

The Karnataka Scheduled Castes & Scheduled Tribes (Prohibition of Transfer of Certain Lands) Act, 1978 (Summary report)

The Karnataka Scheduled Castes and Scheduled Tribes (Prohibition of Transfer of Certain Lands) Act, 1978 was enacted in order to prohibit the transfer of grant lands made to SC/ST communities and more importantly, for the restoration of such granted lands alienated before the prescribed time limit or in violation of the terms and conditions of the grant. These transfers are not only statutorily illegal but against principles of social justice which inform behind the law enacted in light of the social pattern where dominant social groups would obtain lands coercively or fraudulently by taking advantage of the ignorance and poverty of SC/ST grantees. Further, this Act is included in the 9th Schedule of the Indian Constitution.

Legal issues in brief

From our inquiry into the challenges faced by grantees/legal heirs through their journeys of accessing justice before the Assistant Commissioners (AC), Deputy Commissioners (DC), High Court as well as the Supreme Court, the following issues have emerged:

FOUNDATIONAL HURDLES

1. **Delay and Laches:** Applications have been rejected solely on the ground of delay in initiating proceedings, before AC/DC, and where they have been allowed at the AC or DC levels, the HC has overturned such orders on the equitable ground of delay and laches notwithstanding the 2023 Amendment. This goes against the PTCL Act which is a special law and a beneficial law enacted precisely to overcome difficulties related to delays. In such matters, the law should prevail over equitable considerations. This has happened in the case of Mr. Shanthakumar (grantee Mr. Challakeraiah) of Chitradurga, Mr. Rajappa (grantee Mr. Kariyappa) of Davangere.
2. **Erroneous exclusion from the Scope of the PTCL Act:** Certain applications have been dismissed on the ground that the granted land falls outside the scope of the PTCL Act, based on judicial interpretations restricting the Act to Darkasth grants and excluding categories such as GMF and Bagair Hukum lands, lands validly converted to non-agricultural use, despite the Act itself expressly excluding only lands granted in connection with hereditary offices. This has happened in the cases of Mr. Manjunath (grantee - Mr. Nanjaiah, S. Bylamma), of Ramnagara.
3. **Adverse possession:** In the case of Mr. P. Venkatesh (grantee Mr. A. K. Chikkamuniga) of Kolar, the AC/DC has dismissed the grantee's claim on the ground that the Purchaser has been in possession of the land for a sufficient period of time. This dictum is in the teeth of settled law which holds that even though the purchaser may perfect his title through adverse possession, they must raise the plea before the appropriate forum and prove the necessary ingredients to obtain a declaration. However, the AC/DC/HC cannot dismiss the grantee's claims for resumption on such grounds without the necessary declarations. Besides in the context of PTCL lands, the purchaser has to disclaim his derivative title before claiming adverse possession against the State.
4. **Misapplication of *res judicata*:** Where in the case of Ms. Jayamma (grantee Mr. Puttaiah) of Bengaluru Urban, the HC has dismissed a case without noticing that the rights claimed by the grantees have not been properly adjudicated at all.

These challenges are foundational because they reveal a persistent failure to engage with caste as a lived social reality and as the central constitutional concern underlying the PTCL Act. This failure has often resulted in the mechanical application of legal doctrines such as delay and laches, adverse possession, and *res judicata* without sufficient regard to the historical context of caste-based dispossession, structural inequality, and barriers to accessing justice. As a consequence, doctrines

developed in ordinary civil litigation have, at times, been applied in ways that dilute or defeat the remedial and protective objectives of the legislation.

CONTRIBUTORY HURDLES

5. **Partial implementation of the Act:** What contributes to the foundational hurdles is that the PTCL Act is not applied in toto, Section 6 of the Act prohibits registration of transfer of granted lands. Section 8 imposes a penalty on purchasers who have acquired in contravention to provisions of this Act. Thus, the law presently operates in a defanged manner.

6. **Administrative, bureaucratic apathy/ignorance**

- **Lack of access to relevant Records:** Applications for resumption have been rejected due to the absence of grant records or because the records are missing, damaged, illegible, or in a severely deteriorated condition. For instance, in one case the transferees that obtained grant land illegally have destroyed certain documents pertaining to the same. In another case, relevant documents had been stolen from the taluk office. It is possible that bribing of officials is also involved in such cases. In the case of Mr.Narasimhaiah (grantee Mr.Munimallaiah) of Bengaluru Urban, the AC rules against the grantee saying there are no relevant records.
- **Malafide/ non-exercise of suo-moto powers:** Where the AC has initiated resumption process suo-moto, grantees/legal heirs have alleged that they have not been issued notice and cases have been closed for non-appearance benefitting the purchasers, indicating dereliction of duty by the AC to restore back to the government.
- **Non-invocation of Atrocities Act:** PTCL violations are automatically an offence under the Atrocities Act [Section 3(1) (f) & (g)] but no action is initiated by the government authorities against the purchasers.

7. **Ignorance:** In some of the cases, the grantees are either not aware that their lands have been alienated, as they may have been working as bonded labourers at the purchasers estate/property due to circumstances where despite owning lands, they are unable to eke out a living due to lack of capital to develop/cultivate the lands profitably. Another set of grantees/legal heirs were unaware of their statutory rights under the PTCL Act, resulting in delayed assertion of claims. This has happened in the case of MR.Ranganaik (Grantee, Mr.DharmaNaik) of Chitradurga

8. **Historical bonded labour and structural vulnerability:** In several cases, alienation of granted lands occurred in the context of bonded labour, economic dependency, caste-based oppression, outright deception or coercion, or other forms of structural coercion affecting the grant holders' ability to exercise free consent. In one instance, there is documentation available regarding the release of a bonded labourer.

9. **Fraud (Collusion/Misrepresentation):** Granted lands are transferred through misrepresentation of facts and fraudulently obtained consent. For instance, in one case, a person impersonated the grantee as their names were exactly similar and undertook transfers of the land which did not belong to him. This has happened in the case of Mr.Karunesh (grantee Mr.A.K.Chowdappa) of Kolar and Mr.Naveen (grantee Mr.Chikkasiddaiah) of Bangalore Urban.

10. **Social climate of intimidation, coercion, and retaliatory action:** Applications for resumption were delayed due to active threats, intimidation, social boycott, or fear of violence from purchasers or dominant local actors. There are several instances of counter-cases also that are filed against the grantees/heirs which further deters claimants from asserting their rights. In the case of Mr.P.Venkatesh (grantee Mr.A.K.Chikkamuniga) of Kolar.

11. **Lack of effective legal representation:** Grantees/legal heirs often lacked access to competent legal assistance, resulting in inadequate presentation of evidence and legal arguments before the authorities. In some cases, the advocates have colluded with the purchasers to defraud the grantees/legal heirs. In the *Nekkanti* case, the purchaser has approached the Supreme Court and obtained orders without any meaningful opportunity for hearing granted to the grantee/legal heirs. In one instance, the counsel failed to appear despite being paid by the grantee. Lawyers act against the interest of the weaker sections of the society.

12. **Use of civil court proceedings by purchasers:** Purchasers rely on civil court decrees, injunctions, or other proceedings to obstruct, delay, or defeat claims for restoration under the PTCL Act, despite the special statutory framework governing granted lands and specific exclusion. This has happened in the case of Mr.Naveen (grantee – Mr.Chikkasiddaih) of Bengaluru Urban.

13. ***Per Incuriam* and legally erroneous orders:** Certain orders of the Assistant Commissioner, Deputy Commissioner, or appellate authorities were passed in ignorance of binding statutory provisions or precedents and therefore warrant reconsideration. In one instance, a non-existing precedent/case has been cited by the court.

14. **Alienation predating the PTCL Act:** In some cases, the disputed transfers took place prior to the enactment of the PTCL Act, raising questions regarding the retrospective operation of the legislation. In one instance, a case was decided against the grantee on grounds of adverse possession and prior to the enactment of the PTCL Act. However, a beneficial reading of the law suggests that retrospective claims regarding restoration are possible.