

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 5TH DAY OF JUNE, 2026

BEFORE

THE HON'BLE MR. JUSTICE R. DEVDAS

REVIEW PETITION NO.15 OF 2024

BETWEEN:

JAYAMMA SINCE DECEASED BY HER LRS

1 . H V NAGARATHNA
W/O VASUDEV JETTY
AGED ABOUT 45 YEARS

2 . H V GOPAL
S/O N VENKATA JETTY
AGED ABOUT 43 YEARS

3 . H V SURESH
S/O N VENKATA JETTY
AGED ABOUT 41 YEARS

4 . H V NIRMALA
W/O ANANDA
AGED ABOUT 37 YEARS

ALL ARE R/AT NO 232, 14TH MAIN,
GOKUL 1ST PHASE, 1ST STAGE
BANGALORE 560054.

...PETITIONERS

(BY SRI. D.R. RAVISHANKAR., SR. COUNSEL FOR
SRI. SARAVANA S., ADVOCATE)

Digitally signed
by JUANITA
THEJESWINI
Location: HIGH
COURT OF
KARNATAKA

AND

- 1 . THE STATE OF KARNATAKA
SECRETARY TO GOVERNMENT
REVENUE DEPARTMENT
M S BUILDING
BANGALORE 560001.
- 2 . THE CHAIRMAN
LAND TRIBUNAL
BANGALORE NORTH TALUK
K G ROAD, BANGALORE 560009.
- 3 . THE COMMISSIONER
BRUAHT BENGALURU MAHANAGARA PALIKE
N R SQUIRE, BANGALORE 560002.
- 4 . THE COMMISSIONER OF POLICE
INFANTRY ROAD
BANGALORE 560001.
- 5 . N MAHESH BABU, KAS
CHAIRMAN, LAND TRIBUNAL
BANGALORE NORTH TALUK
K G ROAD, BANGALORE 560009.
- 6 . A PRABHAKARA REDDY M COM, LLB
MEMBER, LAND TRIBUNAL
BANGALORE NORTH
R/AT NO 1481, MARUTHI NILAYA
VEERASHETTIHALLI
CHIKKABANAVARA
BANGALORE 560090.
- 7 . R CHALAM
MEMBER, LAND TRIBUNAL
BANGALORE NORTH TALUK
K G ROAD, BANGALORE 560009

- 8 . N NAGARAJA GOWDA
MEMBER, LAND TRIBUNAL
BANGALORE NORTH TALUK
K G ROAD, BANGALORE 560009.
- 9 . S DEEPA
MEMBER, LAND TRIBUNAL
BANGALORE NORTH TALUK
K G ROAD, BANGALORE 560009.
- 10 . S MUNIRAJU
MEMBER LEGISLATIVE ASSEMBLY
JALAHALI, P O SHETTIHALLI
LINK DEFENCE ROAD COLONY
NO 18, BANGALORE 560015.
- 11 . SHANKARAPPA SINCE DEAD BY LRS
- 11(A) RAMESH B.S
S/O LATE SHANKARAPPA
- 11(B) CHANDRAKAL B.S
D/O LATE SHANKARAPPA
- 11(C) GAJENDRA B.S
S/O LATE SHANKARAPPA
- 11(D) MAHESH B.S
S/O LATE SHANKARAPPA
- ALL THE LEGAL HEIRS R/O NO 363
10TH MAIN, 1ST CROSS
NEAR MARAMMA TEMPLE
BAGALAGUNTE
HESARGHATTA ROAD
BANGALORE 560073.

12 . K C ASHOK
S/O K B CHICKAMUNIYAPPA
AGED ABOUT 49 YEARS
R/AT NO 1, KAMMAGONDANAHALLI
JALAHALLI WEST
BANGALORE 560015.

13 . DEVIKA W/O K C ASHOK
AGED ABOUT 49 YEARS
R/AT NO 1, KAMMAGONDANAHALLI
JALAHALLI WEST
BANGALORE 560015

.....RESPONDENTS

(BY SMT. B.P.RADHA., AGA FOR R1, R2 & R4
SRI. SHARATH S GOWDA., ADVOCATE FOR R12 & R13
NOTICE TO R5 TO R9 NOT NECESSARY V/O DTD.
18/03/2024
SERVICE OF NOTICE TO R11(A) TO R11(D) HELD
SUFFICIENT V/O DT. 17/02/2025
SRI. UDAYA HOLLA., SR. ADVOCATE FOR
SRI. SIDDHARTH SUMAN., ADVOCATE FOR R10)

THIS REVIEW PETITION IS FILED UNDER ORDER 47
RULE 1 R/W SEC. 114 OF CPC, PRAYING THAT THIS HONBLE
COURT MAY BE PLEASED TO REVIEW / RECALL ORDER DATED
07/06/2017 IN W.P.NO.14982/2015 AND CONSEQUENTLY
RESTORE THE PETITION IN W.P.NO.14982/2015, IN THE
INTEREST OF JUSTICE AND EQUITY AND PASS SUCH OTHER
ORDER AS THE CIRCUMSTANCE OF THE CASE WARRANTS IN
THE ENDS OF JUSTICE.

THIS REVIEW PETITION HAVING BEEN HEARD AND
RESERVED ON 07.04.2026 AND COMING ON FOR
PRONOUNCEMENT OF ORDERS, THIS DAY, THIS COURT MADE
THE FOLLOWING:

CORAM: HON'BLE MR JUSTICE R DEVDAS

CAV ORDER

(PER: HON'BLE MR JUSTICE R DEVDAS)

This Review Petition is filed under Section 114 of the Code of Civil Procedure read with Order XLVII Rule 1 of the CPC, to review the order dated 07.06.2017 by virtue of which the writ petition filed by the review petitioner was dismissed by this Court.

2. Learned Senior Counsel Sri D.R.Ravishankar, appearing for the review petitioners submitted that the writ petition was in fact dismissed for non-prosecution and therefore, an application was filed on 21.08.2017, along with an application to condone the delay of 44 days in filing the application. However, this Court was of the opinion that the writ petition was dismissed with certain observations, touching upon the merits of the matter and therefore, an application for recalling the order would not be maintainable. Accordingly, the application was

rejected while granting liberty to file a review petition. Accordingly, this review petition has been filed within a period of one month from the date of the order passed by this Court on 11.12.2023.

3. Learned Senior Counsel submitted that normally there should be no objection from the other side, in such circumstances where a writ petition is dismissed since the learned Counsel on record for the petitioners did not appear before the Court and it is known to the other side that learned Counsel Sri H.P.Mudlappa, who was on record for the writ petitioners was not keeping good health. In fact, the learned Counsel passed away a few months after the impugned order was passed by this Court. Nevertheless, the fact that the contesting respondents are stoutly defending such order of dismissal of the writ petition for non-prosecution shows the conduct of the contesting respondents, who are not prepared to contest the matter on merits.

4. Learned Senior Counsel submitted that the dispute between the parties dates back to the year 1961, when orders were passed by the Land Tribunal. The predecessors-in-title of the review petitioners, first approached this Court in the year 1992, in W.P.No.35146/1992. The said writ petition was allowed while setting aside the order passed by the Land Tribunal and the matter was remitted back to the Land Tribunal for fresh consideration, after giving opportunity of hearing to both the parties and while reserving liberty to the parties to adduce additional evidence. In the meanwhile, the contesting respondents created General Powers of Attorney and sale agreements to knock off valuable immovable properties belonging to the petitioners. In that regard, FIRs have been registered before the jurisdictional police. Despite such action taken by the petitioners, sale deeds have been executed on the basis of fraudulent Powers of Attorney. On the basis of statements made by the alleged Power of Attorney

holder, the Land Tribunal once again passed an order which was challenged in writ petition No.31194/1998. Once again, this Court took note of the contentions of the petitioners that the orders have been passed by the Land Tribunal on the basis of the statement made by one Prakash, the alleged Power of Attorney holder and accordingly, set aside the order of the Land Tribunal and remanded the matter back to the Land Tribunal for fresh consideration, by order dated 18.01.2007. Notwithstanding the remittance of the matter, sale transactions proceed unabated. Writ petitions were once again filed by the petitioners questioning grant of No Objection Certificate in W.P. No.23024-27/2011.

5. Orders were passed by a Division Bench of this Court in Writ Appeals No.17766-69/2011 and connected matters while remanding the matter back to the Land Tribunal to conduct a spot inspection in the presence of the parties. When the Land Tribunal passed orders, once

again, without complying with the directions issued by this Court the petitioners filed writ petition No.11309/2014. This Court held that it is evident that the recording of the evidence in the matter is not completed and the arguments of the respective parties were not heard and the case was posted for orders by the Tribunal. It was noticed that in undue haste the Tribunal has proceeded without complying with the direction issued by the Division Bench. Consequently, the order passed by the Land Tribunal on 25.02.2014 was quashed and the matter was relegated to the Land Tribunal with specific directions to respondent No.6 (Shankarappa S/o B.M.Beeranna) to be cross-examined. The Tribunal was directed to record the evidence in accordance with law and thereafter pass a speaking order. Sri. Shankarappa did not appear before the Tribunal and therefore he could not be cross-examined. On subsequent dates there was no sitting of the Tribunal.

6. Despite non-compliance of the directions issued by this Court, the Tribunal once again passed an order on 10.02.2015. The same was once again challenged by the petitioners in W.P.No.14982/2015 and connected matters. The writ petitions were dismissed on 07.06.2017, recording the non-appearance of the learned Counsel for the petitioners.

7. Learned Senior Counsel Sri.D.R.Ravishankar, therefore submits that this review petition is nothing but an application/petition to recall the order of dismissal of the writ petition for non-prosecution. The petitioners are only seeking consideration of their case on merits, while pointing out to the order sheet maintained by the Land Tribunal which prove that the directions issued by this Court have not been complied and therefore, the order of the Land Tribunal is required to be quashed. It is also contended that there are several allegations against the contesting respondents, that one of the petitioners was

kidnapped during the course of the proceedings before the Land Tribunal, only to ensure that no evidence is led from the side of the petitioners. These are matters that require to be urged before this Court in the writ petition.

8. Per contra, learned Senior Counsel Sri Udaya Holla, appearing for respondent No.10 vehemently contended that false allegations are being made against the contesting respondents. Such allegations cannot be made against respondent No.10 who is a subsequent purchaser. Moreover, as per the complaint lodged before the police regarding kidnap of one of the petitioners, the allegation is against one of the members of the family of the petitioners and not against the contesting respondents. The petitioners have misused the process of this Court and they themselves are to be blamed for not leading evidence before the Land Tribunal. The Land Tribunal gave sufficient time to the petitioners to lead

evidence and the same has been noticed by this Court while dismissing the writ petition.

9. Learned Counsel Sri Sharath S.Gowda, appearing for respondents No.12 and 13 also made submissions, supporting learned Senior Counsel Sri Udaya Holla.

10. Having heard the learned Senior Counsels for the petitioners and for respondent No.10 and having heard the other counsels for the contesting respondents and the learned AGA for the respondent-State and the Land Tribunal, this Court is of the considered opinion that the only issue which is germane for consideration is whether the order of dismissal of the writ petition is required to be recalled or not?

11. In this regard, this Court should notice that the order of dismissal is primarily based on the fact that learned Counsel Sri H.P.Mudlappa, who was on record for the writ petitioners did not appear before this Court on two occasions. In this regard, judicial notice can be

taken of the fact that Sri H.P.Mudlappa, was a senior member of the Bar and his presence before the Court in the last few years, before his death was very meager. When a matter is dismissed for non-prosecution and for the non-appearance of a learned Counsel, generally, applications for recall of such orders are not opposed by the other side. This Court too is liberal while considering such applications for recall. Further, it should be noticed that whenever petitions/appeals are dismissed for non-prosecution at the hands of the petitioners/appellants, no observations touching upon the merits of the matter is required to be made by the Court. However, in the present case, while dismissing the writ petition, this Court took note of the submissions made by the learned AGA that the Tribunal has recorded in its order sheet that sufficient opportunity was given to the petitioners to lead evidence. This is the reason why the application for recall was rejected by a co-ordinate bench of this Court while

reserving liberty to the petitioners to file a review petition.

12. It should also be noticed that the application for recall of the order of dismissal of the writ petition was filed within a period of 44 days from the date of the order of dismissal, along with an application for condonation of delay. The said application was dismissed on 11.12.2023 and this review petition was filed on 10.01.2024. In that view of the matter, the submissions of the learned Senior Counsel for the review petitioners, that there was no delay on the part of the petitioners in either filing the application for recall or the review petition, needs to be accepted.

13. All other contentions raised by the learned Senior Counsel appearing for the petitioners and respondent No.10 and the learned Counsels for the contesting respondents are required to be considered in the writ petition.

14. Consequently, the review petition is ***allowed*** while recalling the order dated 07.06.2017 in W.P.No.14982/2015 and the writ petition is restored to its original file.

Ordered accordingly.

**Sd/-
(R DEVDAS)
JUDGE**

JT/-DL,
CT:JL