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**CASE COMMENT- KT PLANTATION V. STATE OF KARNATAKA**

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**INTRODUCTION**

The fundamental right to property under Article 19(1)(f) was particularly added by the constitution's founding authors following extensive discussion and thought. The constitutional makers believed that Article 19(1)(f) was a critical right that should be included in Part III of the constitution under the ambit of "fundamental rights", however, such a perspective was not accepted by the then Janata government, consequently giving rise to the repeal of article 19 (1)(f) and Article 31 in 1978 vide a constitutional amendment shaking the constitutional's core framework of laws.

However, no questions arise regarding the significance of Article 300A which has been incorporated, but not under the ambit of "Fundamental rights", Article 300-A of the constitution, while not a fundamental right, has the status of being a constitutional right or statutory right. It provides that no citizen will be deprived of his property except under the authority of law.

**FACTS AND BACKGROUND**

KT Plantation Pvt. Ltd, an agricultural enterprise, occupied a large stretch of land in Karnataka, situated in India's western Ghats. This place was well-recognized for its vast biodiversity and ecological significance, as it habituated many endemic species and serves as an important habitat for a variety of flora and wildlife.

Recognizing the biological fragility of the western Ghats and the necessity for conservation measures, the State of Karnataka passes legislation to conserve and preserve its natural resources.

The act includes limitations on land-oriented activities, specifically to sensitive areas prone to environmental damage, deforestation, soil erosion etc.

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KT Plantation Ltd challenged this act and contended that the placement of these restrictions, claiming that they unduly infringed on its property rights and hampered its right to property.

The case *KT plantation v. State of Karnataka* brings forward clarity regarding the following aspects while answering the questions in a three-fold manner:

1. The constitutional validity of S. 110 of the Karnataka Land Reforms Act, 1961, followed by the notification which was issued by the State of Karnataka dated 8<sup>th</sup> March 1994.
2. Furthermore, the constitutional validity of the Acquisition Act, widening and acknowledging the concept of enhanced compensation and the brightened scope of Article 300A enumerated under the Constitution of India.

#### **CONTENTIONS MADE ON BEHALF OF THE APPELLANT**

1. Article 300A postulates the requirement of a precondition that states that public interest shall be attached to the objective behind the acquisition of a property, which shall be further adored by the instrument of compensation which had been ignored through the incorporation of Article 300A.
2. Consequently, the appellants contended that S. 110 of the Land Reforms Act and the notification dated 8-3-1994, represented a classic example of excessive delegation of powers on the state government. The lack of approval on the part of the legislature proved to be illegal vide S. 140 of the act.

#### **CONTENTIONS MADE ON BEHALF OF THE RESPONDENT**

1. The respondents denied the contentions made by the appellants on the basis of a view that such application of Article 19(1) (f) and Article 31(1) shall not be possible on the mere fact that the parliament had a clear intent to omit the application of public domain and compensation and such amount which could also be fixed is not subject to judicial review by the courts.

*Brij sunder Kapoor v. district judge* (1989) 1 SCC 561.

Section 104 of the Land Reforms Act, which deals with plantations, states that the right to withdraw exemption in respect of plantations has not been given on the state

functioning, but has clearly been preserved by the legislature. The legislative policy is thus clearly apparent from the provision of the statute itself, that, if the legislature desired to confer to revoke the exemption on the state government, it has done so; otherwise, it has retained the power for itself.

### **ARTICLE 300A**

1. Article 300-A when examined through the purpose and object behind which it was incorporated by the constitution vide the forty-fourth Amendment act, 1978 postulates four elements- (1) The Right to acquire, hold or dispose of the property has ceased to be a fundamental right under the constitution of India, (2) Legislature can only deprive a person of his property by the procedure followed by law (3) right to acquire, hold and dispose of property has now been declared a constitutional right and not a fundamental right (4) article 32 cannot include the subject matters which include right to property, as it no longer a fundamental right.
2. The concept of "Public Purpose" has been given wider scope and interpretation under the ambit of Article 300-A and very much mandatorily poses it as a precondition.
3. A clear distinction between the terms "acquisition" and "reacquisition" as compared to the term "deprivation" has been analysed.
4. Greater requirement of Public Purpose does not necessarily align itself to greater compensation, and such limitation shall not by default call for the legislation to be invalid or unconstitutional.

### **LEGISLATURE**

1. The various entries enumerated under Schedule VII List III state more "Fields" of Legislation" rather than the "Powers" of the legislation. Furthermore, Article 245 of the constitution is the fountain source of legislative power.
2. The test for the Doctrine of Repugnancy is to understand the intent of the legislature, and whether the two legislations which is apparently repugnant cover the same or different subject matters

3. The legislature's indifference to giving exemptions for lands utilized for line production is clear from the structure of the language used in Section 107(2). The legislature, as a matter of policy, decided to provide only a conditional exemption for areas used for line production, and the policy was to enable the state government to revoke the same, especially since the legislature states that no one claims an exemption as a matter of right. The legislative will was to make section 107 subject to section 110 rather than the delegatee's will, therefore section 110 must take precedence. Thus, the area utilized for liable cultivation would be managed by the provisions of the Land Reforms Act which is protected under Article 31-B.
4. It is a well-established law that exemptions cannot be claimed as a matter of right, nor can they be withdrawn, especially when done through legislative action.
5. Delegated legislation cannot be challenged on the basis of a violation of natural justice principles.
6. The legislature or its delegate is likewise not legally obligated to provide any reason for its action when discharging its legislative responsibility.
7. Section 140 of the act does not require the state legislature to give its approval for bringing the notification into effect, but a positive act by the legislature is contemplated in section 140 to make the notification effective. Failure to lay the notification does not affect its legal validity, effect, or the action taken prior to that notification. It is so concluded that the failure to file the notification dated 8-3-1994 with the state legislature had no bearing on its legitimacy.