

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

(Original Jurisdiction)

W.P.No. _____/2020 (G.M. PIL)

Between:

SRI. NAGARAJ SHESHAPPA HONGAL

...Petitioner

And

STATE OF KARNATAKA and another.

....Respondents.

SYNOPSIS

1. The above writ petition is filed questioning the Ordinance certain provisions of Karnataka Land Reforms (Amendment) Ordinance 2020 bearing Gazette Notification No.DPAL 39 SHASANA 2020,Bengaluru Dated:13-07-2020,which was gazetted on Monday 13,July 2020 (Ashadha, 22,Shakavarsha, 1942), wherein the Respondents have amended certain provisions of Karnataka Land Reforms Act by way of an ordinance by exercising the powers of Article 213(1) of Constitution of India, through an ordinance. A copy of the Gazette Notification bearing DPAL 39 SHASANA 2020, Bengaluru ,dated:- 13-07-2020 is produced herewith and marked as **ANNEXURE-A.**

2. THE DETAILED LIST OF DATES AND EVENTS ARE EXPLAINED IN TABULAR FORM BELOW:

Sl No.	Dates:	Events:
1	15-03-1962	The Karnataka Legislature passed a legislation Karnataka Land Reforms Act. This received the assent of Hon'ble President of India on 05-03-1965.

2	01-03-1974.	By way of an ordinance, the sweeping changes were made by the Government declaring the vesting of the land in the land is tenanted land.
3	13-07-2020	<p>The Government moved an ordinance through his Excellency, Governor of Karnataka. This Ordinance amends the few sections mainly the provisions relating to eligibility for purchasing and holding the Agricultural Lands, income and other requirements. The impugned ordinance also brings the changes-(higher side)ceiling on land holdings doubled. The maximum extent of holding was from 27 Acres to 216 Acres is now is now doubled.</p> <p>The impugned ordinance brought tremendous pressure on the farmers either to sell his land and no farmer can purchase the agricultural land any time in future due to highly speculative agricultural investments which is now happening and the same will further destroy farmers interest in the system. The vertical migration that is happening without any opportunities to the farmers in the urban areas. Agrarian Sector is already in grave difficulty. The agricultural policies and the budgetary allocation to agricultural sector and holistic examination of the welfare measures taken by the farmers have been in adequate and there are about 2,50,000 farmers across the Country committed suicide. This is the last nail which Government by way of impugned amendment is putting. The urban investments are attracted in the agriculture and a farmer cannot compete this price in the open market where the removal of restrictions is now made under the impugned Ordinance,</p> <p>It is submitted that there is no substantial change either in the income level of farmers/tenants when the Land Reforms Act 1961 came to be enacted and as of now after two <i>decades of globalization</i>.</p>

SUMMARY OF THE CASE

2. The petitioner is the **SENIOR JOURNALIST** holding Masters Degree in Journalism. Petitioner is also General Secretary of People Movement by name "**JANA JAGRUTI VEDIKE**" at Ilkal town. The petitioner is associated in various social activities in Bagalkot District. The petitioner has no individual grievances in the impugned action of the respondent state authorities. The petitioner is prosecuting the instant writ petition in **pro-bono-publico**. The petitioner under takes not to withdraw the instant writ petition and wants to prosecute the writ petition on merits. The petitioner is agitating the instant writ petition on behalf of the large number of unfortunate farmers across the State of Karnataka who are unable to approach **en masse** and seek the redressal of the grievance. In substance, the petitioner is seeking to redress anomaly caused to large farming community across Karnataka in amending the provisions of Karnataka Land Reforms Act 1961, extending/enlarging the ceiling of land holdings and also removing all restrictions for non-agriculturists to hold/cultivate/invest on agricultural lands.

3. The petitioner submits that these un-amended provisions remained in statute book since the inception of Karnataka Land Reforms Act 1961. There is a social objective to enact this statute. The land holding pattern in India in general and Karnataka in particular, which was concentrated in **Maths, temples** and in the hands of **big landlords**. There has been lot of inequality in the matter of land holdings and affected agricultural productivity. The land ceilings were brought to set this inequality right in the **pattern of agricultural holdings**. Even as on today, the majority of holdings are small and marginal holdings in Karnataka and India. The farming is in subsistence level in the large sections of rural farmers. The farmers are most **vulnerable and gullible** sections of the society who do not have organization, there is no Farmers Commission nor chambers of Commerce in Karnataka for collective bargaining for the welfare of farmers. The measures for welfare of farmers taken since the last seven decades of independence is wholly inadequate. The farmers are invaded with laws pertaining seeds, which they have been herein before,

used to protect, preserve and cultivate the traditional varieties of seeds before the invasion of genetically modified seeds.

4. The Government made several belated experiments and tested whether the farmers oppose such move. Such an attempt was made in 2015, when the income limit under section 79-A, read with section 79-B and read with section 79C, wherein the income limit was increased from Rs.2-00 lakhs to Rs.25-00 lakhs. For the first time, the red carpet was unfolded for aristocratic sections of society to purchase agricultural land. There were earlier also used to speculative transactions. Agricultural lands were purchased by the persons who were ineligible to hold the agricultural lands. But they were at the mercy of some of the Officers who used to exercise powers as per law and in large number of cases, they used to drop the proceedings by accepting the explanations.

5. As submitted earlier, the standard of living of farmers remains almost same in the last 48 years of Land Reforms Laws. The Government has lifted the restrictions mainly under section 79 A, 79B and 79C of Karnataka Land Reforms Act. Simultaneously, Government also extended the ceiling limits under section 63 of the Act and increased the large families up to forty units and additional units is highly objectionable in law.

6. Because of colonial legacy in the pre-independence and post independence period, there was a *feudalism* to a large extent wherein the British wanted the tax collecting section of society. Government granted them '*jahagirs*' '*inams*' and other benefits for the purpose of discharging the obligations mainly tax collection. This also contributed for the concentration of land holding in the hands of few. Temples, Maths and other religious institutions were also donated land by the devotees in large extent. Land Tribunal addressed the issue and provision was made to grant occupancy rights to the tenants. Land Reforms law in nutshell dealt with the tenancy and how to deal with tenanted land, secondly, what is the surplus land and what shall happen to the land holdings beyond ceiling limits and finally the eligibility for holding agricultural land and the consequences of breach these provisions. By virtue of amendment/ordinance, the Government now, has removed all the important provisions safeguarding the farmers interest and now, it

removed all the restrictions which a welfare state shall implement which is diametrically opposed the very object of Karnataka Land Reforms Act 1961. Before the wounds of feudalisms could be healed, the questioned ordinance came to be passed throwing in to the wind of all the laudable objectives of Land Reforms Act by virtue of impugned Ordinance.

7. The petitioner made the following prayers:-

i) A writ of *certiorari* or *any other writ order /direction* and quash the **ORDINANCE** Gazette Notification No.DPAL 39 SHASANA 2020,Bengaluru Dated:13-07-2020,which was gazetted on Monday 13,July 2020 (Ashadha, 22,Shakavarsha, 1942), wherein the Respondents have amended certain provisions of Karnataka Land Reforms Act by way of an ordinance by exercising the powers of Article 213(1) of Constitution of India, through an ordinance. A copy of the Gazette Notification bearing DPAL 39 SHASANA 2020, Bengaluru ,dated:-13-07-2020 (**ANNEXURE-A**) in so far as it pertains to amendment of sections 63,and omission of section 79-A,79B and 79C of Karnataka Land Reforms Act, issued by the Respondent No.1.

ii) Declare that the ordinance vide Gazette Notification No.DPAL 39 SHASANA 2020,Bengaluru Dated:13-07-2020,which was gazetted on Monday 13,July 2020 (Ashadha, 22,Shakavarsha, 1942), wherein the Respondents have amended certain provisions of Karnataka Land Reforms Act by way of an ordinance by exercising the powers of Article 213(1) of Constitution of India, through an ordinance vide Gazette Notification bearing DPAL 39 SHASANA 2020, Bengaluru ,dated:- 13-07-2020, issued by the Respondent No.1 herein in so far as the it pertains to amendment of sections 63,and omission of section 79-A,79B and 79C of Karnataka Land Reforms Act as unconstitutional/void.

iii) Pass such other writ or order or direction that this Hon'ble Court may deem fit and proper on facts and circumstances of the case in the interest of justice and equity.

Bengaluru.

Dated: 24-07-2020.

Advocate for Petitioner

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

(Original Jurisdiction)

W.P.No. _____/2020 (G.M. PIL)

Between:

SRI. NAGARAJ SHESHAPPA HONGAL

S/o. Sheshappa Hongal,

Aged about 52 years,

Residing at ward No. 5,

New Kotwalpet, Ilkal, Bagalkot District-587 125.

...Petitioner

And

1. **STATE OF KARNATAKA**

Department of Revenue,

M.S.Building, 'Dr.Ambedkar Veedhi'

Banglaore- 560 001.

Represented by its **PRINCIPAL SECRETARY,**

2. **STATE OF KARNATAKA**

Department of Parliamentary Affairs and Legislation,

'**VIDHANASOUDHA**', 'Dr. Ambedkar Veedhi'

Banglaore- 560 001.

Represented by its **PRINCIPAL SECRETARY,**

.... Respondents.

**MEMORANDUM OF WRIT PETITION UNDER ARTICLES 226 AND 227 OF
CONSTITUTION OF INDIA 1950:**

The petitioner most respectfully submits as under:-

1. The above writ petition is filed in the nature of ***PUBLIC INTEREST LITIGATION*** seeking to quash certain provisions of Karnataka Land Reforms (Amendment) Ordinance 2020 bearing Gazette Notification No. DPAL 39 SHASANA 2020, Bengaluru Dated: 13-07-2020, which was gazetted on Monday 13, July 2020 (Ashadha, 22, Shakavarsha, 1942), wherein the Respondents have amended certain provisions of Karnataka Land Reforms Act by way of an ordinance by exercising the powers of Article 213(1) of Constitution of India, through an ordinance. A copy of the Gazette Notification bearing DPAL 39 SHASANA 2020, Bengaluru, dated:- 13-07-2020 is produced herewith and marked as **ANNEXURE-A**. The provision of un-amended section 63 of Karnataka Land Reforms Act is produced herewith and marked as **ANNEXURE-B**. The provision of un-amended section 79A, 79-B and 79-C are commonly produced herewith and marked as **ANNEXURE-C**. The petitioner gave representation to the Hon'ble Revenue Minister, Government of Karnataka, Bengaluru through e-mail pointing out the fact that the ordinance dated: 13-07-2020, will restore the situation of old ***zamindari system*** prevailing prior to 1960 in Karnataka. It creates ***neo-landlordism***. A copy of representation dated:- 24-07-2020 along with e-mail delivery proof, is produced herewith and marked as **ANNEXURE-D**.

2. The petitioner is the ***Journalist*** holding Masters Degree in Journalism. Petitioner is also General Secretary of People Movement by name "***JANA JAGRUTI VEDIKE***" at Ilkal Town. The petitioner is associated in various social activities in Bagalkot District. The petitioner has no individual grievances in the impugned action of the respondent state authorities. The petitioner is prosecuting the instant writ petition in ***pro-bono-publico***. The petitioner undertakes not to withdraw the instant writ petition and wants to prosecute the writ petition on merits. The petitioner is agitating the instant writ petition on behalf of the large number of unfortunate farmers across the State of Karnataka who are unable to

approach *en masse* and seek the redressal of the grievance. In substance, the petitioner is seeking to redress anomaly caused to large farming community across Karnataka in amending the provisions of Karnataka Land Reforms Act 1961, extending/enlarging the ceiling of land holdings and also removing all restrictions for non-agriculturists to hold/cultivate/invest on agricultural lands.

3. The Land Reforms Act was passed in Karnataka as back as 1961, when there was a *Zamindari system* which encouraged absentee landlordism and exploitation of the tenants who were actually tillers of soil. The power to implement Land Reforms is available in the List NO.-II of VII Schedule, subject 18 deals with lands and the relationship between the land lord and tenants. The Land Reforms was also referred to be *distributive justice* as by way of Constitution of Land Tribunal, the lands were distributed in favour of deserving tenants by payment of compensation to the Land Owner and the tenancy under Karnataka Land Reforms Act was inheritable in favour of his legal heirs in the event of death of original tenants. The Land Reforms Act 1961 is one law which was the last hope of farmers in order to protect and preserve their holdings and also it prevented corporate investments and cut throat competition in agricultural operation.

4. Though, under Indian Economy, the Agriculture was considered as *Primary Sector*, successive Governments in various States in particular in Karnataka. The dependents on agriculture in India has been roughly around 60% of total working population. But these farming community in entirety are unlucky. They have to face the vagaries of monsoon, uncertainties of market and many other hostile conditions. The farmers are washed away by the winds of globalization. Government, though the Policy regime is the domain of State, failed to address the grievances about uncertainties of price. For all products, the manufacturers *fix/lebel* the price. But in the case of farming products, the price is fixed by few agents/ traders in the yard of Agricultural Producing and Marketing Corporation and also private traders/money lenders. In the last 73 years of Independent India, the farmers are always at the mercy of traders, money lenders. There were few unsuccessful and half-hearted attempts to liberate the farmers from the clutches suicide and poverty. Today, the

farmers are unable to pack, process and sell their products as still their life and standard of living is much below subsistence level. If at all there is any comparison about which is the most exploited community, it is undoubtedly farmers who feed the *humanity*.

5. The Karnataka Government has been attempting to defeat the very objective of the Land Reforms Act slowly, but deliberately. In the year 2015, the Government has increased the income limit for purchasing the agricultural land from Rs. 2-00 Lakhs to Rs.25-00 lakhs. This also opened the market of farm lands in favour of large number of affluent class of people. Obviously, the Farming sector of India is still in subsistence stage. The younger generation of farmers are forced to migrate to the cities due to various acts of anomaly caused by the waves of globalization. The economic forces who want to snatch away agricultural land from vast population of India are making hectic efforts to consolidate their holdings. It has already impacted in the 2015 amendment, especially the lands which are adjacent to Cities and Towns, adjacent to high Ways. The farmers have become bonded labourers in their own land due to such economic aggression by the affluent class and supported by the Government Policies/statutory measures. It is needless to say that the farming community is in distress due to the world wide crisis caused by covid-19. In this difficult hour, the Government was in a hurry to get the ordinance passed without any such compulsion or grave urgency to bring such amendment to the important provisions of Land Reforms Act.

6. The impugned ordinance amends the Karnataka Land Reforms Act 1961, which is done retrospectively from 01-03-1974. The provisions of Sub-section (2) of section 1 of Karnataka Land Reforms Amendment Ordinance (for short impugned Ordinance) reads as under:-

" (2) sections 3,4,5,6,7 and 11 shall be deemed to have been come in to force with effect from 1st day of March 1974 and remaining provisions shall come in to force at once.

The comparative tabular narration of the provisions before amendment and after amendment are summarized in tabular Form as under:

Sections:	Sections and provisions of the Act before amendment:	Sections and provisions of the Act after amendment by way of impugned Ordinance::	Flaws or injury caused to the farmers community by this amendment- a brief narration:
63	<p>Ceiling on land.—(1) No person who is not a member of a family or who has no family and no family shall, except as otherwise provided in this Act, be entitled to hold, whether as land owner, landlord or tenant or as a mortgagee with possession or otherwise or partly in one capacity and partly in another, land in excess of the ceiling area. (2) The ceiling area for a person who is not a member of a family or who has no family or for a family shall be ten units: Provided that in the case of a family consisting of more than five members the ceiling area shall be ten units plus an additional extent of two units for every member in excess of five, so however that the ceiling area shall not exceed twenty units in the aggregate. 1 [(2A) The ceiling area for a person who is tenant under clause (b) of subsection (2) of section 5 shall be forty units.] (3) In the case of a family the ceiling area shall be applied to the aggregate of the lands held by all the members of the family, including the 'stridhana' land. (4) In calculating the extent of land held by a person who is not a member of a family but is a member of a joint</p>	<p>The ceiling area for a person who is not a member of a family or who has no family or for a family shall be twenty units.</p> <p>Provided that, in the case of a family consisting of more than five members the ceiling are shall be twenty units plus an additional extent of four units for every member in excess of ten, so however that the ceiling area shall not exceed forty unit in aggregate.</p> <p>"(2A) The ceiling area for a person who is tenant under clause (b) of sub-section(2) of section 5shall be eighty units.</p>	<p>The ceiling on land holdings is also inseparable part of Land Reforms in as much as it is aimed at 'Socialist' objective inherent in the preamble in the Constitution of India. But the present amendment under section 63 increases the ceilings by doubling the same. This amendment also runs counter to the very objectives of the Act. The additional four units in for each member in the family of more than five members is also unscientific and arbitrary and violative of Article 14 of Constitution of India in as much as it makes distinction between the family of five or more and a small family. Hence, the amendment of section 63 is unconstitutional.</p>

	<p>family and also in calculating, the extent of land held by a member of a family who is also a member of a joint family, the share of such member in the lands held by a joint family shall be taken into account and aggregated with the lands, if any, held by him separately and for this purpose such share shall be deemed to be the extent of land which would be allotted to such person had there been a partition of the lands held by the joint family. (5) In respect of lands owned or held under a private trust,— (a) where the trust is revocable by the author of the trust, such lands shall be deemed to be held by such author or his successor in interest; and (b) in other cases, such lands shall be deemed to be held by the beneficiaries of the trust in proportion to their respective interests in such trust or the income derived there from. Explanation.—Where a trust is partly private and partly public this subsection shall apply only to lands covered by that part of the assets of the trust which is relatable to the private trust. (6) In calculating the extent of land held by a person who is not a member of a family or who has no family or by a member of a family, the share of such person or member in the lands held by a co-operative farm</p>		
--	---	--	--

	<p>shall be taken into account. (7) (a) No educational, religious or charitable institution or society or trust, of a public nature, capable of holding property, formed for an educational, religious or charitable purpose shall hold land except where the income from the land is appropriated solely for the institution or the society or the trust concerned. Where the land is so held by such institution, society or trust, the ceiling area shall be twenty units. (b) If any question arises whether the income from the land is solely appropriated for the institution, society or trust, it shall be decided by the prescribed authority. The decision of the prescribed authority shall be final. Where the prescribed authority decides that the income is not so appropriated, the land held by the institution, society or trust shall be deemed to be surplus land and the provisions of sections 66 to 76 shall, so far as may be, apply to the surrender to and vesting in the State Government of such land. The provisions of this sub-section shall have effect notwithstanding anything in this Act. (8) (a) No sugar factory shall hold land except solely for purpose of research or seed farm or both. Where land is held by a sugar factory for such purpose the ceiling</p>		
--	--	--	--

	<p>area shall be fifty units. (b) If any question arises whether any land held by a sugar factory is solely used for the purpose of research or seed farm or both, the decision of the prescribed authority shall be final and the land not held for the said purpose shall be deemed to be surplus land and the provisions of sections 66 to 76 shall, so far as may be, apply to the surrender to and vesting in the State Government of such land. The provisions of this sub-section shall have effect notwithstanding anything contained in this Act. (9) In the case of any person holding land cultivated by plantation crops, the ceiling area in respect of other land held by him shall be determined taking into consideration, the agricultural land referred to in item (ii) of the Explanation to section 104. (10) Notwithstanding anything in the preceding sub-section, if any person has,— (i) after the 18th November 1961 and before the 24th January 1971 transferred any land the extent of which if added to the other land retained by him could have been deemed to be surplus land before the date of commencement of the Amendment Act; or (ii) after the 24th January 1971 transferred any land,</p>		
--	--	--	--

	<p>otherwise than by partition or by donation to the [Karnataka Bhoodan Yagna Board] established under the [Karnataka] Bhoodan Yagna Act, 1963 ([Karnataka Act] 34 of 1963) or by sale to the tenant of such land in conformity with any law for the time being in force, then in calculating the ceiling area which that person is entitled to hold, the area so transferred shall be taken into account and the land exceeding the ceiling area so calculated shall be deemed to be in excess of the ceiling area notwithstanding that the land remaining with him may not in fact be in excess of the ceiling area. If by reason of such transfer the person's holding is less than the area so calculated to be in excess of the ceiling area, then all his lands shall be deemed to be surplus land and the provisions of sections 66 to 76 shall, as far as may be, apply to the surrender to and vesting in the State Government of such excess land. Explanation.—For purposes of this sub-section the land shall be deemed to have been transferred if it has been transferred by act of parties (whether by sale, gift, mortgage with possession, exchange, lease or any other kind of disposition made inter vivos.)] 1. Substituted by Act 1 of 1974</p>		
--	--	--	--

	w.e.f. 1.3.1974. 2. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f. 1.11.1973.		
70	<p>Reversion and vesting of land surrendered by usufructuary mortgagee.—(1) Where the land surrendered under section 67 is by an usufructuary mortgagee, the possession of the land shall (without prejudice to the rights of the tenant, if any, in occupation of the land) revert to the mortgagor 1 [not being a person disentitled to hold lands under section 79A]1 in every case where, and to the extent to which the mortgagor himself is not liable to surrender the said land in accordance with the provisions of section 67. 1. Inserted by Act 1 of 1974 w.e.f. 1.3.1974. (2) The mortgagor to whom possession of the land reverts under subsection (1) shall be liable to pay the mortgage money due to the usufructuary mortgagee in respect of that land and the said land shall be the security for such payment. (3) In cases where possession of the land surrendered by an usufructuary mortgagee does not revert to the mortgagor 1 [for the reason that the mortgagor is himself liable under section 67 to surrender the land held by him]1 , the State Government may take over such land on the publication</p>	<p>In the Principal Act, in section 70, in subsection (1),the words ,figures and letter "not being a person disentitled to hold lands under section 79A" shall be omitted.</p>	<p>These wordings have their roots in section 79A and section 79A is independently assailed in the instant Writ petition.</p>

	of the notification under section 73 and such land thereupon shall vest in the State Government free from all encumbrances.		
72	State Government.—(1) Save as otherwise provided in this Act, the amount payable in respect of land to be taken over by the State Government under sections 68, 70, 71, 79A and 79B shall be determined with reference to the net annual income derivable from the land in accordance with the following scale, namely:— (i) for the first sum of rupees five thousand or any portion thereof of the net annual income from the land, fifteen times such sum or portion; (ii) for the next sum of rupees five thousand or any portion thereof of the net annual income from the land, twelve times such sum or portion; (iii) for the balance of the net annual income from the land, ten times such balance: Provided that where the land taken over by the State Government is D Class land referred to in Part A of Schedule I, an amount equal to twenty times the net annual income thereof shall be payable. (2) For the purpose of sub-section (1), the net annual income from the land shall be deemed to be the amount payable as annual rent in respect of the land as specified	In the principal Act, in section 72, in sub-section(1) ,the figures word and letters "79A and 79B shall be omitted.	These wordings have their roots in section 79A and section 79A is independently assailed in the instant Writ petition.

	<p>in section 8. But where in a land assessed as wet land or dry land, the owner has raised fruit bearing trees, the net annual income of such land for purposes of sub-section (1) shall be determined on the basis of assessment for garden land which could have been levied having regard to the nature of the fruit bearing trees.</p> <p>(3) The amount under sub-section (1) shall be payable as follows:— (a) to the tenant, if any, in possession of the land, an amount equal to one year's net annual income; (b) to the owner, the balance. (4) Where there are wells or other structures of a permanent nature on the land, constructed by the owner then, the value thereof calculated in the prescribed manner shall also be payable. (5) Notwithstanding anything in sub-sections (1) and (4), the aggregate amount payable according to the said sub-sections shall not exceed rupees two lakhs. 2 [(6) x x x]2] 1 1. Substituted by Act 1 of 1974 w.e.f. 1.3.1974. 2. Omitted by Act 1 of 1979 w.e.f. 1.3.1974.</p>		
79A	<p>CHAPTER V RESTRICTIONS ON [HOLDING OR] TRANSFER OF AGRICULTURAL LANDS 2 [79A. Acquisition of land by certain persons prohibited.—(1) On</p>	<p>In the Principal Act, section 79A shall be omitted.</p>	<p>The chapter V of Karnataka Land Reforms Act found place from the very inception of this great laudable legislation. Such</p>

<p>and from the commencement of the 3 [the Karnataka Land Reforms (Amendment) Act, 1995]3 , no person who or a family or a joint family which has an assured annual income of not less than rupees [two lakhs] from sources other than agricultural lands shall be entitled to acquire any land whether as land owner, landlord, tenant or mortgagee with possession or otherwise or partly in one capacity and partly in another. 1. Inserted by Act 1 of 1974 w.e.f. 1.3.1974. 2. Section 79A, 79B and 79C inserted by Act 1 of 1974 w.e.f. 1.3.1974. 3. Substituted by Act 31 of 1995 w.e.f. 20.10.1995. (2) For purposes of subsection (1)— (i) the aggregate income of all the members of a family or a joint family from sources other than agricultural land shall be deemed to be income of the family or joint family, as the case may be, from such sources; (ii) a person or a family or a joint family shall be deemed to have an assured annual income of not less than rupees [two lakhs] from sources other than agricultural land on any day if such person or family or joint family had an average annual income of not less than rupees [two lakhs] from such sources during a period of five consecutive years preceding such</p>		<p>part of this legislation read with section 44,48, is considered as soul of the Act as the same protects the interest of farmers, a section which feeds the society but most neglected segment of the society. This provision being omitted under the Amendment Act, which is highly objectionable in as much as the same now opens up the market to the non-agriculturists and those who have income level which is not at all in the interest of the farmers at large. The farmers are ending up in becoming bonded labourers in their own land. This sweeping change is driving the farmers to the penury by worsening their Socio-economic conditions. This provision, deletion of such laudable social welfare measure is <i>violative</i> of Article 14,Article 19 and Article 21of Constitution of India.</p>
---	--	--

	<p>day. Explanation.—A person who or a family or a joint family which has been assessed to income tax under the Income Tax Act, 1961 (Central Act 43 of 1961) on an yearly total income of not less than rupees [two lakhs] for five consecutive years shall be deemed to have an average annual income of not less than rupees [two lakhs]¹ from sources other than agricultural lands. Substituted by Act 31 of 1995 w.e.f. 20.10.1995. (3) Every acquisition of land otherwise than by way of inheritance or bequest in contravention of this section shall be null and void. (4) Where a person acquires land in contravention of sub-section (1) or acquires it by bequest or inheritance he shall, within ninety days from the date of acquisition, furnish to the Tahsildar having jurisdiction over the Taluk where the land acquired or the greater part of it is situated a declaration containing the following particulars, namely:— (i) particulars of all lands; (ii) the average annual income of himself or the family; (iii) such other particulars as may be prescribed. (5) The Tahsildar shall, on receipt of the declaration under sub-section (4) and after such enquiry as may be prescribed send a statement containing the prescribed particulars</p>		
--	---	--	--

	<p>relating to such land to the Deputy Commissioner who shall, by notification, declare that with effect from such date as may be specified in the notification, such land shall stand transferred to and vest in the State Government without further assurance free from all encumbrances. From the date specified in such notification the Deputy Commissioner may take possession of such land in such manner as may be prescribed. (6) For the land vesting in the State Government under sub-section (5), where the acquisition of the land was by bequest or inheritance, an amount as specified in section 72 shall be paid and where the acquisition was otherwise than by bequest or inheritance, [no amount] shall be paid.</p>		
79B	<p>79B. Prohibition of holding agricultural land by certain persons.—(1) With effect on and from the date of commencement of the Amendment Act, except as otherwise provided in this Act,— (a) no person other than a person cultivating land personally shall be entitled to hold land; and (b) it shall not be lawful for,- (i) an educational, religious or charitable institution or society or trust, other than an institution or society or trust referred to in subsection (7) of section 63,</p>	<p>In the principal Act, section 79B shall be omitted.</p>	<p>The chapter V of Karnataka Land Reforms Act found place from the very inception of this great laudable legislation. Such part of this legislation read with section 44,48, is considered as soul of the Act as the same protects the interest of farmers, a section which feeds the society but most neglected segment of the society.</p>

<p>capable of holding property; (ii) a company; (iii) an association or other body of individuals not being a joint family, whether incorporated or not; or (iv) a co-operative society other than a co-operative farm, to hold any land. (2) Every such institution, society, trust, company, association, body or co-operative society,— (a) which holds lands on the date of commencement of the Amendment Act and which is disentitled to hold lands under sub-section (1), shall, within ninety days from the said date, furnish to the Tahsildar within whose jurisdiction the greater part of such land is situated a declaration containing the particulars of such land and such other particulars as may prescribed; and (b) which acquires such land after the said date shall also furnish a similar declaration within the prescribed period.</p> <p>(3) The Tahsildar shall, on receipt of the declaration under sub-section (2) and after such enquiry as may be prescribed, send a statement containing the prescribed particulars relating to such land to the Deputy Commissioner who shall, by notification, declare that such land shall vest in the State Government free from all encumbrances and take possession thereof in the prescribed</p>		<p>This provision being omitted under the Amendment Act, which is highly objectionable in as much as the same now opens up the market to the non-agriculturists and those who have income level which is not at all in the interest of the farmers at large. The farmers are ending up in becoming bonded labourers in their own land. This sweeping change is driving the farmers to the penury by worsening their Socio-economic conditions. This provision, deletion of such laudable social welfare measure is <i>violative</i> of Article 14, Article 19 and Article 21 of Constitution of India.</p>
--	--	--

	<p>manner. (4) In respect of the land vesting in the State Government under this section an amount as specified in section 72 shall be paid. Explanation.—For purposes of this section it shall be presumed that a land is held by an institution, trust, company, association or body where it is held by an individual on its behalf.</p>		
79C	<p>Penalty for failure to furnish declaration.—(1) Where a person fails to furnish the declaration under section 79A or section 79B or furnishes a declaration knowing or having reason to believe it to be false, the Tahsildar shall issue a notice in the prescribed form to such person to show cause within fifteen days from the date of service thereof why the penalty specified in the notice, which may extend to five hundred rupees, may not be imposed upon such person. (2) If the Tahsildar on considering the reply, if any, filed is satisfied that the person had failed to furnish the declaration without reasonable cause or had filed it, knowing or having reason to believe it to be false, he may, by order, impose the penalty and also require such person to furnish within a period of one month from the date of the order a true and correct declaration complete in all particulars. (3) If the</p>	<p>In the principal Act, section 79C shall be omitted.</p>	<p>The chapter V of Karnataka Land Reforms Act found place from the very inception of this great laudable legislation. Such part of this legislation read with section 44,48, is considered as soul of the Act as the same protects the interest of farmers, a section which feeds the society but most neglected segment of the society. This provision being omitted under the Amendment Act, which is highly objectionable in as much as the same now opens up the market to the non-agriculturists and those who have income level which is not at all in the interest of the farmers at large. The farmers are</p>

	<p>person fails to comply with such order, his right, title and interest in the land concerned shall, as penalty, be forfeited to and vest in the State Government.]2 1. Section 79A, 79B and 79C inserted by Act 1 of 1974 w.e.f. 1.3.1974</p>		<p>ending up in becoming bonded labourers in their own land. This sweeping change is driving the farmers to the penury by worsening their Socio-economic conditions. This provision, deletion of such laudable social welfare measure is <i>violative</i> of Article 14, Article 19 and Article 21 of Constitution of India.</p>
80	<p>80. Transfers to non-agriculturists barred.— [(1)] (a) No sale (including sales in execution of a decree of a civil court or for recovery of arrears of land revenue or for sums recoverable as arrears of land revenue), gift or exchange or lease of any land or interest therein, or (b) no mortgage of any land or interest therein, in which the possession of the mortgaged property is delivered to the mortgagee, shall be [lawful] in favour of a person,— (i) who is not an agriculturist, or (ii) who being an agriculturist holds as owner or tenant or partly as owner and partly as tenant land which exceeds the limits specified in section 63 or 64; or 3 [(iii) who is not an agricultural labourer; or (iv) who is disentitled under section 79A or</p>	<p>In the principal Act, in section 80 ,:</p> <p>(i) In the heading, for the words "transfer to non-agriculturists barred" the words "restrictions on transfer of certain lands shall be substituted.</p> <p>(ii) in sub-section (1),-</p> <p>(a) clause (b) shall be omitted;</p> <p>(b) for sub-clause (i) ,the following shall be substituted, namely:-</p> <p>"(i) in case of A-class irrigated land, who does not use for</p>	

	<p>section 79B to acquire or hold any land:] Provided that the Assistant Commissioner having jurisdiction over the area or any officer not below the rank of an Assistant Commissioner authorised by the State Government in this behalf in respect of any area may grant permission for such sale, gift, or exchange, [to enable a person other than a person disentitled to acquire or hold land under section 79A or section 79B]3 who bona fide intend taking up agriculture to acquire land on such conditions as may be prescribed in addition to the following conditions, namely:— (i) that the transferee takes up agriculture within one year from the date of acquisition of land, and (ii) that if the transferee gives up agriculture within five years, the land shall vest in the State Government subject to payment to him of an amount equal to eight times the net annual income of the land or where the land has been purchased, the price paid for the land, if such price is less than eight times the net annual income of the land. 1. Re-numbered by Act 1 of 1974 w.e.f. 1.3.1974. 2. Substituted by Act 3 of 1982 w.e.f. 25.11.1980.</p>	<p>agriculture purpose; or "</p> <p>(c) in Sub-Clause (ii) ,for the words "who being an agriculturist holds as owner" the words "who holds as a owner' shall be substituted;</p> <p>(d) Sub-Clause (iii) shall be omitted,</p> <p>(e) Sub-Clause (iv) ,shall be omitted; and,</p> <p>(f) the proviso shall be omitted.</p>	
80-A	<p>This is inserted newly in the impugned Ordinance.</p>	<p>In the principal Act, after section 80, the following shall be</p>	

		<p>inserted, namely:- Restriction on lands granted to the Scheduled Castes or Schedule Tribes:- No conditions laid down in this Act shall be relaxed in respect of lands granted, during the period of prohibition under the Karnataka Scheduled Castes and Scheduled Tribes (Prohibition of Transfer of Certain Lands) Act ,1978(Karnataka Act 2 of 1979)</p>	
81	<p>Sections 79A, 79B, and 80 not to apply in certain cases.—(1) Nothing in section 79A or section 79B or section 80 shall apply to,— (a) the sale, gift or mortgage of any land or interest therein in favour of the Government: 2 [the Karnataka State Road Transport Corporation constituted under the Road Transport Corporation Act, 1950 (Central Act LXIV of 1950), the Karnataka Power Transmission Corporation Limited constituted under the Companies Act, 1956]2 3 [the Karnataka Housing Board constituted</p>	<p>In the Principal Act, in section 81:- (i) for the heading, the following shall be substituted, namely:- "81.Restriction on Sale or Mortagage of Agriculture Land" (ii) in sub-section (1) ,the words ,figures and letters "sections 79-A or section 79B or "shall be omitted.</p>	

<p>under the Karnataka Housing Board Act, 1962 (Karnataka Act 10 of 1963), the Industrial Areas Development Board constituted under the Karnataka Industrial Areas Development Act, 1966 (Karnataka Act, 18 of 1966), the Karnataka Slum Clearance Board established under the Karnataka Slum Areas (Improvement and Clearance) Act, 1973, (Karnataka Act 33 of 1974) the Bangalore Development Authority constituted under the Bangalore Development Authority Act, 1976 (Karnataka Act 12 of 1976), a Nagarabhivruddhi Pradhikara constituted under the Karnataka Nagarabhivruddhi Pradhikaragala Adhinyama, 1987 (Karnataka Act 34 of 1987).] (b) the mortgage of any land or interest therein in favour of,— (i) a co-operative society; [(ii) a financial institution;]4 5 [(iii) x x x (iv) x x x (v) x x x] (vi) any company as defined in section 3 of the Companies Act, 1956 (Central Act 1 of 1956) in which not less than fifty-one per cent of the paid up share capital is held by the State Government [or the Central Government or both]6 ; (vii) any corporation, not being a company as defined in section of the Companies Act, 1956 (Central Act 1 of 1956) established or constituted by the State</p>	<p>(iii) after sub-section (2) ,the following shall be inserted, namely:- " (2-A) No mortgage of agricultural land shall be made in favour of any person, other than the institutions specified in clause (a) and (b) of subsection (1)</p>	
--	---	--

	<p>Government 6 [or the Central Government or both]6 ; (viii) the Coffee Board constituted under the Coffee Act, 1942 (Central Act 7 of 1942), as security for any loan or other facility given by such society, bank, company, corporation or Board for agricultural purposes. Explanation.—In this clause 'agricultural purposes' include making land fit for cultivation, cultivation of land, improvement of land, development of sources of irrigation, raising and harvesting of crops, horticulture, forestry, planting and farming, cattle breeding, animal husbandry, dairy farming, seed farming, pisciculture, apiculture, sericulture, piggery, poultry farming and such other activities as are generally carried on by agriculturists, dairy farmers, cattle breeders, poultry farmers and other categories of persons engaged in similar activities including marketing of agricultural products, their storage and transport and the acquisition of implements and machinery, in connection with any such activity;</p>		
104	<p>[104. Plantations.—2 [The provisions of section 38]2 section 63 other than sub-section (9) thereof, sections 64, 79A, 79B and 80, shall not apply to plantations. Explanation.—In this</p>	<p>In the principal Act, in section 104, the figures ,word and letters "79A and 79 B" shall be omitted.</p>	

	<p>section 'Plantation' means land used by a person principally for the cultivation of plantation crop and includes,— (i) any land used by such person for any purpose ancillary to the cultivation of such crop or for preparation of the same for the market; and (ii) agricultural land interspersed within the boundaries of the area cultivated with such crop by such person. not exceeding such extent as may be determined by the prescribed authority as necessary for the protection and efficient management of such cultivation.]1 1. Substituted by Act 1 of 1974 w.e.f. 1.3.1974. 2. Substituted by Act 1 of 1979 w.e.f. 1.3.1974</p>		
109	<p>Certain lands to be exempt from certain provisions.—2 [(1) Subject to such rules as may be prescribed and the provisions of the Karnataka Town and Country Planning Act, 1961 (Karnataka Act 11 of 1963), the State Government may, by notification, exempt, any land in any area from the provisions of sections 63, 79A, 79B or 80 to be used for,— (i) industrial development, the extent of which shall not exceed twenty units; (ii) educational institutions recognised by the State or Central Government to be used for non-agricultural purpose the</p>	<p>In the principal Act, in section 109,- (i) in sub-section(1),the figures and letters "79A,79B' shall be omitted and (ii) Sub-section (1A) ,the figures and letters "79A, 79B" shall be omitted.</p>	

	<p>extent of which shall not exceed four units; (iii) places of worship to be specified by Government by notification which are established or constructed by a recognised or registered body for non-agricultural purpose, the extent of which shall not exceed one unit; (iv) a housing project, approved by the State Government the extent of which shall not exceed ten units; (v) the purpose of horticulture including floriculture and agro based industries the extent of which shall not exceed twenty units: 3 [Provided that the Deputy Commissioner may also exercise the powers of the State Government under this sub-section, subject to the restrictions and in the manner specified therein, in respect of the land to be used for,- (i) industrial development, the extent of which shall not exceed ten units; (ii) educational institutions recognised by the State or Central Government to be used for non-agricultural purpose the extent of which shall not exceed two units; (iii) places of worship to be specified by Government by notification which are established or constructed by a recognised or a registered body for non-agricultural purpose, the extent of which shall not exceed one fourth of a unit; (iv) a housing project, approved</p>		
--	--	--	--

	<p>by the State Government the extent of which shall not exceed ten units; (v) the purpose of horticulture including floriculture and agro based industries the extent of which shall not exceed ten units.]3 (1A) Notwithstanding anything contained in sub-section (1), the State Government may in public interest and for reasons to be recorded in writing, 4 [by notification and subject to the provisions of the Karnataka Town and Country Planning Act, 1961 (Karnataka Act 11 of 1963) and such restrictions and conditions as may be specified by it, exempt any extent of land from the provisions of sections 63, 79A, 79B or 80]4 for any specific purpose.]2 5 [Provided that 6 [the Deputy Commissioner other than the Deputy Commissioner of Bangalore Rural District and the Deputy Commissioner of Bangalore District, may]6 subject to the restrictions and the manner specified in this sub-section exercise the power of the State Government to grant exemptions to an extent not exceeding half hectare of land.] 5 1. Substituted by Act 9 of 1992 w.e.f. 21.4.1992. 2. Substituted by Act 31 of 1995 w.e.f. 20.10.1995 by notification. Text of the notification is at the end of the Act. 3. Inserted by Act 20 of 2003 w.e.f. 23.4.2003. 4.</p>		
--	--	--	--

	<p>Substituted by Act 8 of 1996 w.e.f. 20.10.1995. 5. Inserted by Act 18 of 2004 w.e.f. 10.3.2004. 6. Substituted by Act 7 of 2005 w.e.f. 19.03. 2005. (2) Where any condition or restriction specified in the notification under sub-section (1), has been contravened, the 1 [State Government or as the case may be, the Deputy Commissioner may]1 after holding an enquiry as 1 [it or he deems fit]1 , cancel the exemption granted under that sub-section and the land in respect of which such cancellation has been made, shall, as penalty be forfeited to and vest in the State Government free from all encumbrances. No amount is payable there for.]</p>		
		<p>Savings,-(1) Notwithstanding the omission of sections 79A, 79B and 79C with effect from 1st day of March 1974, the cases already disposed of before the publication of the Karnataka Land Reforms (Amendment) Ordinance ,2020 shall not in any way be affected.</p>	

		(2) All cases pending on the date of publication of this Act pertaining to section 79A, 79B and 79C and consequential thereof shall stand abated.	
--	--	---	--

6. The petitioner submits that these un-amended provisions remained in statute book since the inception of Karnataka Land Reforms Act 1961. There is a social objective to enact this statute. The land holding pattern in India in general and Karnataka in particular, which was concentrated in *Maths, temples* and in the hands of *big landlords*. There has been lot of inequality in the matter of land holdings and affected agricultural productivity. The land ceilings were brought to set this inequality right in the *pattern of agricultural holdings*. Even as on today, the majority of holdings are small and marginal holdings in Karnataka and India. The farming is in subsistence level in the large sections of rural farmers. The farmers are most *vulnerable and gullible* sections of the society who do not have organization, there is no Farmers Commission nor chambers of Commerce in Karnataka for collective bargaining for the welfare of farmers. The measures for welfare of farmers taken since the last seven decades of independence is wholly inadequate. The farmers are invaded with laws pertaining seeds, which they have been herein before, used to protect, preserve and cultivate the traditional varieties of seeds before the invasion of genetically modified seeds.

7. The Government made several belated experiments and tested whether the farmers oppose such move. Such an attempt was made in 2015, when the income limit under section 79-A, read with section 79-B and read with section 79C, wherein the income limit was increased from Rs.2-00 lakhs to Rs.25-00 lakhs. For the first time, the red carpet was unfolded for aristocratic sections of society to purchase agricultural land. There were earlier also used to speculative transactions. Agricultural lands were purchased by the

persons who were ineligible to hold the agricultural lands. But they were at the mercy of some of the Officers who used to exercise powers as per law and in large number of cases, they used to drop the proceedings by accepting the explanations.

8. As submitted earlier, the standard of living of farmers remains almost same in the last 48 years of Land Reforms Laws. The Government has lifted the restrictions mainly under section 79 A, 79B and 79C of Karnataka Land Reforms Act. Simultaneously, Government also extended the ceiling limits under section 63 of the Act and increased the large families up to forty units and additional units is highly objectionable in law.

9. Because of colonial legacy in the pre-independence and post independence period, there was a *feudalism* to a large extent wherein the British wanted the tax collecting section of society. Government granted them '*jahagirs*' '*inams*' and other benefits for the purpose of discharging the obligations mainly tax collection. This also contributed for the concentration of land holding in the hands of few. Temples, Maths and other religious institutions were also donated land by the devotees in large extent. Land Tribunal addressed the issue and provision was made to grant occupancy rights to the tenants. Land Reforms law in nutshell dealt with the tenancy and how to deal with tenanted land, secondly, what is the surplus land and what shall happen to the land holdings beyond ceiling limits and finally the eligibility for holding agricultural land and the consequences of breach these provisions. By virtue of amendment/ordinance, the Government now, has removed all the important provisions safeguarding the farmers interest and now, it removed all the restrictions which a welfare state shall implement which is diametrically opposed the very object of Karnataka Land Reforms Act 1961. Before the wounds of feudalisms could be healed, the questioned ordinance came to be passed throwing in to the wind of all the laudable objectives of Land Reforms Act by virtue of impugned Ordinance.

NO OTHER CASE FILED NOR PENDING

10. The petitioner of any one claiming through him have not filed any other writ petition on the same cause of action. It is made clear that there is no parallel legal proceedings pending on the same cause of action.

NO OTHER ALTERNATIVE REMEDY

11. The petitioner submits that there is no other alternative or efficacious remedy except approaching this Hon'ble Court for appropriate reliefs. There is no appeal or revision available to the petitioner for seeking review of this arbitrary legislative exercise of powers by way of ordinance. The petitioner is bringing class-action to the scrutiny of this Hon'ble Court for appropriate reliefs by way of this **PRO-BONO-PUBLICO** litigation. Questioning the impugned Ordinance wherein, certain provisions of Karnataka Land Reforms (Amendment) Ordinance 2020 bearing Gazette Notification No. DPAL 39 SHASANA 2020, Bengaluru Dated:13-07-2020, which was gazetted on Monday 13, July 2020 (Ashadha, 22, Shakavarsha, 1942), wherein the Respondents have amended certain provisions of Karnataka Land Reforms Act by way of an ordinance by exercising the powers of Article 213(1) of Constitution of India, through an ordinance, a copy of the Gazette Notification bearing DPAL 39 SHASANA 2020, Bengaluru, dated:- 13-07-2020 is produced herewith and marked as **ANNEXURE-A**, the instant writ petition is filed on the following among other grounds:-

GROUND

12. The **impugned legislative measure** by way of an ordinance is manifestly arbitrary, that no reasonable person can come to the conclusion that such an ordinance is reasonable. Such an amendment has nothing to do with the objects sought to be achieved by the parent Act. The impugned ordinance by way of introduction of amendment to the parent Act is in gross violation of **Article 14, 19 and 21 of Constitution of India** as the same takes away the livelihood of farmers by virtue of uncontrolled inflow of investments in the Agriculture to detriment to the interest of farmers.

The title of the Act, Karnataka Land Reforms Act, which contained mainly the grant of occupancy rights-making the tiller the owner of the soil. Tenancy was inheritable. The other components of the Act were ceilings on land holdings and eligibility for holding the agricultural lands. These three aspects collectively

was the soul of Karnataka Land Reforms Act. After these aspects were relaxed/ removed, nothing remains in the Act which can qualify the Statute to be called Land Reforms Act. It virtually has the effect of *repealing the Act itself to a very large extent*. This ordinance will restore the *zamindari system* prevailing in Karnataka prior to 1960 by snatching the lands from farmers at throw away price. It creates *neo-landlordism* in Karnataka. Thus, the ordinance runs counter to the very object of the Karnataka Land Reforms Act 1961. It is submitted that the amendment which is done by way of an Ordinance runs counter/opposed to the very object to the Land Reforms Act 1961. The following illegalities are pointed in brief about the illegality of the impugned ordinance:

- i) The impugned ordinance makes it retrospective is highly unacceptable in law.
- ii) The deletion/omission of section 79-A, 79-B, and 79-C is only to help some of the housing co-operative societies who violated the law especially they made speculative investment surrounding major towns and cities including Bangalore. Sometimes such speculative transactions are totally at the mercy of executives. There were limited defence available to the purchasers.
- iii) The pending proceedings were abated also clearly shows that there are several cases pending in various authorities and Appellate Tribunal. This ordinance was passed only to help these violators. In all amendments, substitutions in legislative exercise, the action taken, cases pending will continue as if the law is not amended. Such drastic statutory changes will enure the benefits of the future actions and not pending cases. This strange, that the proceedings initiated and pending are also made to rest permanently. It is helping the violators with impunity. If these violated transactions are set aside, the land is forfeited, the lands will go to landless and urban housing demand can be met by the Government for economic justice.
- iv) The ceiling on lands which ought to have brought down as the population of Karnataka from 1961 to 2020 was almost doubled. As the increased population, there will be more density of population on land also there is a drastic reduction in average holding of land in Karnataka. The average holding about 78 lakhs farmers in Karnataka in 1960s is about 3.5 hectares, now is about 1.55 hectares. In the total holdings about 75% of the holdings are small and marginal lands. The population of Karnataka was increased from 3.25 Crores in 1960s now, increased to about 7-0 crores. The ceiling ought to have been reduced from 216 Acres to much less preferably half. Ironically, the impugned ordinance increases, doubles the ceiling limits is highly regressive legislative measures.
- v) It is well settled that there is no *malafides* can be attributed to legislative exercise. But the same degree of immunity or protection is not available to an ordinance. There is no detailed discussion about the

ordinance and nature and purpose of this ordinance. The impugned ordinance is colourable exercise of power and the same is aimed to help the violators. Hence, looking from any angle such a ordinance/legislation goes diametrically opposed to the very object of Karnataka Land Reforms Act 1961.

v) The impugned ordinance was promulgated without even placing any studies or research about the requirement to bring such drastic changes in the pattern of land holdings which was resisted through ages to prevent concentration of lands in the hands of few. In the absence of such an assessment of socio-economic research, the impugned ordinance requires to be set aside.

vi) The new legislation or new ordinance is different from bringing amendment by way of ordinance to the existing statute. In the instant case, the legislation passed by the State legislation was virtually nullified by the Ordinance. Hence, the impugned ordinance deserves to be set aside.

vii) The impugned ordinance is made retrospective. The Land Reforms Act stood more than 46 years of its existence. The drastic amendments date back to 01-03-1974 which is highly objectionable and no reasons are assigned as to why such a hurried ordinance was given retrospective effect.

viii) The impugned ordinance is the colourable exercise of powers and is supported by the leading judgement of Supreme Court in *Dr. D.V. Wadhwa V/S State of Bihar AIR 1987 SC 579*. Even an ordinance can be struck down if it is colourable exercise of power or violative of constitution. Hence, the impugned ordinance deserves to be set aside.

13. The Karnataka Land Reforms Act 1961, though the same is inserted in the IX Schedule read with Article 31-A of Constitution of India, the same is not immune from challenge as held in several Judgements. Article 31-A was inserted by Constitution (First Amendment) Act 1951, (sec.4). Article 31-B is an extension of Article 31-A, read with IX schedule will not come in the way of examining the validity of legislative action by the impugned ordinance. It is now, well settled that the Statutes in IX schedule of Constitution of India do not enjoy immunity from challenge. They are amenable to the exercise of writ jurisdiction. Since, the judicial review, preamble of constitution constitute the basic structure propounded in *Keshavananda Bharathi Case*, the petitioner maintains the writ petition and the same may be considered on merits by examining the validity of the impugned legislation/s/ordinance. Similar view was taken in *Waman Rao V. Union of India (AIR 1981 SC 271, H.S.Srinivas V.State of Karnataka*.

14. The impugned amendments by way of insertion, amendment, substitution under various sections of impugned ordinance are opposed to the preamble to the constitution of India which reads as under:-

, "*We, the people of India having solemnly resolve to constitute India into sovereign, socialist, secular, Democratic, Republic.*" The word '**SOCIALIST**' which is embedded in the Preamble of the Constitution.

The amendments under the questioned Ordinance is opposed to preamble of the Constitution, the preamble to the Constitution forms basic structure of the Constitution. Such basic feature of the constitution cannot be violated by the ordinance.

The word **SOCIALIST** is not defined under the Constitution. It has something to do with economic justice and preventing the concentration of the economic power of the Society in the hands of few individuals. In the last five decades of existence of this legislation, the Government failed to bring up the standard of living of farmers. Their standard of living remains almost same in the last five decades of Land Reforms.

15. The petitioner submits that the amendment of section 63 regarding increasing the ceiling ,it virtually doubles the holdings permissible under the law. Further, it also increases the holdings in the nature of an exception that *large families of five* or more. It itself discriminates between the small families and the family consisting of five or more. this discrimination also is bad in law in as much as it has *no nexus* with the objects sought to be achieved by the Karnataka Land Reforms Act. Hence, the amendment by way of Ordinance in so far as the section 63 regarding the ceilings is highly unsustainable in law.

16. The omission of sections 79-A, 79B, and 79C by way of deletion/omission by giving go bye to the income restriction/limit and also by removing the restriction to the non-farmers from entering to be examined in the context of not only the rich and affluent section among the farmers. But also the same opens *pandora's box* of corporate investments in farming and agricultural lands. The farmers are also unable to face the competition globally thrust upon them due to the impact of globalization. When the entire farming community

is in such pathetic conditions, in pitiable economic condition, the present amendment by removing the restrictions under section 79-A,79-B and 79-C are unconstitutional.

17. The impugned ordinance fails to achieve the social welfare of farmers, since the Land Reforms Act is social welfare legislation which was expected to protect the interest of weaker section of the Society. The farmers are indisputably weaker section of society. The agrarian reforms was the outcome of decades of struggle of landless. Such an agrarian reforms achieved was washed away by the Government by virtue of the impugned Ordinance. Hence, the protection granted in the un-amended law to the farmers ought not to have been disturbed through this ordinance.

18. It is well-settled that the provisions of Article 19(1)(g) of Constitution of India **freedom of Profession** is subject to regulatory power of the State. The provisions pertaining to non-eligibility of under section 79 A to 79 C, were reasonable restrictions, accepted for decades and such restriction stood for long in the last few decades without any such challenge of legislative provisions. Hence, the impugned ordinance by omitting the provisions of section 79A to 79C is **violative** Article 19(1)(g) of Constitution of India in so far as the farmers are concerned as it opens the farmland purchase by the third parties by removing the **filters/limit/cap/restrictions** under un-amended provisions of law.

19. The careful examination of Statement of Objects and reasons for passing the Karnataka Land Reforms Act 1961, clearly shows that the ceiling on lands, restrictions for holding the agricultural lands are all primarily concerned to the **socialist** objective, though by way of an amendment in the preamble, the same was very much in the directive principles of State Policy under Part IV of the Constitution of India about the protection of weaker section of society and also the objective of achieving the objective as enshrined under Article 39 (b) & (C) of Constitution of India. Such a laudable objective by which the Karnataka Land Reforms Act had its existence, is now defeated by virtue of impugned ordinance. Hence, the impugned ordinance deserves to be set aside/declared as unconstitutional.

20. The Government has been deviating from the primary function of agrarian reforms as envisaged in Karnataka Land Reforms Act. There is no specific objects or reasons by which the Ordinance came to be issued. It is not known, as to why such urgency for bringing such an ordinance without even specifying the proper objects and reasons in the said impugned ordinance. In the absence of such convincing and compelling objectives and reasons, the very ordinance is highly unjustified in law.

21. The impugned ordinance runs counter to the very objects sought to have been achieved by the Karnataka Land Reforms Act 1961.

22. The impugned Ordinance in so far as it omitted the provisions of section 79A to &9-C, has facilitated the purchasing the lands by non-agriculturists and the restriction on the income also removed. The companies, Firms and any other entities can purchase the agricultural lands by opening the investments. The farmers cannot compete with any corporate wizards or other businessmen who will buy the agricultural land. By virtue of the proposed amendment, the farmers, mostly small and marginal farmers without any source of income, cannot even remotely think of buying new agricultural land. Hence, the impugned ordinance which also goes against the provisions of Article 39(b) and 39(C) of constitution of India.

23. The impugned ordinance in increasing the ceilings and omitting the provision of section 79A to 79C clearly promotes the concentration of wealth and it causes severe form of injustice to the farming community and violative of Article 14, 19 and 21 of Constitution of India.

24. The very purpose of Land Reforms Act was to remove the landlordism and **ZAMINDARI SYSTEM**. The impugned provisions definitely creates **NEO-ZAMINDARI SYSTEM** if the impugned ordinance is not quashed. Such statute, Government sponsored exploitation may not be permitted by timely intervention by this Hon'ble Court.

25. The Provision under Article 46 of Indian Constitution deals with the promotion of educational and economic interests of Scheduled Castes, Scheduled Tribes and other weaker sections:-

The state shall promote with the special care the educational and economic interests of the weaker sections of the people ,and in particular, of the **SCHEDULE CASTES** and the **SCHEDULED TRIBES**, and shall protect them from social injustice and all forms of exploitation. It is submitted that *farmers*

community in general are weaker section of society. Though, they produce the food/grains, they have not been allowed to fix the price fixed by them. Except the Farmers Community, all other commodities, the producers fix the price right from pin to incense sticks to costliest Defence Air Crafts in this world, the manufacturer fixes the Maximum Retail Price(MRP). But in the case of farmers, the price is fixed by someone else, who has no role to play in the process of manufacturing or processing. They are economically weak and not organized at all. Hence, the anomaly caused by this ordinance may be set right by quashing the impugned ordinance.

26. The Supreme Court, while interpreting the ambit of Article 31-A, IX Schedule, in ***Keshavananda Bharati Sripandalavaru V/S State of Kerala*** AIR 1973 SC 1461, held that inclusion in the ninth Schedule of any law is open to challenge on the ground of damage to the basic structure of the constitution. In the instant case, the preamble of the constitution of India itself is 'socialist'. Hence, the impugned ordinance violates the basic feature of constitution of India. Notwithstanding the fact that the Land Reforms Act is included under Article 31-A, the power of judicial review is still available on merits. Under these circumstances, the impugned ordinance deserves to be quashed.

27. The ***impugned ordinance*** in so far as it pertains to both increasing the ceiling limits under section 63 and also removal of restrictions under section 79A, 79-B and 79-C of Karnataka Land Reforms Act is in the detriment of farmers community as a whole. After India became signatory to the World Trade Organization, the farmers' suicide, indebtedness and poverty increased. This is due to multitude of reasons. But in welfare state, the State shall not aggravate the sufferings by enacting the statutes /ordinance/s which is detrimental to the interest of farmers. The restrictions under section 79A, 79B and 79-C may be restored in the interest of farmers. Hence, the impugned ordinance is liable to be quashed.

28. The impugned legislative exercise is made without going to the research or study on the farmers' economic status. No study or research was conducted as to whether any prejudice is caused to the farmers in the state where such restrictions are not there. Even in Karnataka, no farmers organizations are consulted nor any study or case study was held to the knowledge of the petitioner. Impugned ordinance went without any precautions on the right of farmers who have no ***collective voice***. Hence, impugned ordinance deserves to be set aside.

29. **GROUNDS FOR INTERIM PRAYER:**

During the pendency of the proceedings, it is just and necessary to stay the operation of the Gazette Notification No. DPAL 39 SHASANA 2020, Bengaluru Dated: 13-07-2020, which was gazetted on Monday 13, July 2020 (Ashadha, 22, Shakavarsha, 1942), wherein the Respondents have amended certain

provisions of Karnataka Land Reforms Act by way of an ordinance by exercising the powers of Article 213(1) of Constitution of India, through an ordinance vide Gazette Notification bearing DPAL 39 SHASANA 2020, Bengaluru ,dated:- 13-07-2020, issued by the Respondent No.1 Vide **ANNEXURE-A**. It is also necessary to pass such other and further order/s, interim directions that this Hon'ble Court may deem fit and proper on facts and circumstances of the case in the interest of justice and equity.

30. **PRAYER:**

Wherefore, it is prayed that this Hon'ble Court may be pleased to allow the instant writ petition by grant of :

- i) A writ of *certiorari* or ***any other writ order /direction*** and quash the **ORDINANCE** Gazette Notification No.DPAL 39 SHASANA 2020,Bengaluru Dated:13-07-2020,which was gazetted on Monday 13,July 2020 (Ashadha, 22,Shakavarsha, 1942), wherein the Respondents have amended certain provisions of Karnataka Land Reforms Act by way of an ordinance by exercising the powers of Article 213(1) of Constitution of India, through an ordinance. A copy of the Gazette Notification bearing DPAL 39 SHASANA 2020, Bengaluru ,dated:-13-07-2020 (**ANNEXURE-A**) in so far as it pertains to amendment of sections 63,and omission of section 79-A,79B and 79C of Karnataka Land Reforms Act, issued by the Respondent No.1.
- ii) Declare that the ordinance vide Gazette Notification No.DPAL 39 SHASANA 2020,Bengaluru Dated:13-07-2020,which was gazetted on Monday 13,July 2020 (Ashadha, 22,Shakavarsha, 1942), wherein the Respondents have amended certain provisions of Karnataka Land Reforms Act by way of an ordinance by exercising the powers of Article 213(1) of Constitution of India, through an ordinance vide Gazette Notification bearing DPAL 39 SHASANA 2020, Bengaluru ,dated:- 13-07-2020, issued by the Respondent No.1 herein in so far as the it pertains to amendment of sections 63,and omission of section 79-A,79B and 79C of Karnataka Land Reforms Act as unconstitutional/void.
- iii) Pass such other writ or order or direction that this Hon'ble Court may deem fit and proper on facts and circumstances of the case in the interest of justice and equity.

31. **INTERIM PRAYER:**

During the pendency of the proceedings, it is prayed that this Hon'ble Court may be pleased to stay the operation of the ordinance vide Gazette Notification bearing DPAL 39 SHASANA 2020, Bengaluru ,dated:- 13-07-2020, issued by the Respondent No.1. It is also prayed to pass such other and further