



**IN THE HIGH COURT OF KARNATAKA,
DHARWAD BENCH**

DATED THIS THE 18TH DAY OF JULY, 2023

BEFORE

THE HON'BLE MR JUSTICE S.VISHWAJITH SHETTY

WRIT PETITION NO. 104023 OF 2023 (KLR-CON)

BETWEEN:

SRI. D.T. VINOD KUMAR S/O D.K. THIMMA REDDY
AGED ABOUT 52 YEARS, OCC. AGRICULTURE,
R/O RAMAPUR POST, MALKALMURU TALUKA
DIST. BALLARI, PIN-583101.

... PETITIONER

(BY SRI. G I GACHCHINAMATH, ADVOCATE)

AND:

THE DEPUTY COMMISSIONER,
BALLARI DISTRICT, BALLARI-583101.

... RESPONDENT

(BY SRI. VINAYAK S KULKARNI, AGA)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE IMPUGNED ENDORSEMENT ORDER DATED 20-2-2023 BEARING NO. NIL PRODUCED AS ANNEXURE-C PASSED BY THE RESPONDENT IN RESPECT OF THE LAND BEARING SY.NO.123/1 MEASURING 3.00 ACRES SITUATED AT ALADALLI, TQ & DIST.BALLARI & ETC.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, THE COURT MADE THE FOLLOWING:





ORDER

1. The petitioner is before this Court assailing the endorsement at Annexure-C, dated 20.02.2023 issued by the respondent and he has also sought for a writ of mandamus to the respondent to issue conversion order in respect of the land bearing Sy.No.123/1 measuring 3 acres situated at Aladalli, Taluka & District Ballari.

2. Heard the learned counsel appearing for the parties.

3. The petitioner, who is the owner of the agricultural land bearing Sy.No.123/1 measuring 3 acres situated at Aladalli, Taluka & District Ballari (for short "the land in question") had made an application before the respondent on 29.09.2022 seeking conversion of the land in question from agricultural to non-agricultural purpose. The same has been rejected by the Deputy Commissioner vide the impugned endorsement at Annexure-C, dated 20.02.2023. Being aggrieved by the same, the petitioner is before this Court.



4. Learned counsel for the petitioner submits that the Deputy Commissioner had no authority to issue the impugned endorsement since as on the date of issuing the endorsement, the petitioner had the benefit of deemed conversion in respect of the land in question. He also submits that the reasoning assigned by the Deputy Commissioner for rejecting the petitioner's application is also erroneous since the Tahsildar as well as the Deputy Commissioner of Urban Development Authority had recommended for granting permission to convert the land in question.

5. *Per contra*, learned AGA has argued in support of the impugned endorsement and has prayed to dismiss the writ petition.

6. The material on record would go to show that the application has been filed by the petitioner seeking conversion of the land in question from agricultural to non-agricultural purpose on 29.09.2022. The impugned endorsement is issued on 20.02.2023, which is beyond the



period of 120 days from the date of filing the application. A reading of Section 95(5) of the Karnataka Land Revenue Act, 1964 makes it very clear that in the event the Deputy Commissioner / competent authority fails to inform the applicant of his decision on the application made under sub-Section (2) of Section 95 within a period of four months, from the date of receipt of the application, the permission applied for shall be deemed to have been granted. This question was considered by the Co-ordinate Bench of this Court in W.P. No.461/2020, disposed off on 14.02.2020, wherein at paragraph No.18, it has been observed as follows:

"18. The Coordinate Bench of this Court in the case of Rudraswamy vs. Deputy Commissioner reported in MANU/SC/0398/1980: ILR 1994 Kar. 2958 while considering the effect of deemed provision under Section 95(5) of the Act held at paragraph-8 as under:

'8. Under sub-section (5) of Section 95, it has been provided that if the Deputy Commissioner fails to inform the applicant of his decision on the application made under sub-section (2) within a period of 4 months from the date of receipt of the application, the



permission shall be deemed to have been granted. The deeming clause, it is well known, leads to an assumption in law of a fact as if the fact has taken place in reality though it might not have taken place. When law provided that thing is deemed to have happened, then in the eye of law, it will be taken as happened though it might not have occurred in fact. It is well settled principle of law and rule of interpretation that a deeming provision has to be given its full effect. Reference in this regard may be made to the following Decisions of the Supreme Court.

(a) State of Bombay Vs. Pandurang Vinayak and others (MANU/ SC/ 0025/ 1953 : AIR 1953 SC 244)

(b) Consolidated Coffee Ltd Vs. Coffee Board (MANU/SC/0398/1980 : AIR 1980 SC 1468)

Then it means that the permission is to be deemed to have been granted on the expiry of the period of 4 months i.e., on the expiry of four months period as aforesaid. It shall be deemed that the Deputy Commissioner has granted permission and once this deeming clause applies, the jurisdiction of the authority of the Deputy Commissioner to reject the application ceases and gets exhausted."



7. Under the circumstances, even this writ petition is required to be disposed off in terms of the orders passed in the aforesaid writ petition. Accordingly, the following:

ORDER

The writ petition is partly allowed. The impugned endorsement at Annexure-C, dated 20.02.2023 issued by the respondent - Deputy Commissioner is quashed.

The petitioner is deemed to have been granted conversion in respect of the land in question subject to he paying requisite conversion charges.

The respondent shall raise a demand for payment of the said charges and on receipt of the same, the petitioner shall take immediate steps for payment of the same pursuant to which a formal conversion order is to be issued to the petitioner.

Sd/-
JUDGE

Vnp*/Ct:Bck
List No.: 1 Sl No.: 26