithstanding anything in the Code of Criminal Procedure 1973, the offence punishable under sub-section (1) shall be cognizable.

**9. Protection of action taken in good faith.**- (1) No suit, prosecution or other legal proceedings shall lie against any person or officer for anything which is, in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

(2) No suit or other legal proceedings shall lie against the Government for any damage caused or likely to be caused or for any injury suffered or likely to be suffered by virtue of any provision of this Act or for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

**10. Power to make rules.-** (1) The Government, may, by notification, make rules to carry out all or any of the purposes of this Act.

(2) Every rule made under this Act shall, be laid as soon as may be after it is made, before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session, or in two or more successive sessions, and if before the expiry of the session immediately following the sessions or successive sessions aforesaid both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule, shall, from the date on which the modification or annulment is notified, have effect only in such modified form or shall stand annulled, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

**11. Act to override other laws.-** The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any custom, usage or contract or any decree or order of a court, tribunal or other authority.

**12. Power to remove difficulties.-** If any difficulty arises in giving effect to the provisions of this Act, the Government may by general or special order published in the official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to them to be necessary or expedient for the purpose of removing the difficulty:

Provided that no such order shall be made after the expiration of two years from the commencement of this Act.