

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19TH DAY OF DECEMBER, 2025

PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE C.M. POONACHA

WRIT APPEAL NO. 1036 OF 2024 (LR)

BETWEEN:

SEETHARAM SHETTIGAR
S/O PANCHU SHETTIGAR
AGED ABOUT 51 YEARS,
RESIDING AT KEMRAL VILLAGE,
MANGALURU TALUK,
DAKSHINA KANNADA DISTRICT
PIN 574146

...APPELLANT

(BY SRI. RAVISHANKAR SHASTRY G, ADVOCATE)

AND:

1. STATE OF KARNATAKA
REP BY ITS SECRETARY,
DEPARTMENT OF LAND REVENUE
VIKASA SOUDHA,
BENGALURU PIN 560001
2. THE LAND TRIBUNAL
MOODBIDRI, MANGALURU TALUK,
DAKSHINA KANNADA DISTRICT,
REPRESENTED BY ITS SECRETARY
PIN 574197
3. J GALDIN D SOUZA
S/O LATE PAUL D SOUZA,
AGED ABOUT 77 YEARS,
RESIDING AT ABHILASHA

Digitally
signed by
NIRMALA
DEVI
Location:
HIGH
COURT OF
KARNATAKA



ALVARES ROAD, KADRI,
MANGALURU D K DISTRICT,
PIN 560002

...RESPONDENTS

(BY SMT. NAMITHA MAHESH, AGA FOR R1 & R2
SRI. K. RAVISHANKAR, ADVOCATE FOR R3)

THIS WRIT APPEAL IS FILED U/S 4 OF THE KARNATAKA
HIGH COURT ACT PRAYING TO SET-ASIDE THE ORDER
DATED 04/06/2024 PASSED IN WP NO.5864/2022 AND WP
NO.5864/2022 MAY BE DISMISSED AND THIS WRIT APPEAL
MAY BE ALLOWED WITH COSTS THROUGHOUT.

THIS APPEAL HAVING BEEN HEARD AND RESERVED
FOR JUDGMENT, COMING ON FOR PRONOUNCEMENT THIS
DAY, JUDGMENT WAS PRONOUNCED AS UNDER:

CORAM: HON'BLE MR. VIBHU BAKHRU ,CHIEF JUSTICE
and
HON'BLE MR. JUSTICE C.M. POONACHA

CAV JUDGMENT

(PER: HON'BLE MR. JUSTICE C.M. POONACHA)

1. The present *intra Court* appeal is filed calling in question the
order dated 4.6.2024 passed in W.P.No.5864/2022 (LR)
[**impugned order**], whereunder the learned Single Judge has
allowed the writ petition filed by the third respondent [writ petitioner]
and set aside the order dated 31.1.2013 passed by the Land
Tribunal in case Nos.LRT.540-541/1981-82 and confirmed the
order dated 1.8.1981 passed by the Land Tribunal.

2. The relevant facts in a nutshell leading to the present appeal are that one Panchu Shettigar [father of the appellant] filed Form No.7 claiming occupancy rights, pursuant to which, the Land Tribunal vide order dated 1.8.1981 granted occupancy rights in favour of said Panju Shettigar (grantee) of an extent of 0.50 acres in Sy.No.63/1A and an extent of 0.89 acres in Sy.No.4 of Kemral Village, Mangaluru Taluk. The appellant (son of the grantee) filed an application under Section 48A(6) of the Karnataka Land Reforms Act, 1961 [**KLR Act**] for correction of the order dated 1.8.1981, consequent to which, the Land Tribunal by order dated 31.1.2013 allowed the said application and corrected the order dated 1.8.1981 and ordered that the grant in Sy.No.63/1A of an extent of 0.50 acres (50 cents) is corrected as 1.00 acre (100 cents). Being aggrieved, the writ petition was filed by the third respondent, who claimed to be the landlord.

3. The learned Single Judge, noticing the scope of Section 48A(6) of the KLR Act held that the same is for making correction of clerical or arithmetical mistakes and the order of the Land Tribunal tantamounts to granting further land, which was in excess of the land claimed by the tenant and hence, interfered with the

order of the Land Tribunal. It was further noticed that the order dated 31.1.2013 was passed without hearing the writ petitioner.

4. Learned counsel appearing for the appellant Sri G.Ravishankar Shastry, assailing the order of the learned Single Judge, contends that the writ petition itself was not maintainable since although the writ petitioner contended that he was the grandson of the original land owner, no material was produced in that regard. That the appellant, who was a villager, did not have specific knowledge about the exact survey number and its extent when he made the application in Form No.7 claiming grant of occupancy rights over an extent of 0.50 acres in Sy.No.61/1A and an extent of 0.84 acres in Sy.No.4. That the Land Tribunal, which is a fact finding authority had surveyed the land and recorded that the appellant was in possession of 1.00 acre of land in Sy.No.63/1A along with 0.89 acres in Sy.No.4. However, since the appellant had claimed to be an occupant of only 0.50 acres, the Land Tribunal granted occupancy rights and Form No.10 was issued by the Tahsildar only to the said extent. It is hence contended that the appellant was always in possession of 1.00 acre of land in Sy.No.63/1A and by oversight, by a clerical error in making the application, the original grant by the Land Tribunal was

only to an extent of 0.50 acres. The extent in the Mulgeni Deed was also of 0.98 acres. That after the death of the original grantee, his son, who continued to be in possession of 1.00 acre of land in Sy.No.63/1A, noticed the same and then made an application for correction of the extent, which has been rightly allowed by the Land Tribunal vide its order dated 31.1.2013. Hence, it is contended that the learned Single Judge erred in allowing the writ petition and setting aside the order of the Land Tribunal dated 31.1.2013.

5. *Per contra*, learned counsel Sri K.Ravishankar appearing for the third respondent (writ petitioner), justifying the order of the learned Single Judge contends that the Land Tribunal erred in going beyond the scope of the proceedings as contemplated under Section 48A(6) of the KLR Act and allowing the application filed by the appellant, which has been rightly interfered with by the learned Single Judge.

6. Learned Additional Government Advocate has made her submissions on the basis of the records and has placed the original records for perusal of the Court.

7. The submissions of the learned counsels have been considered and the material on record, including the original records of the Land Tribunal have been perused.

8. Admittedly, on an application made by Panchu Shettigar (father of the appellant) on 22.8.1974, the Land Tribunal vide order dated 1.8.1981 granted occupancy rights of an extent of 0.50 acres (50 cents) in Sy.No.63/1A and an extent of 0.89 acres in Sy.No.4 of Kemral village, Mangaluru Taluk and Form No.10 was issued by the Tahsildar in accordance with the same. The present dispute pertains only in respect of Sy.No.63/1A (**subject property**), wherein it is claimed by the appellant that the original grantee - Panchu Shettigar was in actual possession of 1.00 acre of land in the said survey number and inadvertently, since the original grantee was illiterate, in the application filed made before the Land Tribunal, the extent was mentioned as 50 cents. Hence, the appellant filed an application under Section 48A(6) of the KLR Act for correction of the order of the Land Tribunal dated 1.8.1981 so as to correct the extent of land in Sy.No.63/1A as 1.00 acre instead of 50 cents.

9. In this regard, it is pertinent to note that in the Checklist (Annexure-R1 to the writ petition) prepared pursuant to the application filed by the original grantee for grant of land, in Column 3, wherein

"the details of land claimed by the applicant" are to be mentioned, the extent claimed by the original grantee in Sy.No.63/1A is shown as 1.00 acre. Further, in the Survey Sketch (Annexure-R2 to the writ petition), the extent of land in Sy.No.63/1A in the possession of the original grantee is shown as 1.00 acre. In the notice issued to Reverend Ligory D'Souza (the owner of the land) in Form No.9 (Annexure-R3 to the writ petition), the land owner has been notified with regard to the claim made by the original grantee and the extent of land with respect to Sy.No.63/1A is shown as 1.00 acre. Reliance is also placed by the learned counsel for the appellant on the Mulgeni Deed dated 12.7.1919 bearing Document No.774/1919 (Annexure-R5 to the writ petition), which is a Mulgeni executed by Ignis Souza @ Baiyou Nyaya w/o Kurimbir Juvamp Souza in favour of Kittu Shettigar, wherein the extent of land in Sy.No.63/1A is mentioned as 0.98 acres.

10. It is forthcoming that in the application under Section 48A(6) of the KLR Act, the appellant has stated that " *by a sheer clerical mistake and due to bona fide error, certain discrepancies have crept in* ". In the said application, it is also averred that the actual extent of the land in possession of the original grantee is reflected in the Survey Sketch. The said application was filed on 2.2.2012. The Land Tribunal by order dated 31.1.2013 allowed the application filed by the appellant

and ordered that the order of the Land Tribunal dated 1.8.1981 insofar as it pertains to the extent of land in Sy.No.63/1A shall be read as "1.00 acre" instead of 0.50 acres. Being aggrieved by the same, respondent No.3 preferred the writ petition.

11. The primary contention put forth by the writ petitioner was that the order dated 31.3.2013 passed by the Land Tribunal was beyond the scope of power as contemplated under Section 48A(6) of the KLR Act. It was also contented that the writ petitioner was not notified of the proceedings initiated by the appellant for correction of the order of the Land Tribunal. It is forthcoming that in the application filed by the appellant under Section 48A(6), the name of the landlord is shown as "Reverend Gregory D'Souza". It is forthcoming from the original records that pursuant to the application filed by the appellant under Section 48A(6) of the KLR Act, notice was issued to Reverend Ligory D'Souza and the same was served on the wife of the writ petitioner on 4.12.2012. It is the contention of the writ petitioner that he has inherited the property from his grand father late Lawrence D'Souza. The manner in which the writ petitioner claims to have inherited the property has been averred at para 9 of the writ petition. It is also pertinent to note that in the writ petition, the writ petitioner has not averred that he is in possession of any portion of the subject property.

12. The Learned Single Judge noticing that the order dated 31.1.2013 was passed without hearing the writ petitioner and also holding that the said order dated 31.1.2013 was in excess of the power as contemplated under Section 48A(6) of the KLR Act, allowed the writ petition and set aside the order of the Land Tribunal dated 31.1.2013.

13. It is the contention of the appellant that the original grantee being illiterate had erroneously mentioned the survey number of land as Sy.No.61/1A (instead of Sy.No.63/1A) and the extent as 50 cents (instead of 100 cents). Reliance is placed on the judgment of the Supreme Court in the case of ***Nadakerappa since deceased by Lrs., & Ors., v. Pillamma since deceased by Lrs., & Ors.,: (2024) 15 SCC 740***, whereunder the Supreme Court was considering a fact situation, wherein a memo was filed by the appellant after a lapse of twenty (20) years before the Land Tribunal for correction of a clerical error in the order of the Land Tribunal. Reliance was placed on Section 48A of the KLR Act to justify the said correction. While considering the same, it was held as under:

33. The object of the Act was mainly to confer ownership on the tenants of the lands. Section 45 was introduced by Act 1 of 1974 w.e.f. 1-3-1974 providing for registration of occupancy rights in favour of the tenant. Rules have been framed in exercise of the power conferred under Section 137 of the Act to effectuate the purpose of the Act. Rule 19 provides for the form of

application and notice. This rule clearly states that on receipt of an application, the Tahsildar shall send extracts of the application to the Tribunals concerned. So far as the lands in his Taluk are concerned, the Tahsildar has to verify the particulars mentioned in the application with reference to the revenue records including the record of rights wherever they are prepared and also note the same on the application.

34. It is common knowledge that most of the tenants during the relevant point of time i.e. nineteen seventies were underprivileged and illiterate villagers hailing from remote and far-flung areas. A large number of tenants were lacking from the adequate and basic necessities of life and were suffering from acute poverty. The legislature has recognised this aspect and has cast responsibility on the Tahsildar to verify the particulars mentioned in the application with reference to the revenue records and to note the same on the application. Therefore, it was the duty of the Tahsildar to verify the revenue records and other documents and incorporate/record the name of the owner of the land in Form 7. Having perused the materials on record, we are satisfied that the tenant in the instant case has not practised any fraud in order to get the occupancy rights registered in his name.

14. Learned counsel for the writ petitioner relied upon the judgment of the Supreme Court in the case of **Narayanappa v. B.S.Ramaswamy : (2016) 15 SCC 191**, wherein Section 48A(6) was noticed and it was held that under the scope of the said provision, the Tribunal had the jurisdiction only to correct clerical or arithmetical errors. In the facts of the said case, it was noticed that survey number of the

land mentioned in Form No.7 was sought to be amended which was held to be not in the nature of clerical or arithmetical error.

15. Although, it is the vehement contention of the writ petitioner that the original grantee did not make any application for correction of the extent of land granted to him and that the application is made by the appellant (son of the original grantee) after a lapse of 32 years of the grant, it is pertinent to note that there are other records i.e., the Checklist, Survey Sketch, Notices and Mulgeni Deed (Annexures-R1 to R3 and R5 to the writ petition), which have been noticed above, which clearly indicate that the original grantee was in possession of 1.00 acre of land. Having regard to the legal position as noticed in the case of ***Nadakerappa since deceased by Lrs., & Ors., (supra)***, more particularly, since there is sufficient material on record to indicate that the original grantee was in possession of 1.00 acre of land in Sy.No.63/1A, the finding of the Learned Single Judge that the application made by the appellant under Section 48A(6) of the KLR Act ought not to have been entertained by the Land Tribunal as it has no jurisdiction to grant excess area, is erroneous and liable to be interfered with.

16. However, as noticed above, in the proceedings under Section 48A(6) of the KLR Act, notice issued to the land owner has been served

on the wife of the writ petitioner and there was no contest to the said proceedings. The writ petitioner claims to be the absolute owner of the subject land (Sy.No.63/1A), which is vehemently contested by the appellant by stating that the writ petitioner has not produced any records to demonstrate that he is the absolute owner of the land. The said aspect of the matter has not been adverted to by the learned Single Judge.

17. The documents produced by the appellant in his statement of objections to the writ petition (Annexures R1 to R3 and R5) have not been noticed by the Land Tribunal in its order dated 31.1.2013. It is also noticed that the proceedings initiated under Section 48A(6) have not been contested. The entitlement of the writ petitioner to contest the said application is also required to be considered. In view of the same, since findings of fact are required to be recorded, it is expedient that the order dated 31.1.2013 be set aside and the matter be remanded to the Land Tribunal to afford an opportunity to the writ petitioner to contest the said proceedings as also to afford an opportunity to the appellant to place reliance on the records, which have been relied upon in the writ proceedings to enable the Land Tribunal to appropriately adjudicate the matter. It shall also be open to the appellant to put forth his objections

to the entitlement of the writ petitioner to contest the proceedings under Section 48A(6) of the KLR Act.

18. In view of the aforementioned, the above appeal is allowed in part and the order of the learned Single Judge is modified. The order dated 31.3.2013 passed by the Land Tribunal in Case Nos.LRT 540/1981-82 and LRT 541/1981-82 is set aside and the matter is remanded to the Land Tribunal to adjudicate upon the application filed by the appellant under Section 48A(6) of the KLR Act afresh.

19. The parties shall appear before the Land Tribunal on 10.2.2026 without any further notice in this regard.

20. All rights and contentions of the parties on the merits of the matter are reserved.

21. Pending applications, if any, stand disposed of.

22. The original records are returned to the learned Additional Government Advocate.

**Sd/-
(VIBHU BAKHRU)
CHIEF JUSTICE**

**Sd/-
(C.M. POONACHA)
JUDGE**

Nd/-