

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 9TH DAY OF MARCH, 2026

PRESENT

THE HON'BLE MRS. JUSTICE ANU SIVARAMAN

AND

THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

WRIT APPEAL NO.45 OF 2023 (LR)

BETWEEN:

- 1 . SRI. K.A. DEVENDRA ANCHAN
S/O LATE K. AITHAPPA SUVARNA
AGED ABOUT 92 YEARS
R/AT. SAROJA MADHU APARTMENTS
NEAR BHARATH BEEDI BUILDING
KADRI ROAD, MANGALURU-575 003
SINCE DEAD, BY HIS LRs.,
- 1(a). SMT. ROHINI DEVENDRA ANCHAN
W/O LATE K.A. DEVENDRA ANCHAN
AGED ABOUT 70 YEARS
R/AT. 15-7-380/1, SAROJ MADHU APARTMENT
KADRI ROAD, NEAR CHINMAYA SCHOOL
BUNTS HOSTEL, MANGALURU
KODIALBAIL, D.K.-575 003
- 1(b). SRI. YATHEESH KUMAR
S/O LATE K.A. DEVENDRA ANCHAN
AGED ABOUT 52 YEARS

FLAT No.201, SVASTHIK ABHIMAN
TEXAS APARTMENTS, 2ND FLOOR
BALMATTI, BENDORE ROAD
KADRI, MANGALURU, D.K.-575 001

1(c). SRI. KISHORE KUMAR
S/O LATE K.A. DEVENDRA ANCHAN
AGED ABOUT 51 YEARS
R/AT. 15-7-380/1, SAROJ MADHU APARTMENT
KADRI ROAD, NEAR CHINMAYA SCHOOL
BUNTS HOSTEL, MANGALURU
KODIALBAIL, D.K.-575 003

1(d). SMT. MAMATHA RAVINDRA POOJARY
D/O LATE K.A. DEVENDRA ANCHAN
W/O RAVINDRA KALAPPA POOJARY
AGED ABOUT 45 YEARS
R/AT. 1/17, ASHRAYA, KANDAVARA
KAIKAMBA, KANDAVARA KINNI KAMBLA
D.K.-574 151

...APPELLANTS

(BY SRI. ANANDARAMA K., ADVOCATE)

AND:

CECILIA PINTO
AGED ABOUT 84 YEARS
W/O LATE CHARLES PINTO

R/AT. MAROLI, MARIGUDI,
MANGALORE,
D.K. DISTRICT-575 007
SINCE DECEASED BY HER LRs.,

- 1 . EVELYN MENDONCA
D/O LATE CECILIA PINTO
AGED ABOUT 63 YEARS
- 2 . HILDA
D/O LATE CECILIA PINTO
AGED ABOUT 61 YEARS
- 3 . LEENA NAZARATH
D/O LATE CECILIA PINTO
AGED ABOUT 60 YEARS
- 4 . CELINE D'SOUZA
D/O LATE CECILIA PINTO
AGED ABOUT 59 YEARS

RESPONDENTS NO.1 TO 4 ARE
RESIDING AT: 2-74, ADU MAROLI
NEAR CITY CATERERS
KULASHEKAR POST
MANGALURU TALUK
DAKSHINA KANNADA DISTRICT-575 005

5 . STATE OF KARNATAKA
 REPRESENTED BY ITS SECRETARY
 TO DEPARTMENT OF REVENUE
 DR. AMBEDKAR ROAD
 M.S. BUILDING, BENGALURU-560 001

6 . THE LAND TRIBUNAL
 MANGALORE TALUK
 D.K. DISTRICT
 REPRESENTED BY ITS CHAIRMAN
 MANGALURU-575 001

...RESPONDENTS

(BY SRI. G. RAVISHANKAR SHASTRY, ADVOCATE FOR R1, R2
 & R4;
 SMT. PRAMODHINI KISHAN, AGA FOR R5 & R6;
 R3-SERVED)

THIS WRIT APPEAL IS FILED U/S 4 OF THE KARNATAKA
 HIGH COURT ACT, 1961, PRAYING TO ALLOW THE INSTANT
 WRIT APPEAL BY SETTING ASIDE THE ORDER DATED 09.06.2022
 PASSED IN W.P.No.44091/2013 (LR) AND CONSEQUENTLY
 DISMISS THE WRIT PETITION.

THIS WRIT APPEAL HAVING BEEN HEARD AND RESERVED
 FOR JUDGMENT ON 23.02.2026 AND COMING ON FOR
 PRONOUNCEMENT OF JUDGMENT THIS DAY, **ANU SIVARAMAN**
J., PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MRS. JUSTICE ANU SIVARAMAN
 and
 HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

CAV JUDGMENT**(PER: HON'BLE MRS. JUSTICE ANU SIVARAMAN)**

We have heard Shri. Anandarama K, learned counsel appearing for appellants No.1(a) to (d), Shri. G. Ravishankar Shastry, learned counsel appearing for the party respondents No.1, 2 and 4 and Smt. Pramodhini Kishan, learned Additional Government Advocate appearing for respondents No.5 and 6.

2. This Writ Appeal is preferred against the Order dated 09.06.2022 passed by the learned Single Judge in Writ Petition No.44091/2013 (LR) filed by respondents No.1 to 4. The appellant was respondent No.3 in the writ petition. The substantial prayer in the writ petition was against Annexure - A Order of the Land Tribunal dated 21.09.2012 by which the Land Tribunal rejected the claim of the writ petitioners for occupancy rights in respect of 0.38 acres of land in Sy.No.52/5 of Maroli Village of Mangalore Taluk.

3. It is contended by the learned counsel appearing for the appellant that, the appellant had purchased 64 cents of land in Sy.No.52/1A9 of the Maroli Village by Annexure - E Sale Deed dated 19.12.1964. The original appellant Shri. K.A. Devendra Anchan had purchased the said property from Shri. K. Balakrishna Rao, Shri. Divakar Rao K. and Shri. Sudhir Rao K. The description of the property in the Sale Deed was as under:-

"Description of the Property

Immovable property situated in Maroli Village Mangalore Taluk with in the local limits of Maroli Panchayat at Board and within the Registration sub district of Mangalore Taluk SouthKanara District with the following survey sub division numbered

<i>RS No</i>	<i>SD No</i>	<i>Kissan</i>	<i>Which Portion</i>	<i>Extent (A-C)</i>
<i>49</i>	<i>1C7</i>	<i>Punja</i>	<i>Southern Portion</i>	<i>0-36</i>
<i>52</i>		<i>Punja</i>	<i>Southern Portion</i>	<i>0-64</i>
<i>TOTAL</i>				<i>1-00</i>

Demarcated as "7" and coloured given in the annexed plan.

Boundaries:

RS No 49/1C7 (0-36 cents)

North: Property sold to shivappa

East: Survey sub division line of Rs No 52

South: Water channel

West: Mud Wall of Vendor"

4. At this juncture, the learned counsel appearing for the party respondents contends that the demarcation shown in the typed copy of Annexure - E as "7" is a clear error as a perusal of the original handwritten Annexure - E would show that the demarcation was as 'F'. Since "7" is differently written in the same document itself as where the address of the vendors is shown as 117, lower Maroli Village, in the first part of the manuscript, it is contended that the document itself was attached with a sketch where the property was clearly demarcated and was accompanied by a plan.

5. It is contended that the property of the appellants had to be measured, demarcated and set apart first and only if there is any property remaining in the survey number could there have been even a consideration of the claim of the writ petitioner for occupancy rights. It is submitted that since appellant's property which he had purchased by a Sale Deed in 1964 was clearly available for demarcation. It was clear that there was no further land in the survey number in question to consider the claim of the writ petitioner for

occupancy rights. It is therefore contended that the learned Single Judge went wrong in remitting the matter to the Land Tribunal for reconsideration, after conducting a survey, taking note of the boundaries as provided in the appellant's Title Deed.

6. The learned counsel appearing for the party respondents, on the other hand, contends that the total extent of land in Sy.No.52 of Maroli Village was admittedly 8.52 acres. It is submitted that the land purchased by the appellant herein had been subjected to a phodi and a new survey number, that is, Sy.No.52/1A9 had been assigned in respect of his property. It is contended that it is clear from the Title Deed of the appellant herein and the plan attached thereto, that his property was demarcated as 'F' in the plan and was separately shown. It is submitted that the property of the respondent in Sy.No.52/5 was completely separate and distinct and that the finding of the Land Tribunal was therefore, completely perverse. It is contended that the survey carried out by the surveyor as appointed by the Land Tribunal was obviously erroneous and the extent and

boundaries of the appellant's properties have not been taken note of by the said surveyor at all. It is contended that even if the property of the appellant is measured and demarcated, there is still property available in Sy.No.52/5 for grant of occupancy rights to the writ petitioner considering the Form 7 application submitted by her.

7. The learned Additional Government Advocate submits on instructions that the property has been surveyed and found that the entire extent of land in Sy.No.52 is 8.52 acres. The Sale Deed of the appellant would specifically show the description of the property. The said description has been clearly extracted by the learned Single Judge in the Order. The learned Single Judge proceeded to peruse the sketch prepared by the Surveyor pursuant to the order of the Land Tribunal and found that the Surveyor had not taken note of the boundaries of the property as provided in the appellant's Sale Deed. It was found that the sketch prepared without demarcating the boundaries of the property purchased by belonging to the appellant specifically in terms of the Sale Deed could not be relied upon to say

that there is no property available in Sy.No.52/5 for considering the claim of occupancy rights made by the writ petitioner, that is, the private respondents herein.

8. Having considered the contentions advanced and the materials placed on record by the parties including the Sale Deeds, the Schedules attached thereto and the sketches which are on record, we are of the opinion that the finding of the learned Single Judge was well founded. It is clear from the materials on record that the property purchased by the appellant was clearly demarcated as 'F' and a sketch was appended to the Sale Deed as well. The boundaries of the property purchased by the appellant in Sy.No.52, were also clearly demarcated in the Sale Deed.

9. In the above view of the matter, we are of the opinion that the contention raised by the appellant that there was no requirement for a remand to the Tribunal for a proper reconsideration after a survey to be conducted taking note of the boundaries of the property as provided in the appellant's Sale Deed, cannot be accepted. We are of the

opinion that the learned Single Judge had considered the factual aspects of the matter and had come to the conclusion that the survey conducted was not proper.

10. In the above way of the matter, we find no reason to interfere with the finding of the learned Single Judge. The appeal fails and the same is accordingly ***dismissed.***

All pending interlocutory applications shall stand *disposed of.*

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

**Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE**

cp*