

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 20TH DAY OF DECEMBER, 2024

PRESENT

THE HON'BLE MRS JUSTICE ANU SIVARAMAN

AND

THE HON'BLE MR JUSTICE UMESH M ADIGA

WRIT APPEAL NO. 361 OF 2022 (LR)

BETWEEN:

SRI.BYRAPPA,
S/O. LATE CHIKKAMUNISWAMAPPA,
AGED ABOUT 66 YEARS,
R/A. SIDDAPURA VILLAGE,
VARTHUR HOBLI,
BENGALURU EAST TALUK 560 031. ...APPELLANT

(BY SRI. JAYAKUMAR S. PATIL, SENIOR COUNSEL FOR
SRI. VARADARAJAN M.S., ADVOCATE)

AND :

- 1 . STATE OF KARNATAKA,
BY ITS CHIEF SECRETARY,
VIDHANA SOUDHA,
BENGALURU - 560 001.
- 2 . THE ADDL.DEPUTY COMMISSIONER,
BENGALURU DISTRICT &
COMPETENT AUTHORITY,
BENGALURU EAST TLAUK,
KRISHNARAJAPURAM,
BENGALURU - 560 036.

SMT. BHYRAMMA,
W/O. LATE DODDAGOWDA,
AGED ABOUT 66 YEARS,
OCC: AGRICULTURIST,
R/A. KANNAMANGALA VILLAGE,
BIDARAHALLI HOBLI,
BENGALURU EAST TALUK - 560 049.
SINCE DEAD BY HER LRS

3. PRABHA,
D/O LATE BYRAMMA,
AGED ABOUT 53 YEARS,
- 4 . VINODA,
D/O LATE BYRAMMA,
AGED ABOUT 54 YEARS,
- 5 . VANKTU,
D/O LATE BYRAMMA,
AGED ABOUT 51 YEARS,
6. GAYATHRI,
D/O LATE BYRAMMA,
AGED ABOUT 49 YEARS ,
- 7 . MANJAMMA,
D/O LATE BYRAMMA,
AGED ABOUT 46 YEARS,
- 8 . NAGESH,
D/O LATE BYRAMMA,
AGED ABOUT 43 YEARS,

RESPONDENTS 3 TO 8 ARE
R/A. KANNAMANGALA VILLAGE,
BIDARAHALLI HOBLI,
BENGALURU EAST TALUK - 560 049.

- 9 . SMT. LAKSHMIDEVAMMA,
W/O. SUBBARAO,
AGED ABOUT 85 YEARS,
R/A. SIDDAPURA VILLAGE,
VARTHUR HOBLI,
BENGALURU EAST TALUK-560 037.
- 10 . SMT. NARASAMMA,
W/O. LATE KRISHNAMURTHY,
AGED ABOUT 90 YEARS,
R/A. GOVINDAHALLI VILLAGE,
KUPPAM TALUK,
CHITTOR DISTRICT,
ANDHRA PRADESH - 517 425.

SRI. R. KRISHNAMURTHY,
SINCE DEAD, BY HIS LRS.

11. SRI MUKUNDA RAO,
S/O. LATE R. KRISHNAMURTHY,
AGED ABOUT 70 YEARS,
- 12 . SMT. RAMAMANI,
D/O. LATE R. KRISHNAMURTHY,
AGED ABOUT 68 YEARS,
- 13 . SMT. YASHODA,
D/O LATE R. KRISHNAMURTHY,
AGED ABOUT 65 YEARS,

RESPONDENTS 11 TO 13
ARE RESIDING AT
GOVINDAHALLI VILLAGE,
KUPPAM TALUK,
CHITTOOR DISTRICT,
ANDHRA PRADESH -517 425.

...RESPONDENTS

(BY SRI.VIKAS RAJIPURA, AGA FOR R1 AND R2,
SRI. C.M. NAGABHUSHAN, ADVOCATE FOR
SRI. SRIHARI A.V., ADVOCATE FOR R3 TO R8,
R10, R11, R12,& R13 ARE SERVED AND
UNREPRESENTED,
VIDE ORDER DATED 10/09/2024, BRINGING
LR'S OF DECEASED R9 IS DISPENSED WITH AND
APPEAL STANDS ABATED AGAINST R9)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF
KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE ORDER
DATED 02.03.2022 PASSED IN WP 41575/2017(LR) ONLY TO THE
EXTENT THE MATTER IS REMANDED BACK TO THE SECOND
RESPONDENT WHILE UPHOLDING THE SAID ORDER TO THE EXTENT
IT HAS QUASHED THE ORDER DATED 21.07.2017 PASSED BY THE
KARNATAKA APPELLATE TRIBUNAL IN APPEAL No-443/2011 AND TO
ALLOW THE WP FILED BY THE APPELLANT i.e., WP 41575/2017(LR)
IN TOTO, AS PRAYED FOR BY THE ALLOWING THIS WRIT APPEAL IN
THE INTEREST OF JUSTICE.

THIS WRIT APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 20.11.2024 AND COMING ON FOR PRONOUNCEMENT OF JUDGMENT THIS DAY, **UMESH M ADIGA J.,** PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MRS JUSTICE ANU SIVARAMAN
and
HON'BLE MR JUSTICE UMESH M ADIGA

CAV JUDGMENT

(PER: HON'BLE MR JUSTICE UMESH M. ADIGA)

This intra-Court Writ Appeal is directed against the order dated 02.03.2022, in Writ Petition No.41575/2017 (LR), passed by the learned Single Judge of this Court.

2. We have heard the arguments of the learned Senior Counsel appearing for the appellant, learned Addl.Government Advocate appearing for respondent Nos.1 and 2 and learned counsel for respondent Nos.3 to 8.

3. Brief facts of the case are that :

The land bearing Survey No.53, measuring 1 acre 34 guntas, situated at Siddapura Village, Varthur Hobli, Bengaluru East Taluk, was an Inam land attached to the Village Office. After coming into force of Karnataka Village

Offices Abolition Act, 1961, the land was vested with the Government. The said land was re-granted in the name of Smt.Lakshmiddevamma - respondent No.9 and brother of her husband by name R.Krishnamurthy. One Chikkamuniswamappa, father of the appellant, was tenant of the said land from Smt.Laxmiddevamma and her husband and he was paying gutta to the landlord.

The said Chikkamuniswamappa was an illiterate and after Karnataka Land Reforms Act, 1961 came into force, the said Chikkamuniswamappa did not file Form No.7 praying to grant occupancy rights in respect of the said tenanted land. He continued to cultivate the said land as tenant till his death. His name was entered in the revenue records pertaining to the said land. After the death of Chikkamuniswamappa, appellant herein continued the said tenancy and is in possession of the said land.

4. The appellant filed Form No.7A under Section 77-A of Karnataka Land Reforms Act, seeking for grant of occupancy rights in respect of the said land. The said

application was registered in case No.LRF(7A)45(VC) 1999-2000, in the Court of Additional Deputy Commissioner, Bengaluru District. The owners of the said property were impleaded as parties at the time of filing of the said application. Later on, the legal heirs of deceased Krishnamurthy i.e., his wife and children filed an application and got impleaded as party-respondents. Both the respondents have filed their objections to the petition.

5. The learned Additional Deputy Commissioner had recorded the evidence of the concerned persons and after hearing both parties, by the order dated 23rd April 2011, allowed the application and granted occupancy rights in respect of land bearing Survey No.53 of Siddapura Village, Varthur Hobli, Bengaluru East Taluk, measuring 1 acre 34 guntas.

6. The deceased respondent No.3 - Smt.Byramma challenged the said order of the Deputy Commissioner before the Karnataka Appellate Tribunal, at Bengaluru

(for short, 'KAT'), in Appeal No.443/2011, under Section 118 of Karnataka Land Reforms Act, 1961. The KAT heard both side parties and on appreciation of the materials available on record, by the order dated 21.07.2017, set aside the orders passed by the Deputy Commissioner in No.LRF(7A)45(VC) 1999-2000, dated 23.04.2011 and allowed the appeal. The KAT mainly allowed the appeal on the ground that disputed land was Inam land and none applied for re-grant of the said land under the Inams Abolition Act. Therefore, by virtue of Section 3 of the Inams Abolition Act, the said land was vested with the Government and both side parties lost their right over the said land. Therefore, the tenancy claim of the appellant herein was not at all tenable.

7. The said order was challenged by the appellant herein before the learned Single Judge in Writ Petition No.41575/2017 (LR). The learned Single Judge on hearing the arguments of both side; held that already applications were filed for re-grant of the said land and land was re-granted in favour of Smt.Lakshmiddevamma and her

family members, therefore, the findings of the KAT was not tenable.

8. During the course of arguments, learned Addl.Government Advocate had produced the relevant file before the learned Single Judge and on consideration of the materials available in the file, the learned Single Judge found that father of the appellant herein had executed a document surrendering his tenancy rights over the property in favour of one Patel Venkataramanappa and thereafter, father of the appellant who filed a suit in O.S.No.415/1970 before the learned II Munisiff Court, Bengaluru, did not prosecute the said case, due to which, it was dismissed for default and no steps were taken for restoration of the said case.

9. Considering the said contention, learned Single Judge found that it is proper to remand the matter to the Addl.Deputy Commissioner for reconsideration of the matter on merits and to pass appropriate orders. Accordingly, the learned Single Judge set aside the orders

passed by the KAT, Bengaluru, dated 21.07.2017 and remanded the case to respondent No.2 - Addl.Deputy Commissioner to hear the matter afresh by giving opportunities to both side parties concerned and to dispose of the matter in accordance with law. The said order is challenged in the present appeal.

10. The learned Senior Counsel Sri Jayakumar S. Patil, appearing for the appellant submitted that in the revenue records i.e., RTC, the name of father of the appellant is shown as tenant from the year 1970-1971 onwards, that were not considered by the learned Single Judge. He further submits that the landlord deposed before the Deputy Commissioner stating that the appellant herein, as well as his father were tenants and were paying gutta for cultivating the said lands. There was no dispute that appellant was tenant of the disputed land. The said evidence was also not considered by the learned Single Judge.

11. Learned Senior Counsel further contends that the learned Single Judge passed the order on the basis of copy of an unregistered Release Deed said to have been executed by father of the appellant in favour of one Patel Venkataramanappa in respect of certain lands. Learned Single Judge also found that O.S.No.415/1970 filed by the father of the appellant was dismissed for non-prosecution and in the said Original Suit, it was prayed for declaration that he was tenant of the subject matter of the said suit. Considering the same, the learned Single Judge set aside the order passed by the KAT and remanded the matter to the Deputy Commissioner for reconsideration of the matter. The learned Single Judge failed to consider that it was an unregistered Release Deed and it had no value in the eye of law. When the document has no force of law, consideration of the said document to determine whether as on the date of coming into force of Karnataka Land Reforms Act, appellant was the tenant or not is of no consequence. Therefore, the said order of remand is incorrect. With these reasons, learned Senior Counsel

prayed to set aside the order passed by the learned Single Judge and to confirm the orders passed by the Deputy Commissioner.

12. Learned counsel appearing for respondent Nos.3 to 8 supported the impugned order and submitted that though the said records were available with the Deputy Commissioner, the Deputy Commissioner did not take cognizance of the said materials while disposing the case. The property was said to be obtained by father of the appellant on lease from Smt.Lakshmiddevamma. It was not in dispute before the Deputy Commissioner that during the partition in the family of husband of Smt.Lakshmiddevamma and his brother-in-law, the disputed property was fallen to the share of R.Krishnamurthy i.e., brother-in-law of Smt.Lakshmiddevamma. The said Krishnamurthy sold the very same property in favour of husband of Smt.Byamma by registered Sale Deed dated 18.08.1969. From that date onwards, the husband of Smt.Byamma and after his

death, Smt.Byramma, as well her children are in possession and enjoyment of the said land.

13. It is not the case of the appellant that he paid gutta to Byramma at any time. As on the date of coming into force of Karnataka Land Reforms Act, Smt.Byramma was the owner and in cultivation of the said property. The Deputy Commissioner did not consider the documents which were available on record. The said records were placed before the learned Single Judge by the Government Advocate. Considering the said materials, the learned Single Judge came to a conclusion that the relevant materials were not considered by the Deputy Commissioner though they were available in the file. Therefore, the learned Single Judge rightly remanded the matter to the Deputy Commissioner to consider the case of both the parties on the basis of relevant documents available on record. There is no illegality in the findings of the learned single Judge. The appellant may agitate his case before Deputy Commissioner. No adverse order was passed against the appellant. When father of the appellant

surrendered tenancy rights, question of grant of occupancy rights in favour of appellant does not arise. Therefore there is no need to interfere in the findings of the learned Single Judge. Hence, prayed for dismissal of the appeal.

14. The question that arises for our consideration is,

Whether rehearing of the case by the Deputy Commissioner by considering the document is required?

Our answer to the above said question is in the affirmative for the following reasons :

15. It was contended on behalf of Smt.Byramma that the said land was purchased by her husband from its owner R.Krishnamurthy and his wife Smt.Narasamma under a registered Sale Deed dated 18.08.1969. She had also contended before the Deputy Commissioner that after selling of the said property in favour of her husband, appellant or his father have never cultivated the suit property. The learned Government Advocate has produced the file pertaining to this property before the

learned Single Judge and the learned Single Judge noticed that an unregistered Release Deed was executed by father of the appellant herein, releasing his right of tenancy over the property in favour of one Patel Venkataramanappa in respect certain lands, including Survey No.53 of Siddapura Village. The learned Single Judge has also observed that father of the appellant herein had filed suit in O.S.No.415/1970 before the learned II Munsiff Court, Bengauru, wherein he prayed to declare that he was a tenant of portion of the property in Survey No.53. It appears that, after execution of the said Release Deed, he did not prosecute O.S.No.415/1970 and the said suit was dismissed for non-prosecution.

16. The appellant disputes the execution of the said Release Deed and he also contends that since it is an unregistered document, no right could be relinquished by virtue of the said document and it is not admissible in evidence. It was also contended before the learned Single Judge that the property mentioned in the said document is totally different from the disputed property in the present

litigation. To determine these facts, a detailed enquiry is required. Hence, the learned Single Judge has rightly remanded the case to hold enquiry by the Deputy Commissioner. The Deputy Commissioner has to decide the execution, validity and the property covered under the said document. Therefore, remanding of the matter by the learned Single Judge is not erroneous.

17. The contention of the appellant that the said document is an unregistered document, therefore, it is not admissible in evidence and it cannot be considered for any purpose, therefore conducting enquiry on such document is not necessary. Whether the said document is tenable or not or it is admissible or not cannot be decided on its perusal. Whether it requires registration or not depends upon other circumstances. If tenancy is for year-to-year or more than a year, then such document needs registration. Similarly, relinquishment of such right may also needs registration. If period of tenancy is less than one year, the relinquishment of such rights needs no registration, which needs consideration. Moreover, prior to coming into force

of Karnataka Land Reforms Act, 1974, no right was vested with the tenant. The main object of Karnataka Land Reforms Act, 1974 is that the "tiller shall be the owner" of the land. As on the appointed date, if the appellant was not a tenant of the said property and Byramma was cultivating the said land, then, the grant of the land in favour of the appellant may be incorrect.

18. The respondent No.3 Smt.Byramma prior to this litigation, filed cases against some others in respect of Survey No.53 in O.S.No.213/1993 and O.S.No.181/1997, seeking protection of her right over property. In both the suits, she succeeded. The said decree may also throw light about the right, possession and enjoyment of Smt.Byramma or her husband over the property in dispute. Moreover, the landlords i.e., Smt.Lakshmiddevamma and respondent No.10 - Smt.Narasamma who have admitted that appellant and his father were tenant of the disputed property were not all the owners of the said property after the husband of

respondent No.10 sold the property, in favour of husband of Byamma.

19. It is also pertinent to note that respondent No.10 did not dispute about sale of the said property in favour of husband of Byamma. Under those circumstances, how much weightage shall be given to the evidence of Smt.Lakshmiddevamma and Smt.Narasamma has to be reconsidered by the Deputy Commissioner by a detailed enquiry. In the writ proceedings, all these facts cannot be decided. Therefore, learned Single Judge rightly set aside the orders and remanded the matter back to the Deputy Commissioner to hold detailed enquiry in this regard and to pass appropriate orders in accordance with law. We do not find any illegality in the said order.

20. For the aforesaid discussion, we pass the following:

ORDER

The Writ Appeal is ***dismissed***, upholding the order passed by the learned Single Judge in Writ Petition No.41575/2017 (LR), dated 02.03.2022.

Both parties shall appear before respondent No.2-
Addl.Deputy Commissioner, Bengaluru District and
Competent Authority, Bengaluru East Taluk, on
10.02.2025, without anticipating any notice from the said
authority.

The respondent No.2 - authority shall dispose of the
matter as expeditiously as possible, in accordance with
law.

**Sd/-
(ANU SIVARAMAN)
JUDGE**

**Sd/-
(UMESH M ADIGA)
JUDGE**

bk/