

IN THE HIGH COURT OF KARNATAKA
KALABURAGI BENCH

DATED THIS THE 31ST DAY OF MAY, 2022

BEFORE

THE HON'BLE MR. JUSTICE S. VISHWAJITH SHETTY

WRIT PETITION No.201129/2022 (KLR-CON)

BETWEEN:

SRI. SHARANABASAPPA,
S/O ANNEPPA KALASHETTI,
AGED ABOUT 56 YEARS,
R/O PLOT NO.82, SHAHABAZAR,
STREET NO. ROAD,
NEAR JODI HANUMAN TEMPLE AREA,
SUVARNA NAGAR, KALABURAGI. ... PETITIONER
(BY SMT. RATNA N.SHIVAYOGIMATH, ADVOCATE)

AND:

THE DEPUTY COMMISSIONER,
KALABURAGI,
DIST: KALABURAGI-585102. ... RESPONDENT
(BY SRI.VEERANAGOUDA MALIPATIL, HCGP)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND
227 OF THE CONSTITUTION OF INDIA, PRAYING TO;

- a) ISSUE A WRIT OR DIRECTION OR ORDER WRIT IN THE
NATURE OF CERTIORARI, QUASHING THE ENDORSEMENT
DATED 10.07.2021 IN APPLICATION NO.1570006 ISSUED
BY THE RESPONDENT VIDE ANNEXURE-E, ETC.

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

ORDER

The instant writ petition is filed seeking for the following reliefs:

a) Issue a writ or direction or order writ in the nature of certiorari, quashing the endorsement dated 10.07.2021 in Application No.157006 issued by the respondent vide Annexure-E.

b) Issue a writ or direction or order writ in the nature of mandamus, directing the respondent to issue the challan and collect the conversion fees in respect of Sy.no.674/3 measuring 2 acres 34 guntas situated at Aland village and Hobli, Tq: Aland, Dist: Kalaburagi and consequently issue a Certificate of Conversion since it is deemed conversion.

2. The petitioner, who claims to be the owner of land bearing Sy.No.674/3 measuring 2 acres 34 guntas situated at Aland village and Hobli, Tq: Aland, Dist: Kalaburagi, had filed an application on 01.03.2021 for conversion of the said

land from agricultural to non-agricultural purpose through online. The said application has now been rejected by the respondent and an endorsement to the said effect is issued on 10.07.2021 and being aggrieved by the same, the petitioner has approached this court.

3. Learned counsel for the petitioner submits that the application filed by the petitioner is deemed to have been allowed since no orders have been passed by the respondent within a period of four months from the date of application. She submits that having regard to Section 95(5) of the Karnataka Land Revenue Act, 1964 ("the Act" for brevity), the petitioner's prayer for conversion is deemed to have been granted and therefore, the impugned endorsement which has been issued subsequently is a nullity in the eye of law and the same cannot be sustained.

4. Learned High Court Government Pleader does not dispute the fact that the application has been filed seeking conversion on 01.03.2021 and the impugned endorsement

has been issued on 10.07.2021, which is clearly after a period of four months from the date of application.

5. In similar circumstances, this court in the case of

Anusuya Hegde.P. -vs- State of Karnataka and Another¹ has held that the failure on the part of the authorities concerned to consider the application within the prescribed period will amount to deemed grant of the permission sought for conversion by the applicant and it is also observed in the said case that any order passed after expiry of the prescribed period would be *void ab initio* and nonest in the eye of law.

6. Considering the fact that even in the present case, the application filed by the petitioner seeking conversion has not been considered and disposed of by the competent authority within the period prescribed under the statute, in view of Section 95(5) of the Act, the prayer made by the petitioner seeking conversion is deemed to have been allowed and the impugned endorsement dated 10.07.2021

¹ 2015(2) AIR KAR 21

which has been issued thereafterwards cannot be sustained, as the same is honest in the eye of law. Accordingly, the following order:

The writ petition is allowed. The impugned endorsement at Annexure-E dated 10.07.2021 issued by the respondent is quashed. The application filed by the petitioner seeking conversion of the land in question from agricultural to non-agricultural purpose is deemed to have been allowed subject to the condition that the petitioner pays the applicable conversion fee on receipt of appropriate demand for the same from the respondent. The respondent is directed to raise an appropriate demand for payment of conversion fee within the period of four weeks from the date of receipt of certified copy of this order.

**Sd/-
JUDGE**

KNM/-