



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19TH DAY OF DECEMBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE RAJESH RAI K

WRIT PETITION NO. 11111 OF 2016 (LR)

BETWEEN:

1. SRI. MANSUKH LAL PATEL
S/O JEEVARAJ G. PATEL
MAJOR,
R/AT AMARADEEP
NEAR SHARADAMBA TEMPLE
CHITAPADI, 76 BADAGABETTU VILLAGE,
UDUPI TALUK & DISTRICT
2. SRI. NARENDRA J. PATEL
S/O JEEVARAJ G. PATEL
MAJOR
R/AT AMARADEEP
NEAR SHARADAMBA TEMPLE
CHITAPADI, 76 BADAGABETTU VILLAGE,
UDUPI TALUK & DISTRICT.

...PETITIONERS

Digitally signed by
PANKAJA S
Location: HIGH
COURT OF
KARNATAKA

(BY SRI. VINAYAKA B AND
SRI.VARUN R, ADVOCATES)

AND:

1. THE STATE OF KARNATAKA
RERPESENTED BY ITS SECRETARY TO
REVENUE DEPARTMENT
M.S. BUILDING,
BENGALURU.



2. THE LAND TRIBUNAL
UDUPI BY ITS SECRETARY.
3. SRI. CHANDRAYYA NAIKA
S/O ANANTHA NAIKA
MAJOR
THENKANIDIYURU VILLAGE & POST,
UDUPI TALUK AND DISTRICT
(SINCE DEAD BY LR'S)
- 3(A) SRI. VASANTH NAIK
S/O LATE CHANDRAYYA NAIKA
AGED ABOUT 63 YEARS
KELARKALABETTU VILLAGE & POST
KELARKALABETTU, UDUPI-576 105.

...RESPONDENTS

(BY SRI. KIRAN KUMAR, AGA FOR R1 & R2,
SRI. K. CHANDRANATH ARIGA, ADVOCATE FOR R3(A))

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF
THE CONSTITUTION OF INDIA PRAYING TO CALL FOR THE
RECORDS FROM THE R-2 TRIBUNAL WHICH ULTIMATELY
RESULTED IN GRANTING OCCUPANCY RIGHTS OF THE
SCHEDULE PROPERTY IN FAVOUR OF THE R-3 AND ETC.

THIS PETITION HAVING BEEN RESERVED FOR ORDERS
ON 17.12.2025 COMING ON FOR PRONOUNCEMENT THIS DAY,
THE COURT MADE THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE RAJESH RAI K



CAV ORDER

1. The petitioners in this writ petition are seeking a writ of certiorari to quash the A order dated 01.03.1994 passed by the Land Tribunal-respondent No.2 vide Annexure-, whereby the Land Tribunal granted occupancy rights in favour of Chandrayya Naika - respondent No.3.

2. The grievance of the petitioners' is that the land measuring 25 cents in Sy.No.159 situated at Shivalli Village, Udupi Taluk (for brevity "**the subject land**"), originally belongs to Sode Vadiraja Mutt (for brevity "**the Mutt**"). In the year 1963, after obtaining permission from the Commissioner for Hindu Religious and Charitable Endowments, Mysore, the Mutt formed a layout. Thereafter, the Mutt leased the subject land (marked as Plot No.46 in the layout plan) to one Rama Rao vide registered Lease Deed dated 09.05.1966 and said Rama Rao sold his lease hold rights in respect of the subject land to one Jagannath Shetty under a registered Deed dated 21.08.1974. Thereafter, said Jagannath Shetty in turn sold the lease hold right to Victoria D'Silva Bai on 06.11.1974 and the Victoria D'Silva Bai sold the same to Purushottam P Shetty on 16.08.2012. Thereafter, the petitioners purchased mooli right



and leasehold right (Moolageni right) of the subject land from the Mutt and Purushottam P Shetty vide registered Deed dated 27.08.2012 and ever since, they were in possession and enjoyment of the same. After that the revenue entries were mutated in the name of the petitioners and the Encumbrance Certificate for the period from 01.04.1974 to 27.08.2012 reflects the above transactions and Municipal Khata also stands in the name of the petitioners.

3. It is further case of the petitioners that respondent No.3, who is a resident of Kelarkalabettu Village, Udupi Taluk which is 10 kms away from the subject land had filed Form No.7 claiming 9 items of land in Kelarkalabettu Village seeking occupancy right and the Land Tribunal vide order dated 10.08.1978 granted the said lands which were only subject matter of claim before the Tribunal. Subsequently, in the year 1994, respondent No.3 had fraudulently inserted the survey number of subject land in the old Form No.7 which was already disposed of by the Tribunal by order dated 10.08.1978. The Tribunal thereafter without notice either to the petitioners or the Mutt had passed the impugned order by granting occupancy right to respondent No.3 in respect of the subject land. On



16.10.2014, fresh Form No.10 was issued which itself reflected the subject land as a house site. Thereafter, the children of respondent No.3 started to interfere with the petitioners' peaceful possession and enjoyment of the subject land and on enquiry, the petitioners learnt about the impugned order and enquired with the Mutt that whether the subject land-house property was given on agricultural lease at any point of time and the Mutt issued the letter dated 18.03.2015 stating that the subject land is a house site.

4. Thereafter, the petitioners lodged a complaint before the Deputy Commissioner for cancellation of conversion order obtained by respondent No.3 after passing of the impugned order in his favour and the Deputy Commissioner has noted that respondent No.3 has forged Form No.7 and referred the matter to the Tahsildar and thereafter, the Revenue Inspector has prima facie observed that respondent No.3 has obtained occupancy right fraudulently. Hence, this Writ Petition.

5. Heard Sri Vinayaka B. and Sri Varun R., learned counsel for the petitioners, Sri Kiran Kumar learned AGA for respondent



No.1 and 2 and Sri. K. Chandranath Ariga, learned counsel for respondent No.3(a).

6. It is the primary contention of the learned counsel for the petitioners that the Tribunal has passed the impugned order without jurisdiction, since the Tribunal had already disposed of Form No.7 filed by respondent No.3 by its order dated 10.08.1978 itself. Therefore, the Tribunal ought not have reopened the case and passed the impugned order on 01.03.1994 by granting occupancy right in respect of subject land in favour of respondent No.3.

7. Further, the subject land is a house site and as such, the same does not fall within the purview of agricultural property within the meaning of Section 2(18) of the Karnataka Land Reforms Act. He also contended that on perusal of the earlier order passed by the Tribunal on 10.08.1978 clearly depicts that the respondents in the said proceedings were one Narasimha Baliga, Anandaraya Baliga and Krishnaraj Baliga; and neither the Sode Mutt nor Ramarao were shown as landlord in the said proceedings. Therefore, it is clear that the subject land was not claimed by respondent No.3 in the earlier proceedings.



However, respondent No.3 fraudulently manipulated the records of the Tribunal and managed to insert the name of Ramarao and the subject land in the earlier Form No.7 and accordingly, managed to get the impugned order. According to him, he purchased the subject land from Sode Vadiraja Mutt by its Matadipathi Vishwavallabatheerta Swamiyar and one Purushothama P. Shetty, who had purchased the land from Victoria D'Silva Bai, who purchased the same from Jagannath Shetty and said Jagannath Shetty purchased the subject land from the mooli tenant i.e., Ramarao vide Sale Deed dated 21.08.1974. In such circumstance, the impugned order has been passed without notifying the petitioners' vendors namely Purushothama Shetty or Jaganatha Shetty. As such, the Land Tribunal has erred in passing the impugned order.

8. He further contended that since the petitioners or their vendors or the mooli right purchasers were not notified prior to passing of the impugned order or made known after passing of the impugned order, the petitioners were totally unaware of the impugned order passed by the Tribunal till the year 2015, when respondent No.3's children tried to interfere with the subject



land and they made an attempt to alienate the same. As such, the delay has caused in filing this writ petition.

9. He further contended that one more reason for the delay in filing the writ petition is that even after the impugned order, the name of respondent No.3 was not reflected in the revenue entries either in the Encumbrance Certificate or in the RTCs. On the other hand, the name of petitioners was reflected in the RTC till the year 2015-16 and the Encumbrance Certificate also revealed the purchase of the subject land by the petitioners. As such, there is no occasion for the petitioners to learn about passing of the impugned order.

10. He also contended that presently the petitioners are in possession of the subject land and they have converted the land for residential purpose and formed a layout and khata of the subject land stands in the name of petitioners. In such circumstance, he submits that the Tribunal passed the impugned order subsequently without notifying the petitioners who are interested parties under Section 48-A (1) of the Karnataka Land Reforms Act. As such, the order of the Tribunal



cannot be sustained for gross violation of principles of natural justice.

11. Additionally, he contended that once the Land Tribunal has passed its order on consideration of the claims made in Form No.7, it becomes *functus officio*. The Land Tribunal has no jurisdiction to reconsider the order passed by it on the basis of the representation made, that too after several decades. In order to buttress his arguments, he relied on the following judgments and prays to allow the writ petition:

1. **SMT. MANJULA AND ANOTHER vs. THE LAND TRIBUNAL AND ANOTHER** in **W.P.NO.109633/2017**
2. **B. VIPIN CHANDRA HEGDE vs. THE STATE OF KARNATAKA AND OTHERS** in **W.P.NO.28234/2012**
3. **SMT. PANKAJA vs. STATE OF KARNATAKA AND OTHERS** in **W.P.NO.44549/2012**

12. *Per contra*, learned counsel for the contesting respondent submits that the writ petition filed by the petitioners is not maintainable either on facts and law or on delay and laches,



since the impugned order was passed on 01.03.1994 and the petitioners have filed this writ petition in the year 2016 i.e., after lapse of 22 years. This inordinate delay has not been explained by the petitioners, therefore, the writ petition has to be dismissed in *limine* on the ground of delay and laches.

13. He further contended that the petitioners have no *locus standi* to file this writ petition, since they are neither landlords nor rival claimants. The claim of the petitioners that they have purchased the subject land from Sode Mutt and one Purushotham P. Shetty i.e., in the year 2012, was much later than the grant made in favour of respondent No.3 in the year 1994. Even after purchase, the revenue entries of the subject land did not reflect the name of the petitioners and the petitioners have failed to challenge the impugned order till the year 2016. In such circumstance, the claim of the petitioners is not legal and justifiable one.

14. He further contended that by perusal of the original records, it is clear that respondent No.3 had filed Form No.7 in respect of subject land under the landlord - Ramarao along with other properties. Since the Tribunal inadvertently did not grant



occupancy right in respect of subject land, respondent No.3 had approached the Tribunal subsequently on 08.02.1994 and the Tribunal issued notice to respondent No.2 - Ramarao and the said Ramarao gave a statement before the Tribunal on 22.02.1994 has categorically admitting the tenancy of respondent No.3 and consenting for grant of occupancy right. Based on the same, the Tribunal has passed the impugned order by granting occupancy right in respect of subject land on 01.03.1994. Further, the RTC of the year 2010-11 depicts the name of respondent No.3. In such circumstance, the claim of the petitioners is totally not sustainable.

15. Additionally, he contended that respondent No.3 is in continuous possession of subject land and he converted the subject land for residential purpose vide order dated 18.02.2013 and formed the layout and alienated some of the sites. In such circumstance, the petitioners have filed this writ petition only for unlawful gain. In order to buttress his argument, he relied on the judgment in the case of **MRINMOY MAITY VS. CHHANDA KOLEY & OTHERS - (2014) 15 SCC 215** and prays to dismiss the writ petition.



16. I have given my anxious consideration to the contentions of learned counsel for the respective parties and perused the materials on record.

17. To address the primary contention of respondent No.3 about the delay and laches in filing this writ petition, no doubt the impugned order was passed in the year 1994 and the petitioners have challenged the same by filing this petition in the year 2016 i.e. nearly after 22 years. The explanation offered by the petitioners is that they had no knowledge about passing of the impugned order since their vendors were not parties to the proceedings before the Tribunal. On careful examination of the Sale Deeds produced by the petitioners in respect of the subject land, the same reveals that the petitioners had purchased the same from Sri Sode Vadiraja Mutt by its Mattapadipathi Vishwavallabatheerta Swamiyar and one Purushothama P. Shetty vide registered Sale Deed dated 22.08.2012 registered as document No.P-5468. This document reveals the flow of title as under and all these transactions were effected by way of registered documents:



"1. The schedule property belonged to Vendor no.1 Sri Sode Vadiraja Mutt Udupi and the said Mutt, acting through it's then Matadhipathi Srimath Vishwothama Theertha Swamiar leased the schedule property on term lease to M. Rama Rao son of Venkatachalayya vide Lease Deed dated 9th May 1966 registered as document number 200, Book 1, Volume 625, at pages 51-54 of the year 1966-67 of SRO, Udupi. The said lease deed conferred on M. Rama Rao full powers of alienation of the lease hold right. M. Rama Rao sold his lease hold right in the schedule property to Jaganath Shetty on 21st August 1974 vide sale deed registered as document number 536, Book 1, Volume 795, at pages 171-175 of the year 1974-75 of SRO, Udupi. Shri Jaganath Shetty thereafter sold his lease hold right over the schedule property to the vendor Victoria D'silva Bai on 6th November 1974 vide sale deed registered as document number 860, Book 1, Volume 801, at pages 187-191 of the year 1974-75 of SRO, Udupi. Victoria D'silva Bai sold her



lease hold right over the schedule property to the Vendor no.2 Purushotham P Shetty on 16th August 2012 vide sale deed registered as document number UDP-1-04880-2012-13 in CD number UDPD217 of SRO, Udupi."

18. It is relevant to note that the RTC of the year 1979-80 reveals that the Sode Mutt was the original owner of land totally measuring 45 acres 11 guntas in Sy.No.159-1A i.e. the larger extent of the subject land. In the year 1974 i.e. on 20.08.1974, respondent No.3 filed Form No.7 in respect of the 9 items of land situated at Kelarkalabettu Village, Udupi Taluk under the ownership of one Narasimha Baliga, Ananda Baliga and Krishnaraja Baliga. The said application also reveals that respondent No.3 filed Form No.7 in respect of subject land under the ownership of one Ramarao s/o Venkatachalayya.

19. According to the petitioners, the claim in respect of subject land was an after thought of respondent No.3 to knock off the subject land by interpolating the name of the landlord i.e., Ramarao s/o Venkatachalayya, the extent and the village in Form No.7. The petitioners claim that the interpolation can



be seen bare eyes, since the same is written in different ink and handwriting. Albeit, on careful perusal of the initial order of grant made on 10.08.1978 in favour of respondent No.3, Ramarao is not arrayed as respondent in the said order and the name of Narahari Baliga, Anandaraya Baliga and Krishnaraja Baliga are only forthcoming as respondents. Subsequently, an application had been filed by respondent No.3 for correction of the said order on 08.02.1994 before the Land Tribunal i.e., after a lapse of 16 years. The inordinate delay in approaching the Tribunal by respondent No.3 for correction of the earlier order is not forthcoming in the impugned order.

20. Further, on perusal of the impugned order, it is seen that Ramarao has been arrayed as respondent No.2. However, it is stated in the order that respondent No.2 i.e., Ramarao had given his consent for grant of subject land in favour of the petitioners on 03.08.1978 itself by way of letter to the Land Tribunal, Udupi. The said letter is seriously disputed by the petitioners stating that the said letter is concocted by respondent No.3 and the signature of Ramarao totally differs from his signature on his subsequent statement dated 22.02.1994. Additionally, after passing of the impugned order



in the year 1994, admittedly, the name of respondent No.3 is not reflected in the RTC or any other revenue entries except an stray entry in the year 2011.

21. Even assuming Ramarao had given his consent in the year 1994 before the Tribunal for grant of occupancy right of subject land in favour of respondent No.3, but at that point of time, he had already alienated the subject land to one Jaganath Shetty through Sale Deed dated 21.08.1974. As such, his consent had no legal sanctity. As far as the earlier consent of Ramarao vide letter dated 03.08.1978 is concerned, the same cannot be relied on its face value since the same is seriously disputed by the petitioners by comparing the signature of Ramarao both in the letter dated 03.08.1978 and the statement dated 22.02.1994.

22. On the other hand, in view of non-arraying the petitioners' vendor as a parties to the proceedings before the Tribunal and non-changing of mutation entries or RTC entries of the subject land in the name of respondent No.3, naturally there was no possibility of petitioners knowing about the impugned order immediately or subsequently. Admittedly, the



RTC of the year 2015 reflects the name of the petitioners and the Sode Mutt in respect of subject land. Additionally, the encumbrance certificate also reflects all the sale transactions in respect of the subject land from Sode Mutt till the petitioners purchased the subject land. Further, the petitioners have produced the endorsement issued by the Udupi Urban Development Authority dated 14.01.2015 for approving the sketch of subject land for commercial purpose and also the tax paid receipts.

23. In such circumstance, in my considered view, the delay in filing this writ petition by challenging the impugned order is neither intentional nor deliberate and is only a *bonafide* one. No doubt, the Hon'ble Supreme Court in catena of judgments held that the delay defeats equity and delay or laches are one of the factors which should be borne in mind by the High Courts while exercising the discretionary power under Article 226 of the Constitution of India and that the person, who belatedly approaches the Court or sleeps over his right for a considerable period of time, ought not be granted extraordinary relief by the writ court. However, the Hon'ble Apex Court further held that if the delay which has caused in approaching the writ court is



explained, which would appeal to the conscious of the court, in such circumstance, it cannot be gainsaid by the contesting party that for all times to come the delay is not to be condoned. The ultimate discretion to be exercised by the writ court depends upon the facts that it has to travel or terrain, in which, the facts have travelled. In the instant case, as discussed supra, the delay in approaching this Court by the petitioners cannot be said to be intentional one.

24. As far as the merits of case is concerned, as discussed supra, the petitioners have produced a registered Sale Deed executed in their name and also the other Sale Deeds since from the year 1966 and also the other revenue records, like encumbrance certificate, RTC, tax paid receipts. The contention of the learned counsel for respondent No.3 that in view of Section 80 of Karnataka Land Reforms Act, the Sale Deed executed by Ramarao dated 21.08.1974 in favour of one Jagannatha Shetty hit by Section 80 of the Act. As such the said Sale Deed and subsequent Sale Deeds executed were barred under law. This contention of the learned counsel for respondent No.3 cannot be accepted for the simple reason that Ramarao acquired the absolute right on the subject land vide



registered Lease Deed dated 09.05.1966, and thereby he became the absolute owner and he has every right to alienate the subject land. Nevertheless, the claim of respondent No.3 that he was tenant under Ramarao as on 01.03.1974 has to be tested by the Tribunal by considering the disputed document i.e., the letter written by Ramarao to the Chairman, Land Tribunal, Udupi Taluk, on 03.08.1978. It is the specific contention of the learned counsel for the petitioners that the said letter is concocted by the respondent No.3 after filing the application for correction of the original order in the year 1994. The learned counsel by pointing out the signature of Ramarao in the letter dated 03.08.1978 submits that the same totally differs with the signature of Ramarao in the statement dated 22.02.1994. As such, the consent of Ramarao for the original grant in respect of subject land vide letter dated 03.08.1978 is under dispute.

25. Further, as discussed supra the petitioners disputed the claim of respondent No.3 in respect of subject land in the original Form No.7 dated 20.08.1974 claiming that there is interpolation of the name of Ramarao as landlord and subject land, on the ground that the same was written in a different ink



subsequently which was not forthcoming in the Tribunal order dated 10.08.1978, which does not reflect the name of Ramarao as respondent. No doubt the respondent No.3 has also placed the RTC of the year 2011, the conversion order and the 11E sketch in respect of the subject land issued by the Udupi Urban development Authority. However, the documents produced by the petitioners i.e., Sale Deeds, RTC extracts, encumbrance certificate, conversion order and 11E sketch cannot be thrown away without any consideration for the reason that the Sale Deed was executed after 01.03.1974. In such circumstance, I am of the considered view that the matter requires reconsideration at the hands of Land Tribunal by extending opportunity to the petitioners as well as respondent No.3 to put forth their claim in accordance with law by placing relevant documents and also permitting them to adduce evidence. Accordingly I pass the following:

ORDER

- i. The writ petition is allowed.
- ii. The impugned order dated 01.03.1994 passed by the Land Tribunal-



respondent No.2 vide Annexure-A is hereby quashed.

- ii. The matter is remitted back to the Land Tribunal for fresh consideration by extending opportunity to both the parties to put forth their claim by placing relevant documents.
- iii. The Tribunal shall decide the matter at the earliest.
- iv. Till such decision of the Land Tribunal, the parties shall maintain status-quo in respect of possession and revenue entries of the subject land.
- v. All the contentions are left open.

SD/-
(RAJESH RAI K)
JUDGE

PKS
List No.: 1 Sl No.: 25