

BEFORE THE NATIONAL GREEN TRIBUNAL

SOUTHERN ZONE, CHENNAI

ORIGINAL APPLICATION NO. 208 of 2021 (SZ)

IN THE MATTER OF:

Srikanth Madhyastha

...APPLICANT

VERSUS

The District Collector

Udupi District, Karnataka and Ors

...RESPONDENTS

**TRANSLATED VERSIONS OF ANNEXURES TO THE
REPLY FILED BY THE DEPUTY COMMISSIONER, UDUPI**

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Annexure-1

For Office Use Only	
Revenue Department Thasildar Office-Brahmavara PO	
Date and J.S.C No	RD099-00003 &18/01/2014 12;38;00PM
Name of the applicant	Uma Devi, D/O Nagavani
Service Requested	Conversion Of Agricultural Land In to Non Agricultural Land.
Mobile No	

FORM NO 21

STAMP

Rules 106A

Notice

To,

Specila Tashildar, Brahmavar
 Udipi Taluk ,
 Udipi Dist,

I Uma Devi,D/O Nagaveni resident of Balakudur, Udupi Taluk is in Khas possession and enjoyment of below mentioned Punja land and want to convert the same for the purpose construction of building and has already paid the fees as ;per rule 107. In case officer concerned informs me of any pending penalty Fees I am ready to pay the same without default.

The Penalty Fees Chalan is attached to this .

Details of the Land

1. Village ----- Bala kudururu
2. Hobali ----- Kota
3. Taluk ----- Udupi
4. District ----- Udupi
5. Survey No ----- 71/3 Moolahageni Right
6. Extent of Land ----- 0.31 Cents
7. Boundaries -----
8. Reason Of Conversion -----
9. Whether part of
 land belonging to same owner
 has been already converted ----- No
10. What is the extent of land in
 case part of land has
 diverted . -----

I have attached following documents.

1. Certified Copy of RTC of converting land:
2. Sketch of converting Land showing Clearly the boundaries, in case of any land to be converted it has to be clearly mentioned in the Sketch.

I here by affirm that the land mentioned above has not been granted to me as per Sec 48 of Karnataka Land Reforms Act 1961 nor I have received this land as per section 77 of the above mentioned Act.

Signature of Applicant

Lry(4)cr-1511/13-14
Taluk Office Udupi

Date-08-01-2014

Acknowledgement

Subject: There is no writ petition filled regarding conversion land.

To certify that there is no 7A premium pending in this regard.

Reference:

1. Application by Smt. Umadevi W/O Vittala Karkera.... Balakudur village, Udupi Taluk and District.
2. Land Tribunal Order No LRY.11/246/Tri/78/79 Dated 15/10/1981

The applicant of Reference 1 has filled this application to certify that there is no writ petition filed with regard to Reference No 2.

After perusal of the documents in connection to Land Tribunal original documents of Reference No 2 it is cleared that the land bearing S.No 71/3 of 31 cents and o

Also other lands of Balakudur by Ramanath kini the application for grant has been rejected by order. And there is no writ filed or pending regarding above said Order. The grantees of land tribunal order have already paid the premium amount. Premium amount of Rs..... is fixed and Chalan No dated on interest of c. No dated is paid . there is no pending premium amount pending.

There is no application under 7A for the grant of land in S.No 71/3 of 0.31` extent of Balekuduru . this acknowledgement is given for the purpose of land conversion.

The application filed by Shri Ramanath Kini for grant of Land in Balekudur bearing S.No 71/3 of 31 extent has been rejected as per Order on LRY 11/246/Tri/78/79 dated 15/10/1981. Regarding other land in the same S.No have been granted to the applicants.

Smt Uma Devi
W/O late Vittala karkera
Bale kudur villaigae , Udupi Taluk
Tashildar

sd/-
Seal of deputy

udupi.

FORM 15(as Rule 148)

LETTER No 19.....
No.....4078/13/14

Application

In case of any encumbrances in the below mentioned property, application is filled for the sworn statement to know the procedure of registration.

(To state and explain as per the Application)

This is to certify that On search of document in column no 1 it is found that this above mentioned property has been under encumbrance and under proceeding since 13 years(1/4/2001 to 7/1/2014).

Sl No	Property details	Date of execution	b)nature of document and valuation	Name of petitioner		volume	page	Document reference
				executor	executtee			Year and number
1	2	3	4	5	6	7	8	9
1	71/3- 31 cents non-agricultural land	13/8/2012	4,50,000/- sale	Vasuda.v. moorthi	Umadevi	Doc-BHR	56	2139 12/13
	To the south east property belonged anantha kini	S.No 71/1,2 (well, electricity pumpset shed,	2) Sudha S Kamath 16 sq ft tiled roofed temple	And with other rights				
Property details as described in the application								
S.No:71:3=0.31								

It is certified that there is no other encumbrance or proceedings other than pre existing encumbrance and proceeding . searched and affirmed by:

Seal:

Place: S.R O Brahmavara 10/1/2014
of Sub-Registrar

Signature

Note: The details of this documents are as per given by the applicant on the basis of encumbrance and proceedings2)if the applicant wishd to check and pays the fees as per section 138(i) the applicant can himself examine the records, encumbarence, and can take xerox of the documents and records under supervision of concerned clerk.The department take any responsibility if there is any mistake or fault in providing this document as the concerned clerks have taken absolute care. In case the document was searched and copied by himself the department cannot be responsible for any error or mistake in the property papers.

AFFIDAVIT

I Uma devi D/O Nagaveni of Balekudur , Udupi Taluk and district do here by solemnly affirm and state as follows

I say that the property in Balkudur bearing S.No 71/3 of 31 cents is moolageni purchased property.

I say that , Late Ramanath Kini filed declaration to the above said property and the same was rejected as the property does not come under Agricultural land in proceedings of land tribunal in LRY 11/246/TRI1047/78-79, dated 15/10/1981.

It is requested that the above mentioned 0. 31` cents of land may converted for residential purpose.

The above mentioned statement is all correct and true.

Deponant

(ANNEXURE-1)

Report of village accountant for conversion of Agricultural land		
S.No	subject	Report of village accountant
1	Name of Applicant-And Address	Umadevi D/O Nagaveni Balekuduru Grama Udupi Taluk
2	Reason for conversion	Non Agricultural purpose (industrial purpose)
3.	Survey No	71/3
4.	Type	Bagaitu
5.	Extent for conversion requested	0.31
6.	Whether property has separate hissa number ? or it is part of property?	yes
7.	Whether property has been converted for other property by these applicants? If yes. Whether there is any proposal of conversion?	No conversion is made
8	Whether the extent in the survey number in the sketch and extent of survey number in RTC tally each other?	yes
9.	Whether there is government land near conversion requested land.? If yes whether it is in adverse possession?	No Adverse possession
10	Whether land revenue paid?	yes
11	Whether other governmental tax is paid?	Yes
12	Whether any suit pending on ownership of property?	There is suit pending
13	Whether any dispute of road	No
14	Whether this land come under any Land acquisition law	NO
15	Is the high tension wire passing over the land?	No

16	Distance of Land from river/ sea	From River 115 mt far From sea 2 ½ mtr
17	Whether under CRZ area	NO
18	Whether there is any structure or building(if yes whether the building is for the residential purpose ?or for industrial purpose, details has to be adduced with extent of the building with details.) 2)Whether the structure built prior to 1981	There is a 4x4 ft temple
19	Whether there is any application under 7/7A if filed	There is no 7/7A application filed
20.	Details of connected road adjacent to land (width of road, private road? Or government road , mud road? Daambar road? If private road whether tranfered to any institution?	There is a 4 ft mud road connecting the property .
21	Deetails of the distance of departmental Road to the mud road adjacent to land. (note:to mention the distance to the land to any national highway, state highway, district panchayat road which ever is applicable.)	2.1/2 Km away from the national highway. 120 mt from Fisharees road.
22	Whether the sketch prepared mention about the neighbouring S.No, and extent.	Yes, mentioned.

Name of village accountant

Girish Kumar

Seal

13/1/2014

Govt. of Karnataka

Email:- udupi3crz@Gmail.ocm
08202574848

Phone/fax :

Regional Director (Environment), 1st floor, "c" block", Rajatadri, Manipal-576104

PraNiPa/NiPa/67/2012-13
27.07.2012

Date :-

NO-OBJECTION LETTER

Subject :- Letter written by Smt. Umadevi for conversion of the property and for establishment of ice plant in S. No. 71/3 measuring 31 cents of Balukundru Vilage.

Reference : 1) As per the letter No. J-10711/41/95-IA-111 dated 27.09.1996 Central Environment and Forest Department approved Coastal Zone Management Plan (CZMP)

2) As per notification S:O:19(E) dated 06.01.2011

3) Application date 05.05.2012 applied by Smt. Umadevi, Balukundru Village, Hangarkatte Port and Post, Udupi Taluk.

4) proposal letter sent by this Department to Govt. of Karnataka Dated 22.05.2012.

5) Letter by the Govt. Bearing Sama. APAJE 149 CRZ 2012 dated 03.07.2012.

6) Letter by this Department letter No. PRANIPA/NIPA/67/2012-13 dated 05.07.2012.

7) Govt. letter bearing No. APAJE 149 CRZ2012 dated 17.07.2012.

* * * * *

As per the reference No.3, letter written by Smt. Umadevi requesting for conversion of property and for establishment of ice plant in S. No. 71/3 measuring 31 cents of Balakundru Village. As per the reference No. 1 approval of CZMP, in this place Coastal Regulation Zone is 150 meters. As per reference No. 2 i.e. Coastal Regulation Zone notification 2011, as per this regulation the maximum CRZ limit of 100 meters surrounding River, Stream, Back water has as approved and this place comes under CRZ class-1 so according to this a reference No. 4 proposal letter was sent to Govt. with documents related to it. This reference has been made in reference No. 5 i.e. letter by the Govt. and same reference is made in reference No. 6 i.e the letter written by this Department, the present property location's GPS reading is N 13° 26.644', E 74°42.22' which is away from the sea and stream/backwater limits2

so as per the reference No. 7 letter by Govt. has permitted to establish ice plant in S. No. 71/3 measuring 31 cents of Balakundru Village. This property is outside the limit of CRZ Zone. This No-objection letter

approval has been given as per the condition of Karnataka State Coastal Regulation Zone Authority.

SD/-

Director (Environment)

Udupi

Regional

To, Special Tahashildar, Brahmavara Taluk, Udupi District

DEED OF SALE FOR CONSEDARATION OF RS 4,50,000/- FOR THE PURCHASE OF DIVERTED IMMOVABLE PROPERTY HAVING MULAGENI RIGHT

(THE PROPERTY IS ORIGINALLY VALUED AT RS. 6,62,000/-)

DATE 13 (THIRTEEN) AUGUST 2012

THIS DEED OF SALE is made and executed by

1) Smt. Vasudha V. Moorthi, aged about 62 years, W/o Manooru Vishnumoorthi Padiyar and

2) Smt. Sudha S. Kamath, aged about 60 years, W/o Bola Surendra kamath, both No. 1 and 2 are daughter of K. Ramnath Kini and the resident of Balukundru Village of Brahmavara Taluk.

IN FAVOUR OF

Smt. Umadevi, aged about 42 years, D/o of late Vittalla Karkera and Nagaveni, residing at "Yashasvini", Pandeshwara Village, Sasthana Post, Brahmavara Taluk, Udupi District.

Our father Sri. Ramnath Kini on 03.08.1995 has executed registered WILL in SRO Brahmavara as Doc No. 105/1995-96 in Book III, Vol.86-90, Page 61. As per this registered WILL the "c" schedule properties of WILL (the schedule properties for short) has completely came in favour of the aforesaid daughter of Ramnath Kini. Our father died on 13.12.2005 and on his death this WILL has come in to force and as per the bequest made in by our father in this WILL, we are absolute owners in possession and enjoyment of this properties.

Item No.1 of the schedule property has been purchased by my father as per the auction of the court (S.C.182/62, LEP231/1963, REA 155/64). Item No. 2 property has been purchased from Yellappa Ajil.

As per the orders of Udupi Land Tribunal in LRY11-246TRI1047/1978-79 this property has been diverted for non-agricultural purpose.

The schedule properties hereby sold is not subject to any alienation, Court order, injunction, Court attachment etc. and the same is free from all encumbrances including but not limited to sale, gift, mortgage, claim, charge, disputes, litigations, acquisition, requisition, attachments in the decree of any court or by/under any other authority/act, lien, court injunction, recovery proceedings, arrangements, agreements, prior agreements to sell/sale deeds, adverse possession etc. and that there is no place within the schedule properties over which public has any right to use or visit and that the schedule properties are not the subject matter of any judicial, quasi-judicial, statutory, regulatory and administrative proceedings adversely affecting the title thereto.

to meet their urgent financial exigencies, the sellers were intending to sell the schedule properties for a valuable consideration and were searching for and were on the lookout for the prospective purchasers of the schedule properties and

on coming to know of the intention of the sellers to sell the schedule properties the purchaser has approached the sellers and discussed about the purchase of the schedule properties with them. After mutual discussion and negotiation, the sellers have agreed to sell and the purchaser has agreed to purchase the schedule properties for a consideration of Rs.4,50,000/- (Rupees Four Lakhs Fifty Thusand only) which represents its present market value now prevailing in the locality and That the purchaser shall hereafter be the absolute owner of the schedule

properties and he shall hold and enjoy the same as an absolute owner thereof without any interruption or disturbance by the sellers or any other person whomsoever claiming through or under the sellers.

both the parties have felt it expedient to reduce the terms of sale agreed between them into writing. Hence this DEED OF SALE.

In consideration of which a sum of Rs. 4,50,000/- (Rupees Four Lakhs Fifty Thousand Only) paid by the purchaser to sellers, the receipt of which the sellers hereby acknowledge in full quittance of the entire sale consideration amount and further acknowledge that the entire amount of sale consideration of Rs. 4,50,000/-(Rupees Four Lakhs Fifty Thousand Only) has been received in full by them, the sellers hereby transfer, convey and assign by way of sale to the purchaser the schedule properties with all the improvements standing thereon to hold the same to the purchaser absolutely and unconditionally and forever and have today put the purchaser in possession of the schedule properties.

That the purchaser shall on the strength of this Sale Deed, be competent to have his name entered in the revenue records such as RTC, panchayath records, Municipal E-Khata/Records relating to the schedule properties and shall pay all the public charges, taxes, assessment and other outgoings in respect of the schedule properties from this day onwards and the Sellers hereby give their unconditional consent for mutation of the revenue, property and all statutory records in the name of the purchaser in respect of the schedule properties with all authorities concerned.

PROVIDED ALWAYS and it is hereby agreed that whenever such an interpretation would be requisite to give fullest possible scope and effect to any contracts or covenants contained herein, the expression the “sellers” and the “purchaser” includes their respective heirs, legal representatives, successors, attorney and assigns.

That the sellers now have good right to convey the schedule properties hereby sold to the purchaser and the sellers have not done or knowingly suffered or been a party or privy to any act, deed or things whereby the sellers are prevented from selling the schedule properties hereby conveyed or whereby the schedule properties are or may in anywise be encumbered, charged or affected.

The sellers hereby assure the purchaser in this connection that they have paid all the public charges, taxes and outgoings upto date to the concerned authorities in respect of the schedule properties hereby conveyed.

The purchaser is hereby assured by the sellers that if any further deeds or documents are to be executed, they will execute all such deeds or documents at the cost of the purchaser so as to more effectively confirm having conveyed the schedule properties in favour of the purchaser.

The Photostat copy of the WILL, RTC, Land Tribunal Order are in my custody.

The No. 1 among us have signed all the pages of this deed and No. 2 has signed only at the last page.

This deed of sale is not against any provisions of Karnataka Registration Act.

SCHEDULE PROPERTY

Immovable property situated in Balukundru Village, Udupi Taluk and District diverted Brahmavara Sub-registration district and Udupi Registration district coming within the limits of AIRODY grama panchayath

Sl. No.	S. No.	S.D. No.	Kissam	Extent
1.	71	5	DIVERTED	15cents middle portion

Boundaries

East : Item No. 2 property

North : Same Sub-division

West and South :Ammunje Trivikram Nayak's property

2	71	3	DIVERTED	31 cents middle portion
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Boundaries

East and North Anantha Kini's property

West : item No. 1 property, Ammunje Trivikram Nayak's property and syndicate bank property.

South : Balakrishna Kini and Padhmanabha Marakala's properties

All the above schedule properties with 46 cents property, small well, electric fittings, shed, 16 sq. ft tiled shed temple shrine and rights of way and water and all other easements and appurtenances relating thereto. Khata No. 587 and 589 . UR No. 77:2006-07 and 80:2011-12

Other than temple shrine all other structures are not present at this moment.

Aforesaid temple shrine and pumpset related documents can be changed to your name at any point of time and the bills related to it and other taxes shall be paid by you only

Market value

1) value of property	: 6,44,000/-
2) old temple shrine	: 5,000/-
3) Old small well	: 6,000/-
4) Pumpset	: 3,000/-
5) shed	: 4,000/-

Total :- 6,62,000/-

Annexure-3

2584255

Telephone No 0820-

5th Airody Village Panchayath**Udupi Taluk And District- 576226**

Sl. No NOC / 2013-2014

Date- 22/01/2014

No Objection Letter

It is certified that the 5th Airodi villiage panchayath has no objection for conversion of land to Non Agricultural purposes bearing S.No 71/3 of 0.31 cents extent belonging to Umadevi , D/O Nagaveni of Balakudur is under the jurisdiction of 5th Airody Village panchayath udupi taluk and Dist.

Officer

Panchayat

SD/-
Panchayath devo;pmnt5th Airody village

seal

Annexure 4

Enclosure-2

BDIS: ALN/SR/329/2013-14

Special Tahsildar
Brahmavara

Date:01-02-2014

Endorsement

Subject: Application Given by the Smt. Umadevi D/o. Nagaveni, Balkudru Village, Udupi Taluk, seeking conversion of agricultural land into Non-Agricultural purpose of the property bearing Sy. No. 71/3 measuring 0.31 Cents of Balkudru Village

Reference: 1) The Applicant has deposited to treasury of Rs. 6758.00 as conversion Fee, plotting Fee of Rs. 100-00 and Penal Fee of Rs.713-00 In total Rs. 7,541-00 as per challan Dated 01-02-2014 bearing No.58

2) No objection certificate Dated----- issued by Commissioner, Urban Development Authority, Udupi, Assistant Director, Town and Rural Planning Department, Udupi

As per the provisions of the Section 95(7) 95(4) 95(2) of Karnataka Land Revenue Act 1964 and Rule 107(1) of Karnataka Land Revenue (Amendment) Rules 1994, the Applicant have to pay Rs..... only (Per Acre) upon deposit of amount mentioned in reference No. (1) and guidance in Form 21 A and Rule 106 (A) of Karnataka Land Revenue Act 1966, The conversion order has been issued in the name of Umadevi D/o. Nagaveni in respect of properties bearing Sy. No. 71/13 measuring 31 Acre of Balkudru village of Kota Hobali for Industrial purpose on condition setout here below.

1. This conversion order does not hold valid unless permission from competent Authority i.e. the Urban Development Authority CMC/TMC pollution Control Board, Village Panchayath, Coastal Regulation Zone for the purpose usage of the Land has been converted .
2. This converted Land has to be used exclusively for Industrial (Iceplant) purpose. This Land cannot be used for any other purpose. Unless prior permission.
3. In this property the intended Layout Plan and license has to be obtained from the jurisdictional Urban Development Authority, Municipality Village Panchayath and after ratification and in accordance

with ratified plan the Building has to be constructed. Without obtaining Layout Plan the property cannot be alienated.

4. For other essential requirements such as Road Space, Road Margins etc shall be kept reserve in accordance with the Layout plan issued by the (Urban Development Authority /Municipality/Village Panchayath/Town Panchayath etc) as per Specific rules.

5. In the interest of Public health the residents of the Layout shall be provided with all facilities such as electricity supply, water Supply, Underground drainage. It will be reserved for the Governmental uses. At present the Fees has been collected for conversion on as per market valuation in respect of Karab A land property in the Survey Number of converted land and B Karab Land has been reserved for public usage. The applicant has no right in this extent of land. The Government is having right in B Karab Land. The Tahsildar has to clearly mention about this in R.T.C.

6. As per the Government order No. PWD 7556-665-R and B6-54-5 and letter dated 01-01-1966 bearing No. Pl: 7(11) 17 of Central Transport Department the intended building structure to be built be keeping 40 mtrs setback with respect to National and State Highways and 25 mtrs from Zilla Panchayath Highways. And should not construct any building in vacant Land.

7. This Industrial Units set upon this schedule land shall effectively prevent any smoke Pollution, Water Pollution and other pollutions and it should not adversely effect the health of general Public. The industrial owners Should sell through that the industry should not cause any kind of environment pollution.

8. If this Industrial Unit is situated with the objectionable limits as per in coastal regulation Zone Notification 2011 prior permission of the Concerned Authority is must to construct any new structure on the Land renovation of the building.

9. This conversion order will be cancelled without prior notice if it is found that the submitted documents any doubtful fabricated and provided with false information.

10. In case the violation of any of the above stated conditions the conversion order will be cancelled without prior information and further steps will be taken to impose penalty as per Section 96 of Karnataka Land Revenue Act 1964. If illegal construction is built then it will be demolished without any compensation and the expenses will be collected as Tax dues from the owners.

Schedule of Converted property

District: Udupi
Kota

Taluk: Udupi

Hobali:

Village	Sy. No.	Extent	Type of land	Boundaries			
				East	West	North	South
Balkudru	71/3	0.31Acre	Bhagayath	S. D. Lines	Same	Survey Line	S. D. Line

Sd/-
Special Tahshildar,
Brahmvara

Copy sent to below mentioned persons for proper steps:

1. Applicant Smt. Umadevi, D/o Nagaveni Balkudru,
2. Jurisdictional Local Body for proper steps,
3. To Bhoomi Centre – to exempt Land revenue in respect of property mentioned above and to maintain proper record
4. Jurisdictional Town Planning authority or Urban development authority for proper steps
5. Panchayath Development officer -----village Panchayath.

Annexure 5

Office of the Special Tahshildar
Brahmavara, Udupi District
Phone No. 0820 2560494

ALN/SR/238/2016-17

Date: 01-02-2017

PROCEEDINGS OF SPECIAL TAHSHILDAR BRAHMAVARA

Subject: With regard to revocation of conversion order issued for the Industrial (Ice Plant) purpose to 0.31 Acre of land in Sy. No. 71/3 of Balkudru Village, Udupi Taluk.

Reference: 1) Conversion Order bearing File No. BDIS/ALN/SR /320/13-14 of this office issued for Industrial (Ice Plant) Purpose.

2) The request letter dated 18-01-2017 given by the Sri. B. Suresh Adiga and Villagers of Balkudru Hitharakshana Samithi, as they are going to call strike for indefinite period.

3) Notice dated 17-01-2017 issued by this office.

4) The proceedings dated 19-01-2017 MAG/CR/01/16-17 of the sub-divisional Magistrate and assistant commissioner Kundapura.

The conversion order has been issued in respect of property bearing Sy. No. 71/3 measuring 0.31 Acre as per Reference (1) of this office for the Industrial (Ice Plant) purpose in the name of Umadevi, D/o Nagaveni of the same Village.

The owners of the property who have obtained conversion order for the Industrial (Ice Plant) purpose, but without making Ice Plant, they have constructed Fish Powder Plant and Fixed machineries. By this act the school children and public people are having the problem because of the Fish waste powder plant, they have given request to this office to stop that illegal Fish Powder plant. Against to the setup of the said plant Sri. Ravindra Suvarna and B. Ramesh Adiga have filed will suit No. O.S 350/2015 in Kundapura Civil Judge Court, the Brahmavara Special Tahshildar is also a party in the said suit. Though the public have filed objection to this office against the Fish Powder Plant as the suit pending before the court, The Special Tahshildar cannot take clear decision as he is also a party to the said suit.

On 17-01-2017 as per Reference No. 2 the applicant in his petition said that on 17-01-2017 the Villagers of Balkudru Village will be going to conduct strike for shutting down of in front of Irody Village Panchayath -

-----the owner has admitted that they have setup fish powder plant.

As mentioned in reference No. (2) request dated 18-01-2017 the people of Balkudru Hitharakshana Samithi have started strike for indefinite

period. The Sub Divisional magistrate and Assistant Commissioner Kundapura, who cause appearance to the strike place and after releasing the problems faced by the public issued conditional order to stop the work in illegal fish powder plant as per reference (4).

Therefore it is clear that the land owner Umadevi, D/o Nagaveni has obtained conversion order for industrial (ice-plant) purpose in 0.31 Acre of land in Survey No. 71/3 of Balkudru Village. But by violating the conditions and purpose of said conversion order used the same for some other purpose instead of establishing intended plant. As the land owners have violated the condition of conversion order it is hereby necessary to cancel the said conversion order, hence proceed to pass the following order.

ORDER

As per the reasons stated above.

The conversion order issued in respect of 0.31 Acre of land in Survey No. 71/3 of Balkudru Village of Udupi Taluk for industrial (Ice-Plant) purpose is hereby ordered to be cancelled.

SD/-
Special Tashildar
Brahmavara

1. Umadevi, D/o Nagaveni, Balkudru Village – through Village Accountant Balakudru
2. To Bhoomi Centre- with entire File to removal of Conversion order mentioned in RTC
3. To Honourable Assistant Commissioner, for his information.

Annexure 6**IN THE COURT OF ASSISTANT COMMISSIONER,
KUNDAPUR SUB DIVISION, KUNDAPUR****No: CDIS RD0050000183340****Date: 24/9/2018****Present: T. Bhubalan, I. A. S.
Sub-Divisional Officer,
Kundapur Sub Division, Kundapura****Appellant****Uma Devi,
D/o Nagaveni,
Balakudru Village, Brahmavara
Taluk,
(Represented by Advocate T. B.
Shetty, Kundapura****Respondents****Tahshildar,
Brahmavara Taluk**

This is an appeal filed by the appellant under Section 136(2) of Karnataka Land Revenue Act 1964 against the order of the respondents dated 011-02-2017 bearing No. ALN.SR 238/2016-17(hereinafter called as impugned order).

This appeal is in respect of the 0.31 Acre relating to the 0.31Acre of land in Survey No. 71/3 of Balkudru Village of Brahmavara Taluk(As shown the appeal memo). Hereinafter called as property in question).

The Notice has been issued to the appellant and Respondent as per rules.

The appellants have prayed to allow the appeal under the following grounds.

1. That on the basis of the application given by the appellant the respondent has given permission dated 01-02-2014 bearing No. BDIS. ALN. SR. 329/2012-14 for Industrial Purpose. Though the permission has been given for industrial purpose but in bracket it is mentioned as 'Iceplant' in different words. As per the Karnataka land Revenue Act of 1963 whenever any agricultural land is to be used for no agricultural purposes prior permission of competent authority is must. As the fees for conversion of land into residential, industrial and commercial use are different. After the payment of fees if the land is used for the purpose other than permitted purpose it would be violation of the act. Whenever the conversion order has been obtained for industrial purpose, it is the right of the land owner to choose the kind of Industry. Therefore there is no violation of any law in establishing fish powder factory in the said land.

2. Though The appellant has got issued reply through his advocate to the Notice to show cause why the land conversion order cannot be revoked the respondent has revoked the conversion order in respect of property in question as per order under challenge. As per the provisions of Section 95(2) of Karnataka Land Revenue Act a revenue officer is only having power to give permission for usage of Agricultural land as No-Agricultural purpose but such officer cannot restrict what kind of industry

can be established in permitted area. Hence prayed to allow the appeal by setting aside impugned order.

Heard arguments of Advocate for Appellant and perused the materials on record.

The question for Consideration for me now,

Whether the impugned order of the respondent is proper?

Answer: yes

Reasons:- (1) Perused the materials on record. On perusal of the copy of BDIS ALN. SR 329/2013-14 dated 01-02-2014 of Tahshildar Brahmavara it can be seen that he has given permission to use the Land bearing Sy. No. 71/3 measuring 0.31 Acre of Non agricultural industrial purpose and only to establish Ice plant.

2. Perused the copy of Impugned order. The appellant after obtaining permission for establishing Ice plant industry in the permitted land, instead of that, he has established Ice powder plant and fixed machineries in the said place. Because of this illegal plant the school children and public people facing serious problems, therefore the public's have given many request to stop the illegal plant. The publics have also filed suit in O. S. No. 350/15 in civil court. In this suit the respondent has also made as defendant. As the public have called strike for a indefinite period to stop the fish powder plant and cancelling the conversion order issued in respect of the property in question, a Notice has been issued to the appellant and obtained explanation. The appellant has admitted in his answer that he has established fish powder plant. On 18-01-2017 the public have started strike in front of Irody Village Panchayath for an indefinite period, therefore the Assistant Commissioner, Kundapur has issued Conditional Order to stop the work in the said fish Powder plant. Hence it is clear that the appellant has violated the condition of permission obtained for industry(Ice plant), therefore it can be seen that permission given for no-agricultural purpose has been cancelled.

3. As the appellants have obtained the Non agricultural permission in respect of Sy. No. 71/3 measuring 0.31 Acre land for the industrial(iceplant)purpose and violated its condition, therefore impugned order by cancelling the conversion order is proper.

Hence the following Order:

The appeal is dismissed

This order has been pronounced on 24-09-2018 in open court.

Sd/-
Assistant Commissioner
Kundapur

Copy:- Tahshildar Brahmavara, Brahmavara Taluk, for necessary steps.

GOVERNMENT OF KARNATAKA
(Revenue Department)

OFFICE OF THE SUB DIVISIONAL MAGISTRATE KUNDAPURA,
SUB DIVISION KUNDAPURA.

Office Fax No: 08254-231984

E Mail –ackun-rd-ka@nic.in

No. MAG PR 01-2016-17 Date 19-01-2017

**Proceeding of Subdivisional Magistrate and Assistant,
Commissioner Kundapura**

Form No. 20

Nuisance Removal Order

[See Section 133(1)(B)]

You, Umadevi, W/o, Keshava Kunder, NeeradiJaddu, Pandeshwara Village, Udupi Taluk have prepared to setup Fish Powder plant in 0.31 Acre of land in Sy. No. 71/3 of Balkudru Village of Udupi Taluk and you have obtained No-Objection Certificate from Environmental pollution control board within one day without any enquiry. Even though the said land situated within 100 mtrs. from the river and within coastal regulations zone, have obtained certificate stating said land situated outside of its limits though the conversion order obtained for the purpose of setup Fish Plant but violating condition of conversion order you have prepared to setup Fish Powder manufacturingPlant. The Executing Officer Taluk Panchayath Udupi has cancelled the license which has been obtained for the purpose of Fish Cutting and Fish waste Powder Plant.The intending place for manufacturing of fish Powder is adjacent to the primary School Compound, if Fish Powder plant established then itwill cause harm to the health of School Children and Public people. Therefore Public people filed complaint and prayed not to constructFish Power Plant.

The Police Sub-Inspector of Kota Police Station filed a report Dated : 15-01-2017. That the people have suspected that you are going to setup Fish Powder Plant and manufacturing Fish Cutting, exporting of the same. Therefore the “Balkudru Hitharakshana Samithi” has informed that they are going to conduct a strike and around 70people have already conducted strike in the said day and informed that they are going to call for serious protest and it may end up in serious complications against law and order and asked to take necessary steps.

I have conducted a spot inspection, I am convinced that you have caused Nuisance to the Public and School Children. Hence I proceed to pass the conditional order as follows.

Conditional Order

You, Umadevi, W/o. Keshava Kunder, Neeradijaddu, Pandeshwara Village, Udupi Taluk have intended to start Fish Powder Plant in land bearing Sy. No.71/3 0.31 Acre and I found that it will cause harm to the Public health Hence-----

I, Subdivisional Magistrate of Kundapura, hereby order to stop the work in illegal Fish Powder Plant . Otherwise I direct you to present before this court on 13-02-2017 to show cause why this order cannot be executed .

This order has been paned on 19-01-2017

SD/-
Subdivisional Magistrate,
Kundapura.

Copy: The Village Accountant, Pandeshwara Village is herby Directed to communicate this order immediately to Umadevi, W/o. Keshava Kunder, Neeradijaddu, Pandeshwara Village, Udupi Taluk and endorsed copy to be returned to this Court.

Annexure 7**IN THE COURT OF DEPUTY COMMISSIONER UDUPI
DISTRICT, RAJATADRI, MANIPAL**

**Present: Shri G. Jagadish, I. A. S.
Deputy Commissioner, Udupi District**

Case No: CDIS RAP SR 67/2018

Date: 2/12/2019

Revision Petitioner:

Uma Devi,
D/o Nagaveni,
Balkudru Village,
Brahmavara Taluk
(Advocate: N. Krishnaraja Acharya)

Respondents:

1. Assistant Commissioner,
Kundapura Sub Division,
Kundapura,
2. Tahshildar Brahmavara Taluk.
3. Suresh Adiga,
S/o Krishnamoorthi Adiga,
President, Balkudru Hitharakshana Samithi,
Balkudru Village,
Hangarakatte Post,
Brahmavara Taluk,
4. Thomas Rodrigues,
S/o Late Paul Rodrigues,
Irodi Village, and post,
Brahmavara Taluk,
5. Ravindra Suvarna,
S/o Late Chona Poojari,
President STMC Higher primary School,
Balkudru Village, Hangarakatte Post,
Brahmavara Taluk,
Irodi Village, and post,
Brahmavara Taluk,
6. Dennis D'Souza,
S/o Late Paul D'Souza,
Vice-president, Hitharakshana Samithi,
Balkudru Village, Hangarakatte Post,
Brahmavara Taluk.
(Advocate: Bannadi Subhashchandra Shetty)

In this Case the Revision Petitioner has filed the Revision Petition under Section 136(3) of Karnataka Land Revenue Act 1964 as against the order dated: 24/09/2018 bearing No. CDIS RD0050000183340/RA 228/2018. This petition is relating to the 0.31Acre of land in Survey No. 71/3 of Balkudru Village of Udupi Taluk.

After admitting this revision petition and considering it for enquiry, the enquiry has been started on 05/11/2018 and conducted enquiries on various date and on 14-10-2019 conducted the final enquiry.

The revision petitioner in his appeal has submitted his statement and argument as stated below.

1. The property involved in the above case has been acquired by him by virtue of Sale Deed bearing No. 2139/2012-13 and obtained Land conversion order dated: 01/02/2014 bearing endorsement No. BDIS. ALN. SR. 329/2012-14 from 2nd respondent for the purpose of Industrial(Ice plant). As per Land Revenue Act conversion order can be issued for the purpose of usage agricultural land as Residential, Commercial and Industrial but there was no need to mention about particular purpose.
2. With the intention of establishing of fish waste powder plant, he has obtained all the necessary license from Department of Commerce, Environmental Department and Local Irodi Village Panchayath and also submitted application dated 19-08-2016 to second respondent for rectifying land conversion order as Fish waste Powder instead of 'Iceplant', but the 2nd respondent has issued endorsement dated: 25-08-2016 stating that the O. S. No. 350/2015 is pending for enquiry in Kundapura Civil Court in respect of Property in question and further action will be taken after passing the final judgment. Thereafter issued an endorsement dated: 29-12-2016 stating that there is no need to issue afresh land conversion order when already conversion order issued for industrial purpose.
3. Thereafter he established Fish waste Powder plant by following conditions of land Conversion order. When it stood thus the second respondent issued a notice dated: 17-01-2017 by issuing direction to stop production at industrial plant and asked to give written explanation within three days. Even though the proper explanation has been given within stipulated period the 2nd respondent illegally issued endorsement dated: 01-02-2017 bearing No. ALN. SR. 238/2016-17 by cancelling the conversion order dated: 01/02/2014.
4. Against the cancellation order as stated above the appeal has been preferred to first respondent, he also dismissed the appeal as per the challenged order without properly analyzing the documents.
5. The order passed by the respondents are illegal and they tried to curb the legal rights of the Revision petitioner.

6. The second respondent himself after giving endorsement, converting the land for industrial purpose, and after informing that there is no need to convert again for fish meal plant, revoked his own order which is highly illegal and against natural justice.

7. The 1st Respondent has not observed the file in a proper manner and without thoroughly studying has passed the order and done injustice to him.

8. The second Respondent by exceeding his jurisdiction passed revocation of Land Conversion Order.

By considering all the points stated above prayed to validate the Land Conversion order by setting aside the order under challenge.

The Respondent Nos. 3 to 6 have prayed to implead them in the above case under the ground that they have serious objection in the interest of public for establishment of fish plant by the revision petitioner. On their request order has been passed to implead them as respondents.

The 3rd respondent in his written objection stated that he is the President of Balkudru Hitharakshana Samithi and is filing objections in the interest of public and has prayed not to give permission to establish plant as it will lead to environmental Pollution and will cause extreme harm to public health if revision petitioner establishes fish powder plant. The respondent Nos. four, five and six have also filed objections to establishing plant as opined by the 3rd respondent.

Perused the records and statement submitted by the Revision Petitioner in respect of the above case. Obtained the land conversion Endorsement, file of revocation of land conversion and file of Respondents order under challenge. Now the question before this court is weather the order passed by the 1st and 2nd Respondent is Proper?

Answer: No

Reasons:

1. It is clear that the 2nd Respondent has issued land conversion Endorsement Dated: 01-02-2014 bearing No: BDIS.ALN.SR.329/2013-14 for Industrial purpose.

2. The 2nd Respondent has not approved the application given by the revision petitioner for rectifying the land conversion order as Fish Waste Powder instead of Fish Plant. But revocation of the Land conversion Endorsement issued in the Past is not proper.

3. Though there was serious objection by the public as the establishment of fish Waste Powder plant can cause environmental pollution, Noise pollution, even if said plant started functioning There was a chance of call for hunger strike by the public, even though it can cause damage to the public peace, the 2nd respondent has issued land conversion order for the

purpose of establishment of Ice plant. There is No-Objection to it. There is no appeal against the land conversion endorsement. Hence revoking said Endorsement is not proper. Therefore, a direction can be issued to the revision petitioner for that he can use the said land for the purpose mentioned in the land conversion.

4. For not giving permission to establish Fish Waste Powder Plant in the above stated place, the revision petitioner has preferred writ petition to the Honorable High Court of Karnataka as per W.P. No 53083/16 and it has been enquired and ordered as follows: *“In view of the nature of Public nuisance, which is likely to be caused by this kind of Industrial unit set up by the petitioner, near a school, it would also be proper to the petitioner to consider the shifting of their Industrial Unit outside the town limit to avoid any public nuisance for the resident of that area, It is needless to say that ;larger public interest should always over ride the private business interest of any individual and the freedom to carry on the business under Article 19(1) (g) of the Constitution of India is always subject to reasonable restrictions”*.

On perusal of these points stated above, though there is harm to the public peace by the establishment of the plant as stated above, the said order will have no effect to the land conversion order issued by the Second respondent and the Jurisdictional Tahsildar, Assistant Commissioner, Kundapura and Deputy commissioner were not made as respondents in the above case. Hence Responsibility of implementation of the order of the Honorable High court of Karnataka is upon the Writ Petitioner and respondents relating to that.

5. The Civil Suit bearing OS No. 350/2015 filed by the public is still pending in Kundapura Civil Court. In the said suit the 2nd Respondent including Deputy Commissioner were also made as party. As the suit is still pending action can be taken in over done with the outcome of the Judgment. At present there is no any objection in the said Petitioner.

Considering all these points proceed to pass order as follows in the above petition.

Order

Revision petition allowed. The order under challenge panned by the 1st Respondent is set aside. It is hereby ordered by validating the Endorsement Dated : 01-02-2014 bearing No. BDIS. ALN. SR.329-2013-14.

This order has been pronounced on this day Dated : 02-12-2014 in open court

SD/-
Deputy commissioner,
Udupi District,
Udupi

Copies: