



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 18TH DAY OF JUNE, 2026

BEFORE

THE HON'BLE MR. JUSTICE E.S.INDIRESH

WRIT PETITION NO.13811 OF 2016 (LR)

BETWEEN:

1. MR. WENCESLAUS MARIAN RODRIGUES
S/O ANSELM RODRIGUES,
AGED ABOUT 74 YEARS,
"SAPNA", THOTTAM POST,
TENKANIDIYOOOR VILLAGE,
UDUPI-576108.
2. MRS. ROSY RODRIGUES
W/O.LATE LAWRENCE RODRIGUES,
AGED ABOUT 90 YEARS.
3. WILMA FERNANDES NEE RODRIGUES
D/O.LATE LAWRENCE RODRIGUES,
AGED ABOUT 64 YEARS.
4. MR. OSMOND RODRIGUES
S/O.LATE LAWRENCE RODRIGUES,
AGED ABOUT 59 YEARS.
5. THELMA DIAS NEE RODRIGUES
D/O LATE LAWRENCE RODRIGUES,
AGED ABOUT 66 YEARS,

PETITIONERS NO.2 TO 5 ARE
R/AT NO.29/43, ADARSH NAGAR

Digitally signed by
CHAYA S A
Location: HIGH
COURT OF
KARNATAKA



WORLI, MUMBAI-400 025.

6. MS. FLAVIA AROZA NEE CRASTA
AGED ABOUT 67 YEARS,
D/O LATE BONIFACE CRASTA AND
LATE LIVINA CRASTA NEE RODRIGUES.
7. LANCELOT CRASTA
AGED ABOUT 58 YEARS,
S/O. LATE BONIFACE CRASTA AND
LATE LIVNA CRASTA NEE RODRIGUES,

RESPONDENTS NO.6 AND 7 ARE
R/AT "MARIASHRAM,
MOODUTHONSE VILLAGE
BEHIND KEMANNU CHURCH,
KEMANNU POST,
UDUPI-576108
REPRESENTED BY THEIR GPA HOLDER
MR.WENCESLAUS MARIAN RODRIGUES
S/O.ANSELMO RODRIGUES,
AGED ABOUT 74 YEARS,
"SAPNA", THOTTAM POST,
TENKANIDIYLOOR VILLAGE,
UDUPI-576108.

...PETITIONERS

(BY SRI. S. RAJASHEKAR, ADVOCATE)

AND:

1. THE LAND TRIBUNAL
REP. BY ITS CHAIRMAN AND ASSISTANT
COMMISSIONER,
UDUPI TALUK.



2. MR. DONATH RODRIGUES
S/O SIMON RODRIGUES,
AGED ABOUT 64 YEARS,
R/AT THOTTAM POST,
TENKANIDIYOOOR VILLAGE,
UDUPI-576108.
3. MR. RONALD RODRIGUES
S/O.LATE P.D.RODRIGUES,
AGED ABOUT 54YEARS,
R/AT VYSHALI CATERERS,
NO.324/IX/A, 2ND FLOOR,
VYSHALI COMPLEX, SHASTRI CIRCLE,
KUNDAPURA, UDUPI DISTRICT.
4. UDUPI SRI KANIYUR MUTT
UDUPI,
REPRESENTED BY PONTIFF,
SRI.VIDYAVALABHA THEERTHA SWAMIJI,
5. THE TAHSILDAR
UDUPI TALUK,
D.K.DISTRICT.

...RESPONDENTS

(BY SRI. B.J. ESWARAPPA, AGA FOR R1 AND R5;
SRI. YADAVA K., ADVOCATE FOR R2;
R3 & R4 SERVED AND UNREPRESENTED)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226
AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO
QUASH THE ORDER DATED 28.10.2011 PASSED BY THE LAND
TRIBUNAL AS PER ANNEXURE-A.



THIS PETITION, COMING ON FOR FURTHER HEARING,
THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE E.S.INDIRESH

ORAL ORDER

1. Heard learned counsel appearing for the parties.
2. IN this Writ Petition, petitioners are assailing the order dated 28.10.2011 (Annexure-A) passed by respondent No.1.
3. The relevant facts for adjudication of this Writ Petition are that the subject land in question bearing Sy.No.89/6 measuring 26 cents including the other land in the remaining Sy. Nos. situated at Tenkanidiyoor Village, Udupi Taluk was under cultivation of one Mrs. Mercina Rodrigues. The petitioners are the legal representatives of said Mercina Rodrigues. It is stated that Mrs. Mercina Rodrigues had made an application in Form-7 seeking occupancy right in respect of the subject land and copy of the same is produced at Annexure-B. The Land Tribunal, after considering the material on record was pleased to grant occupancy rights in respect of the lands mentioned in the order dated 26.09.1981 (Annexure-C). It is further stated that



respondent No.2 - the rival claimant had also filed Form-7 seeking occupancy rights in respect of the Sy.No.89/6 measuring 26 cents and the Land Tribunal, by order dated 26.09.1981 (Annexure-D) rejected the application made by respondent No.2. Feeling aggrieved by the same, the respondent No.2 preferred W.P.No.29253/1989 before this Court and this Court, by order dated 12.03.1984, allowed the Writ Petition and as such, remitted the matter to the Land Tribunal for fresh consideration. It appears that respondent No.4 claiming to be the owner of the land in question has executed registered Sale Deed dated 28.04.2010 (Annexure-E), in favour of respondent No.2. In the meanwhile, the Land Tribunal, by its order dated 28.10.2011(Annexure-A), considering the settlement arrived at between respondent Nos.2 and 3, as such, rejected the applications in Form-7 filed by both Smt. Mercina Rodrigues and Sri. Donath Rodrigues. Feeling aggrieved by the same, the legal representatives of Smt. Mercina Rodrigues have presented this Writ Petition, assailing the order at Annexure-A dated 28.10.2011.



3. Heard Sri. S. Rajashekar, learned counsel appearing for the petitioners, Sri. B.J. Eswarappa, learned Additional Government Advocate appearing for respondent Nos.1 and 5 and Sri. Yadava K., learned counsel appearing for the respondent No.2.

4. Sri. S. Rajashekar, learned counsel appearing for the petitioners, argued by referring to the confirmation of occupancy rights by the Land Tribunal as per Annexure-C and said order passed by the Land Tribunal dated 26.09.1981 has not been challenged by respondent Nos.2 to 4 herein and therefore, same has reached finality. However, as the rival claim made by respondent No.2 has been rejected by the Land Tribunal and being aggrieved by the same, respondent No.2 had filed W.P.No.29253/1981 before this Court and this Court remitted the matter to the Land Tribunal. In the interregnum period, respondent No.4 is alleged to have sold the property in favour of respondent No.2 as per the registered sale dated 28.04.2010 and therefore it is contended that, since the application made by the respondent No.2 was rejected on 26.09.1981 which has reached finality and the said aspect of



the matter was ignored by the Land Tribunal and accordingly, learned counsel sought for interference of this Court.

5. Per contra, Sri. B.J. Eswarappa, learned Additional Government Advocate appearing for respondent Nos.1 and 5 sought for dismissal of the Writ Petition. Learned counsel for the petitioner was heard on previous occasion by this Court on 11.06.2026. However, there was no representation on behalf of the respondent No.2 and as such, in order to provide an opportunity to the respondent No 2, the matter was ordered to be taken up today.

6. In the light of the submission made by the leaned counsel for the parties, it is not in dispute that the petitioner herein has made an application. Having heard the learned counsel for the parties and on careful consideration of the order dated 26.09.1981 wherein the respondent - Land Tribunal, by Order dated 26.09.1981 (Annexure-C), conferred occupancy right to the petitioner therein in respect of land in various Survey Numbers including the land bearing Sy.No.89/6 measuring 26 cents of Tenkanidiyoor Village, Udupi Taluk. It is also forthcoming that, respondent No.2 herein had also made a



claim to seek occupancy rights in respect of the land bearing Sy.No.89/6 referred to above and the said application came to be rejected by the Land Tribunal on 26.09.1981 as per Annexure-D. It appears that, this Court in W.P.No.29253/1981 rejected the order at Annexure-D and remanded the matter to the Land Tribunal for fresh consideration. In the meanwhile, it appears that, respondent No.2, as a tenant, has purchased the land in question from respondent No.4. On careful consideration of the material on record, that on what basis Form-7 has been filed by respondent No.2 herein, against Smt. Marcina Rodrigues and Ronald Rodrigues (respondent No.4 herein), to seek confirmation of occupancy right as a landlord, under Section 48A of the Karnataka Land Reforms Act, 1961, is not forthcoming.

8. In that view of the matter, taking into consideration the factual aspects on record, the Tribunal has committed an error in rejecting the application made by Smt. Mercina Rodrigues as to the land bearing Sy.No.89/6 measuring 26 cents. It is also to be noted that the Tribunal ought to have considered the earlier order passed by the Land Tribunal dated 26.09.1981



produced at Annexure-C before passing the impugned order at Annexure-A. In that view of the matter, I find force in the submission made by the learned counsel appearing for the petitioners.

9. Accordingly, I pass the following:

ORDER

(i) The Writ Petition is allowed.

(ii) The order dated 28.10.2011 (Annexure-A) passed by the Land Tribunal is set aside and consequently the order dated 26.09.1981 (Annexure-C) is hereby confirmed, in so far as the land bearing Sy.No.89/6 measuring 26 cents of Tenkanidiyoor Village, Udupi Taluk and District is concerned.

**SD/-
(E.S.INDIRESH)
JUDGE**

sac
List No.: 1 Sl No.: 73