



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 22ND DAY OF JANUARY, 2026

PRESENT

THE HON'BLE MR. JUSTICE M.I.ARUN

AND

THE HON'BLE MR. JUSTICE B. MURALIDHARA PAI

WRIT APPEAL NO. 100487 OF 2024 (ULC)

BETWEEN:

1. THE STATE OF KARNATAKA,
BY ITS SECRETARY TO DEPARTMENT
OF URBAN DEVELOPMENT, M. S. BUILDING,
BANGALORE - 560 001.
2. THE DEPUTY COMMISSIONER, BELAGAVI,
TQ & DIST: BELAGAVI - 590 001.
3. THE THASILDAR, BELAGAVI,
TQ & DIST: BELAGAVI - 590 001.

... APPELLANTS

(BY SRI. SHARAD V. MAGADUM, AGA)

AND:

MAHAVEER S/O. ANNAPPA GUNDAPPANAVAR,
SINCE DECEASED BY HIS LR'S.

1. SUSHILA MAHAVEER GUNDAPPANAVAR,
AGE: 84 YEARS, OCC: NIL,
R/O: CCB 44, HANAMANNAVAR GALLI,
ANGOL, BELAGAVI - 590 006.
2. JYOTI RAVINDRA GUNDAPPANVAR,
AGE: 57 YEARS, OCC: SERVICE,
R/O: CCB 44, HANAMANNAVAR GALLI,
ANGOL, BELGAVI - 590 006.
3. NEERAJ RAVINDRA GUNADAPPANVAR,
AGE: 35 YEARS, OCC: SERVICE,



R/O: CCB 44, HANAMANNAVAR GALLI,
ANHOL, BELAGAVI – 590 006.

4. NEHA OMKAR BONGALE,
AGE: 35 YEARS, OCC: HOUSEHOLD WORK,
R/O: EAKDANT APARTMENT,
RAGHUNATH PETH, ANGOL,
BELAGAVI – 590 006.
5. ROHINI VINOD GUNDAPPAVAR,
AGE: 56 YEARS, OCC: HOUSE HOLD WORK,
R/O: CCB 44, HANAMANNAVAR GALLI,
ANGOL, BELAGAVI – 590 006.
6. RISHA VINOD GUNDAPPAVAR,
AGE: 21 YEARS, OCC: STUDENT,
R/O: CCB 44, HANAMANNAVAR GALLI,
ANGOL, BELAGAVI – 590 006.
7. RUTVI VINOD GUNDAPPANVAR,
AGE: 17 YEARS, OCC: STUDENT,
R/O: CCB 44, HANAMANNAVAR GALLI,
ANGOL, BELAGAVI – 590 006.
(SINCE MINOR REPRESENTED BY
MINOR GUARDIAN APPELLANT NO.1E)
8. RAJASHREE PARIS YEBRER,
AGE: 63 YEARS, OCC: HOUSE HOLD,
R/O: CCB 44, HANAMANNAVAR GALLI,
ANGOL, BELAGAVI – 590 006.

... RESPONDENTS

(BY SRI. PRASADKUMAR GUNAKI, ADV. FOR R1 TO R8)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF KARNATAKA
HIGH COURT ACT PRAYING TO SET ASIDE THE IMPUGNED ORDER
PASSED BY THE LEARNED SINGLE JUDGE IN WRIT PETITION NO. 109619
OF 2015 (ULC) DATED 15-02-2024 AND FURTHER DISMISS THE WRIT
PETITION IN THE INTEREST OF JUSTICE AND EQUITY & ETC.,

THIS WRIT APPEAL, COMING ON FOR FURTHER HEARING THIS
DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: THE HON'BLE MR. JUSTICE M.I.ARUN
AND
THE HON'BLE MR. JUSTICE B. MURALIDHARA PAI



ORAL JUDGMENT

(PER: THE HON'BLE MR. JUSTICE M.I.ARUN)

1. Aggrieved by the order passed in Writ Petition No.109619 of 2015, the respondents' - State has preferred this writ appeal.

2. The issue pertains to the acquisition of the property belonging to the respondents under the provisions of the Urban Land (Ceiling and Regulation) Act, 1976 (for short "the Act, 1976").

3. The learned Single Judge in Writ Petition No.109619 of 2015 has passed the following order:

"i) *The writ petition is allowed.*

ii) *The endorsement dated 07.04/05.2015 issued by respondent No.2 is hereby quashed.*

iii) *It is declared that the petitioner is the owner of the subject lands and respondent No3 is directed to restore the name of the petitioner in the record of rights in respect of the subject lands within a period of three months from the date of receipt of the certified copy of this order.*

iv) *Pending interlocutory applications, if any, do not survive for consideration."*

4. The case of the State is that the respondents held vacant lands in an urban area in excess of the permissible limits



and hence, after issuance of notice, they themselves have surrendered the said land in favour of the State and the respondents have belatedly challenged the said surrender and, on erroneous grounds, the learned Single Judge has allowed their writ petition and passed the impugned order.

5. *Per contra*, the respondents submit that they did not surrender the land voluntarily and that the same was taken away from their possession forcibly and they were dispossessed by an officer who was not competent to do so under the provisions of the Act, 1976. It is further contented that the lands concerned are agricultural in nature and are not part of the urban agglomeration or urban land or vacant land as defined under the Act, 1976 and hence, the same could not have been acquired under the provisions of the Act, 1976.

6. The records reveal that the lands concerned are agricultural lands, which is not disputed by the learned AGA. The records also reveal that the lands were owned by the respondents earlier and that presently the revenue records stand in the name of the State. No third-party rights have been created and presently an order is passed reserving the lands as a



burial ground for the benefit of the residents of Peeranawadi Village of Belagavi Taluka.

7. Section 3 of the Act, 1976 reads as under and Section 4 of the Act, 1976 defines what is ceiling limit.

"3. Persons not entitled to hold vacant land in excess of the ceiling limit.- Except as otherwise provided in this Act, on and from the commencement of this Act, no person shall be entitled to hold any vacant land in excess of the ceiling limit in the territories to which this Act applies under sub-section (2) of section 1."

8. Thus, the Act prohibits a person holding vacant land, as contemplated under the provisions of the Act, 1976, beyond a ceiling limit specified therein.

9. Section 2(q) defines "vacant land" as follows:

"(q) "vacant land" means land, not being land mainly used for the purpose of agriculture, in an urban agglomeration, but does not include-

- (i) land on which construction of a building is not permissible under the building regulations in force in the area in which such land is situated;
- (ii) in an area where there are building regulations, the land occupied by any building which has been constructed before, or is being constructed on, the appointed day with the approval of the appropriate authority and the land appurtenant to such building; and
- (iii) in an area where there are no building regulations, the land occupied by any



building which has been constructed before, or is being constructed on, the appointed day and the land appurtenant to such building:

Provided that where any person ordinarily keeps his cattle, other than for the purpose of dairy farming or for the purpose of breeding of live-stock, on any land situated in a village within an urban agglomeration (described as a village in the revenue records), then, so much extent of the land as has been ordinarily used for the keeping of such cattle immediately before the appointed day shall not be deemed to be vacant land for the purposes of this clause."

10. Section 2(o) defines "urban land" as follows:

(o) "urban land" means,-

(i) *any land situated within the limits of an urban agglomeration and referred to as such in the master plan; or*

(ii) *in a case where there is no master plan, or where the master plan does not refer to any land as urban land, any land within the limits of an urban agglomeration and situated in any area included within the local limits of a municipality (by whatever name called), a notified area committee, a town area committee, a city and town committee, a small town committee, a cantonment board or a panchayat,*

but does not include any such land which is mainly used for the purpose of agriculture.

Explanation. For the purpose of this clause and clause (q),-

(A) "agriculture" includes horticulture, but does not include-

(i) *raising of grass,*

(ii) *dairy farming,*



(iii) *poultry farming,*

(iv) *breeding of live-stock, and*

(v) *such cultivation, or the growing of such plant, as may be prescribed;*

(B) *land shall not be deemed to be used mainly for the purpose of agriculture, if such land is not entered in the revenue or land records before the appointed day as for the purpose of agriculture:*

Provided that where on any land which is entered in the revenue or land records before the appointed day as for the purpose of agriculture, there is a building which is not in the nature of a farmhouse, then, so much of the extent of such land as is occupied by the building shall not be deemed to be used mainly for the purpose of agriculture:

Provided further that if any question arises whether any building is in the nature of a farm-house, such question shall be referred to the State Government and the decision of the State Government thereon shall be final;

C) *Notwithstanding anything contained in clause (B) of this Explanation, land shall not be deemed to be mainly used for the purpose of agriculture if the land has been specified in the master plan for a purpose other than agriculture;"*

11. Admittedly, the lands were agriculture in nature as on the date on which the State claims to have taken possession by virtue of respondents voluntarily surrendering the same in favour of the State. The same could not have been done, as the lands could not have been taken possession of by the State under the Provisions of the Act, 1976, since the lands could not



have been considered vacant land under the Act, 1976. Under these circumstances, it is not required to consider whether the respondents voluntarily surrendered the land or the State took possession of the land through an Officer as required.

12. For the aforementioned reasons, we do not find any infirmity in the order passed by the learned Single Judge and accordingly, the Writ Appeal is hereby *dismissed*.

**Sd/-
(M.I.ARUN)
JUDGE**

**Sd/-
(B. MURALIDHARA PAI)
JUDGE**