

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 9TH DAY OF OCTOBER, 2026



PRESENT

THE HON'BLE MR. JUSTICE D K SINGH

AND

THE HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN

WRIT APPEAL NO. 523 OF 2016 (LR)

BETWEEN:

1. SRI R. GOPALA KRISHNA
SON OF D.M. RAMALINGAM
SINCE DEAD REPRESENTED BY HIS LRS

1(a) SMT. G. SUNDARALAKSHMI
W/O LATE R. GOPALA KRISHNA
AGED 79 YEARS

1(b) SMT. DEEPA VANI
D/O LATE R. GOPALA KRISHNA
AGED 53 YEARS

1(c) DR. VISHNU VARDHAN G
S/O LATE R GOPALA KRISHNA
AGED 50 YEARS

APPELLANT NOS. 1(a) TO (c)
ARE R/AT NO.32
OLD RACE COURSE ROAD
VIVEKNAGAR POST
BANGALORE - 560 047

1(d) SMT. ROOPA VANI
D/O LATE R GOPALA KRISHNA
W/O RAVIKUMAR K
AGED 54 YEARS
R/AT NO.327
6TH 'D' CROSS
NEAR BHUVANAGIRI PARK
OMBR LAYOUT

Digitally signed
by VASANTHA
KUMARY B K
Location: HIGH
COURT OF
KARNATAKA

KALYAN NAGAR
BENGALURU - 560 043

**(A1(a) to A1(d) - AMENDED
V/O DATED 24.05.2021)**

...APPELLANTS

(BY SRI D PRABHAKAR, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
REPRESENTED BY ITS SECRETARY
REVENUE DEPARTMENT
VIDHANA SOUDHA
BANGALORE-560 001
2. THE CHAIRMAN
LAND TRIBUNAL
BANGALORE SOUTH TALUK
BANGALORE-560 001
3. SRI THIMMANNA
SON OF CHIKKANNA
SINCE DEAD REPRESENTED BY HIS LRS
- 3(a) SRI HANUMAIAH T
S/O LATE THIMMANNA
AGED ABOUT 60 YEARS
AGARA VILLAGE, KENGERI HOBLI
BENGALURU SOUTH TALUK-560 034
- 3(b) SRI MUNI MARAPPA
S/O THIMMANNA, MAJOR
NO.24, 2ND CROSS, 6TH MAIN
VINAYAKANAGARA
KENGERI POST
BENGALURU - 560 060
- 3(c) SMT. JAYAMMA
D/O LATE THIMMANNA
W/O BAIRA HANUMAIAH
MAJOR, THOPPAGANA HALLI
THUGANI POST

KANAKAPURA TALUK
RAMANAGARA DISTRICT-562 117

3(d) SMT. ALAMELAMMA
D/O THIMMANNA
W/O RAMACHANDRA
MAJOR, NO.112
NEAR SHANI MAHATMA TEMPLE
ANCHEPALYA, SRIKANTAPURA
BENGALURU NORTH TALUK-560 074

3(e) SMT. RATHNAMMA
D/O THIMMANNA
W/O LAKSHMINARAYAN (LACCHI)
MAJOR, TAVAREKERE POST
MAGADI TALUK
BENGALURU RURAL DISTRICT-562 132

**(R3(a) TO R3(e) - AMENDED
V/O DATED 04.12.2024)**

...RESPONDENTS

(BY SRI BAIRAV KUTTAIAH, AGA FOR R1 AND R2;
SRI H. MOHAN KUMAR, ADVOCATE FOR R3(b) TO (d);
R3(a) SERVED)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE
KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE
IMPUGNED ORDER DATED 03.08.2010 AND 25/01/2016
PASSED IN W.P.NO.51794/2003 AND R.P.NO.1249/2014
RESPECTIVELY AND ETC.

THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR
JUDGMENT ON 09.09.2026, COMING ON FOR
PRONOUNCEMENT THIS DAY, **HON'BLE MR. JUSTICE
D K SINGH** PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE D K SINGH
and
HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN

CAV JUDGMENT

(PER: HON'BLE MR. JUSTICE D K SINGH)

I PREFACE:

1. The present appeal has been filed against the orders of the learned Single Judge dated 03.08.2010 and 25.01.2016 in W.P.No.51794/2003 and R.P.No.1249/2014 respectively, whereby the writ petition and the review petition filed by the Appellant were dismissed.

II BRIEF FACTS:

The brief facts leading to the present appeal are as follows:

2. The Appellant's father, one D.M. Ramalingam, was the absolute owner and in sole possession of the lands situated in Sy.No. 46 of B.M. Kaval village, Kengeri Hobli, Bangalore South Taluk measuring an extent of 21 acres 30 guntas of which, 5 acres being kharab land was acquired by the Respondent No.1 – State for the purpose of formation of West Bank Waste Weir and distribution channel. Consequent to the acquisition, the State paid compensation to the Appellant's father in 1974.

3. Respondent No.3 filed Form No. 7 before Respondent No.2 – Tribunal claiming tenancy over the entire extent of schedule lands. The application was registered and the Respondent No.2 – Tribunal, vide order dated 07.04.1981, allowed the application filed by Respondent No.3 and granted occupancy rights to an extent of 2 acres over the schedule lands.

4. The Respondent No.3, being aggrieved by the order dated 07.04.1981, filed W.P.No.25751/1991 before the writ court praying to quash the said order. Vide order dated 20.07.1997, the learned Single Judge allowed the writ petition, set aside the order dated 07.04.1981, and remanded the matter back to the Respondent No.2 – Tribunal for fresh consideration.

5. Subsequent to the order of remand dated 20.01.1997, the Respondent No.2 – Tribunal, after conducting fresh enquiry, passed an order dated 09.05.2003 allowing the application filed by Respondent No.3 and granted occupancy rights over the entire extent of the subject lands of 16 acres 30 guntas.

6. Aggrieved by the order dated 09.05.2003, the Appellant filed W.P. 51794/2003 before the writ court, praying to quash the order dated 09.05.2003. Vide order dated 03.08.2010, the

learned Single Judge passed the impugned order (hereinafter known as 'impugned writ order') dated 03.08.2010, dismissing the writ petition and upholding the order of the Respondent No.2 – Tribunal dated 09.05.2003.

7. Aggrieved by the impugned writ order passed by the learned Single Judge, the Appellant filed W.A. 3901/2010 praying to set aside the order dated 03.08.2010. Vide order dated 16.01.2014, the Coordinate Bench of this Court dismissed the writ appeal as withdrawn and granted liberty to the Appellant to file a review petition before the learned Single Judge for review of the impugned writ order dated 03.08.2003, leaving open all grounds contended in the writ appeal.

8. Pursuant to the liberty granted by the Coordinate Bench vide order dated 16.01.2014, the Appellant filed R.P. 1249/2014 before the writ court, seeking review of the writ order dated 03.08.2010 passed in W.P. 51794/2010. Vide impugned order dated 25.01.2016 (hereinafter referred to as 'impugned review order'), the learned Single Judge rejected the review petition. Being aggrieved by the impugned writ and review orders dated 03.08.2010 and 25.01.2016 respectively, the present appeal was filed.

III SUBMISSIONS ON BEHALF OF THE APPELLANT:

9. Learned Counsel appearing for the Appellant submitted that the impugned writ order dated 03.08.2010 was passed by the learned Single Judge without affording a reasonable opportunity of being heard to the Appellant.

9.1 On merits of the case, it was submitted that the impugned writ order was passed without considering the following legal aspects:

- i. The burden of proving tenancy, occupation and self-cultivation of lands as on 01.03.1974 was on the Respondent No.3 – tenant.
- ii. The grant of occupancy rights was not based on the document relied upon by the Respondent No.3 – tenant, and mere oral evidence was insufficient to grant such rights.
- iii. The Respondent No.2 – Tribunal ignored the presumption in favour of RTC records as provided in Section 133 of the Karnataka Land Revenue Act, 1964, and the same was not disproved by the Respondent No.3 – tenant.
- iv. The Appellant, despite filing an application, was not granted an opportunity to examine the surveyor.

- v. The Respondent No.2 – Tribunal did not consider the earlier spot inspection conducted in 1981 to determine the extent of lands.

9.2 It was further submitted that the learned Single Judge did not consider the fact that the RTC furnished by the Respondent No.3 – tenant was fabricated, despite the same being contended by the Appellant, and the same was not answered by the writ court and the Respondent No.2 – Tribunal.

9.3 It was contended that the Respondent No.3 – tenant did not furnish any RTC records prior to 1972, and the records furnished for years 1972-1976 show that the rights were only to an extent of 1.30 acres. The Respondent No.2 – Tribunal and the learned Single Judge failed to consider the same and erroneously granted occupancy rights over all subject lands.

9.4 It was further contended that the learned Single Judge failed to note that the Respondent No.2 – Tribunal conducted a spot inspection on 27.03.1981 and found the Respondent No.3 – tenant to be in cultivation of only 2 acres of land and granted occupancy rights over the same, thereby rejecting the claim for occupancy rights over 16 acres 30 guntas of the subject lands. Pursuant to the remand vide order dated 20.01.1997 passed by

the learned Single Judge in W.P.No.25751/1991, the Respondent No.2 – Tribunal conducted another spot inspection and held that the Respondent No.3 – tenant was in cultivation over the entire extent of land, which is perverse as it does not relate back to 01.03.1974.

9.5 It was submitted that the Respondent No.2 – Tribunal did not grant an opportunity to the Appellant to cross-examine the surveyor but instead relied upon the findings in the survey report, which was upheld by the writ Court in its order dated 03.08.2010 passed in W.P.No.51794/2003. The Survey Report is of no assistance or aid for adjudication of claim of occupancy rights.

9.6 It was further submitted that the learned Single Judge did not consider the bona fides of the RTC records produced by the Respondent No.3 – Tenant, as these were forged, and that the entries were overwritten on the original writings. Respondent No.3 – Tenant, during his cross-examination before the Tribunal, admitted that the RTCs furnished for the year 1975-76 were wrong and could not have been believed. The said admission was not considered either by the Tribunal or by the learned Single Judge. Further, the documents produced by the

Respondent No.3 – tenant were to the extent of 1 acre 30 guntas, whereas the Tribunal and the writ Court, vide orders dated 09.05.2003 and 03.08.2010 respectively, granted occupancy rights over the entire extent of 16 acres 30 guntas of land. The Respondent No.3 – tenant did not file any application seeking amendment of Form No.7 so as to claim occupancy rights over 16 acres of land, nor filed any counter-claim, amended claim, or any other legally permissible proceeding claiming the additional extent of land.

9.7 It was further submitted that the learned Single Judge did not appreciate the facts of the case. The entire extent of lands was 21 acres 30 guntas, out of which, 5 acres was kharab land which could not be cultivated. Further 4 acres 10 guntas of land was acquired by the Government. The remaining 12 acres 20 guntas of land was available for cultivation and subject to dispute. However, the Tribunal and the writ Court granted occupancy rights over 16 acres 30 guntas of land, which is erroneous and does not reflect application of mind. The writ Court failed to note that Respondent No.3 – tenant failed to produce documents to prove cultivation over the entire extent of lands. Rather, the document produced by the tenant was in

respect of cultivation over an extent of 1 acre 30 guntas of land.

9.8 It was contended that the learned Single Judge did not consider the fact that the compensation, on the Government acquiring 4 acres 10 guntas of land over the subject lands, was paid to the father of the Appellant, as he was the owner of the subject lands at the time of acquisition and passing the award. Before passing the said award, spot mahazar was drawn and the father of the Appellant was ascertained as the owner of the subject lands. However, the Tribunal and the learned Single Judge did not consider this finding and held that the award passed by the Government was on the basis of ownership and not cultivation and thus, the mere passage of award in favour of the Appellant would not demonstrate the Appellant's possession and cultivation over the subject lands.

9.9 It was submitted that the learned Single Judge erred in dismissing the Writ Petition only upon hearing the Respondents and failed to consider the grounds raised and documents produced by the Appellant in his favour, thereby upholding the order of the Tribunal based on no evidence.

9.10 Reliance was placed on the following decisions to contend that, it is well settled that in order to claim tenancy rights, the tenant has to establish beyond reasonable doubt that they were personally cultivating the lands, and that all revenue records stood in the tenant's name disclosing that the tenant was in possession and cultivating the said lands as on 01.03.1974:

- i. ***M.K. RAMANNA v. STATE OF KARNATAKA, 1988 SCC ONLINE KAR 306.***
- ii. ***SRI SEETHARAMA MANDIRA, NAREGAL, RON TALUK, DHARWAD DISTRICT v. LAND TRIBUNAL, RON, DHARWAD DISTRICT, 1997 SCC ONLINE KAR 174.***
- iii. ***RADHAKRISHNA SETTY v. LAND TRIBUNAL, SOMWARPET, 1977 SCC ONLINE KAR 177***

9.11 It was further contended that as per Rule 19 of the Karnataka Land Reforms Rules, 1974, the applicant is required to furnish the particulars of the lands in respect of which occupancy rights are claimed. However, in the present case, the Respondent No.3 – tenant did not furnish any documents at the first instance. Upon remand of the matter, the tenant furnished fabricated documents to claim additional lands, and during

cross-examination, the tenant admitted that he is a resident of Gowdanapalya, which is 20 Kms from the subject lands, and that he migrated to B M Kaval, where the lands were situated, in the year 1980. It was further submitted that the Respondent No.2 – Tribunal cannot convert an application claiming 2 acres into an adjudication conferring occupancy rights over 16 acres. Reliance is placed on the decision of this Court in ***RANGEGOWDA v. STATE OF KARNATAKA (DECIDED ON 24.04.2025 IN W.P.NO.52321/2016)*** to contend that the Tribunal cannot grant land in excess of the claim mentioned in Form No. 7 in absence of an application seeking amendment of the claim, merely because a spot inspection purportedly indicated possession over a larger extent.

IV CASE OF THE RESPONDENTS BEFORE THE WRIT COURT:

10. The respondents have neither filed their statement of objections, nor have they filed synopsis in pursuance to the order dated 09.09.2026 passed by this Court in the present case. However, the Respondents had filed Statement of Objections in W.P.No.51794/2003, wherein it was contended as follows:

10.1 It was contended that the name of the Appellant in the Gazette Notification is based on the ownership mentioned in the record of rights and does not show the possession of the Tenant and thus, the said notification is of no consequence.

10.2 It was submitted that the Appellant stated before the Land Tribunal that the land in Sy.No. 46 was not being cultivated by him. However, the Appellant cannot now turn back and contend that he was in cultivation of the same.

10.3 It was further submitted that the Respondent No.2 – Tribunal passed the order dated 09.05.2003 granting occupancy rights over the entire extent of lands based not only on the survey report as contended by the Appellant, but also on the pahanis, statement of witnesses and other relevant documents. Further, since a copy of the said Survey Report was not given to the Appellant, the ground of challenging the same does not arise. Further, since the name of the Tenant is reflected in the RTC for the year 1973-74, the Tribunal rightly granted occupancy rights in favour of the Tenant.

V ISSUES FOR CONSIDERATION:

11. Having heard submissions on behalf of both the parties, the following issues arise for consideration:

- i. Whether the learned Single Judge was justified in passing the impugned order dated 03.08.2010 dismissing the writ petition in W.P.No.51794/2003, along with the impugned order dated 25.01.2016 dismissing the review petition in R.P.No.1249/2014?
- ii. Whether the Land Tribunal was justified in granting occupancy rights in favour of Respondent No.3 over 16 acres 30 guntas, having regard to the extent claimed in Form No.7 filed by Respondent No.3?

VI ANALYSIS AND CONCLUSION:

Re: Issue (i)

12. It is the case of the Appellant that the learned Single Judge passed the impugned order dated 03.08.2010 dismissing the writ petition filed by the Appellant without hearing his arguments and contentions and did not rely on the documents placed on record in favour of the Appellant and contended that the impugned order was passed after considering the contentions and documents produced by the Respondent.

13. It is relevant to extract the operative portion of the order dated 03.08.2010 passed by the learned Single Judge as follows:

*"8. In the light of the rival contentions and the petitioner himself stating that the land was not cultivable and he was not cultivating the same. **There is material evidence placed by the 3rd respondent that he has been in occupation and cultivation. The same necessarily has to be decided in favour of the 3rd respondent. The Tribunal findings are findings of fact and in the absence of any contra material to indicate otherwise, the petitioner does not make out a case for interference by this Court.***

Accordingly, the writ petition stands dismissed."

14. Aggrieved by the order dated 03.08.2010, the Appellant filed W.A.No.3901/2010. A Coordinate Bench of this Court, vide order dated 16.01.2014, passed the following order:

"2. We have heard Shri. D. Prabhakar, learned counsel appearing for appellant, for quite some time. During the course of his submission, he submitted that the instant appeal may be dismissed as withdrawn, reserving liberty to the appellant to file a review petition before the learned Single Judge for review of the impugned order dated 3rd August 2010 in W.P.No.51794/2003 and all the grounds urged in this appeal may be left open.

*3. His submission is placed on record. **In the light of the submission of the learned counsel appearing for appellant, as stated supra, the writ appeal is dismissed as withdrawn, reserving liberty to the appellant to file a review petition before the learned Single Judge for review of***

the impugned order dated 3rd August 2010 in W.P.No.51794/2003 within two weeks from today, if he is so advised or need arises. All the grounds urged in this appeal are left open. Ordered accordingly."

15. The Coordinate Bench of this Court dismissed the writ appeal as withdrawn, granting liberty to the Appellant to file a review petition before the writ court seeking review of the order dated 03.08.2010, while allowing all grounds in the appeal left open for contention.

16. Pursuance to the order dated 16.01.2014, the Appellant filed review petition in R.P.No.1249/2014, seeking review of the order dated 03.08.2010 passed by the learned Single Judge. Vide impugned order dated 25.01.2016, the learned Single Judge dismissed the review petition and passed the following order:

"This Bench having passed an order after assigning reasons in dismissing the writ petition, an appeal is said to have been filed in W.A.No.3901/2010. The said appeal appears to have been withdrawn with liberty to prefer the review petition.
2. The Division Bench has not recorded any reason or ground on which the said liberty has been granted or the ground on which the Division Bench was of the opinion that the petitioner could be permitted to appear before this

bench and seek a review. In that view of the matter, since the order passed by this Bench was after assigning reasons there was no jurisdiction for the Division Bench to grant such leave and to permit the review. The appeal could have been heard on merits.

Therefore, the review petition is rejected."

A. The Learned Single Judge erred in dismissing the Writ Petition vide order dated 03.08.2010 without considering the material contentions and documents placed by the Appellant and failed to record reasons for the same:

17. The writ Court, in its order dated 03.08.2010, while dismissing the writ petition, has not analysed the contentions and documents produced by the parties. The order merely states the contentions of the parties respectively and comes to a conclusion without going into the details or analysis of the same. Nor has the learned Single Judge considered the material placed by the Appellant and has relied solely on the Tribunal order dated 09.05.2003. Further, the writ Court, in its order dated 25.01.2016, dismissed the review petition filed by the Appellant on the ground that the Coordinate Bench of this Court did not assign reasons or ground for remanding the matter

back for review. The same order was passed without hearing the matter on merits, despite liberty being granted by the Division Bench to keep all contentions open.

18. It is a settled principle of law that a Court or quasi judicial authority, while adjudicating a dispute, is required to record reasons which disclose the basis of its determination. The requirement to give reasons is an essential attribute of judicial decision-making, as reasons demonstrate due application of mind to the issues arising for consideration and the material placed before the Court. The reasons recorded must disclose consideration of the material and substantial contentions having a bearing on the adjudication, so as to enable the parties to understand the basis of the decision and the appellate or supervisory Court to effectively examine its correctness. An order which merely records a conclusion, without dealing with the material issues and contentions necessary for arriving at such conclusion, does not satisfy the requirement of a reasoned judicial determination. The obligation to record reasons thus, serves as an important safeguard against arbitrary exercise of judicial power and facilitates effective appellate and judicial review. In ***SBI v. AJAY KUMAR SOOD [(2023) 7 SCC 282]***, the Supreme

Court emphasised on the importance of giving reasons in a judgement/order as follows:

"17. A judgment culminates in a conclusion. But its content represents the basis for the conclusion. A judgment is hence a manifestation of reason. The reasons provide the basis of the view which the decision-maker has espoused, of the balances which have been drawn. That is why reasons are crucial to the legitimacy of a Judge's work. They provide an insight into judicial analysis, explaining to the reader why what is written has been written. The reasons, as much as the final conclusion, are open to scrutiny. A judgment is written primarily for the parties in a forensic contest. The scrutiny is first and foremost by the person for whom the decision is meant – the conflicting parties before the court. At a secondary level, reasons furnish the basis for challenging a judicial outcome in a higher forum. The validity of the decision is tested by the underlying content and reasons. But there is more. Equally significant is the fact that a judgment speaks to the present and to the future. Judicial outcomes taken singularly or in combination have an impact upon human lives. Hence, a judgment is amenable to wider critique and scrutiny, going beyond the immediate contest in a courtroom. Citizens, researchers and journalists continuously evaluate the work of courts as public institutions committed to governance under law. Judgment writing is hence a critical instrument in fostering

the rule of law and in curbing rule by the law."

(emphasis supplied)

19. In **MAYA DEVI v. RAJ KUMARI BATRA [(2010) 9 SCC 486]**, the Supreme Court, while emphasising the necessity of recording reasons in judicial and quasi-judicial orders, held that the exercise of power must be founded upon due and proper application of mind and that such application of mind is best demonstrated through disclosure of reasons. Relying on the decisions in **HINDUSTAN TIMES LTD. v. UNION OF INDIA [(1998) 2 SCC 242]**, **ARUN v. INSPECTOR GENERAL OF POLICE [(1986) 3 SCC 696]**, **UNION OF INDIA v. JAI PRAKASH SINGH [(2007) 10 SCC 712]**, **VICTORIA MEMORIAL HALL v. HOWRAH GANATANTRIK NAGRIK SAMITY [(2010) 3 SCC 732]**, **RAM PHAL v. STATE OF HARYANA [(2009) 3 SCC 258]**, and **DIRECTOR, HORTICULTURE, PUNJAB v. JAGJIVAN PARSHAD [(2008) 5 SCC 539]**, the Court underscored that recording reasons assumes particular significance where an order is subject to appellate scrutiny, as reasons enable the appellate Court or authority to examine the basis upon which the decision has been rendered. The relevant observations are extracted hereunder:

"22. The juristic basis underlying the requirement that courts and indeed all such authorities, as exercise the power to determine the rights and obligations of individuals must give reasons in support of their orders has been examined in a long line of decisions rendered by this Court...

...

28. It is in the light of the above pronouncements unnecessary to say anything beyond what has been so eloquently said in support of the need to give reasons for orders made by courts and statutory or other authorities exercising quasi-judicial functions. All that we may mention is that in a system governed by the rule of law, there is nothing like absolute or unbridled power exercisable at the whims and fancies of the repository of such power. There is nothing like a power without any limits or constraints. That is so even when a court or other authority may be vested with wide discretionary power, for even discretion has to be exercised only along well-recognised and sound juristic principles with a view to promoting fairness, inducing transparency and aiding equity.

29. What then are the safeguards against an arbitrary exercise of power? The first and the most effective check against any such exercise is the well-recognised legal principle that orders can be made only after due and proper application of mind. **Application of mind brings reasonableness not only to the exercise of power but to the ultimate conclusion also. Application of mind in turn is best demonstrated by disclosure of the mind. And disclosure is best demonstrated by**

recording reasons in support of the order or conclusion.

30. Recording of reasons in cases where the order is subject to further appeal is very important from yet another angle. An appellate court or the authority ought to have the advantage of examining the reasons that prevailed with the court or the authority making the order. Conversely, absence of reasons in an appealable order deprives the appellate court or the authority of that advantage and casts an onerous responsibility upon it to examine and determine the question on its own.

An appellate court or authority may in a given case decline to undertake any such exercise and remit the matter back to the lower court or authority for a fresh and reasoned order. That, however, is not an inflexible rule, for an appellate court may notwithstanding the absence of reasons in support of the order under appeal before it examine the matter on merits and finally decide the same at the appellate stage..."

(emphasis supplied)

20. In **STATE OF RAJASTHAN v. SOHAN LAL [(2004) 5 SCC 573]**, the Supreme Court reiterated that the exercise of judicial discretion is required to be guided by reason and sound judicial principles and that the reasons supporting the exercise of such discretion must be discernible from the order, particularly where the order is amenable to further judicial scrutiny. The relevant observations are extracted hereunder:

"3. We have carefully considered the submissions of the learned counsel appearing on either side. **This Court in State of Orissa v. Dhaniram Luhar [(2004) 5 SCC 568 : (2008) 2 SCC (Cri) 49 : JT (2004) 2 SC 172] has while reiterating the view expressed in the earlier cases for the past two decades emphasised the necessity, duty and obligation of the High Court to record reasons in disposing of such cases. The hallmark of a judgment/order and exercise of judicial power by a judicial forum is to disclose the reasons for its decision and giving of reasons has been always insisted upon as one of the fundamentals of sound administration justice-delivery system, to make known that there had been proper and due application of mind to the issue before the Court and also as an essential requisite of principles of natural justice.**"

(emphasis supplied)

21. The Supreme Court in **KRANTI ASSOCIATES (P) LTD. v. MASOOD AHMED KHAN (2010 SCC ONLINE SC 987)**, the Supreme Court has subsequently reaffirmed that reasons are essential because they allow an aggrieved party to understand why the decision went against it and allow the reviewing court to test the legality of the decision. The Court further summarised the principles as follows:

"47. Summarising the above discussion, this Court holds:

(a) In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.

(b) A quasi-judicial authority must record reasons in support of its conclusions.

(c) Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.

(d) Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.

(e) Reasons reassure that discretion has been exercised by the decision-maker on relevant grounds and by disregarding extraneous considerations.

(f) Reasons have virtually become as indispensable a component of a decision making process as observing principles of natural justice by judicial, quasi judicial and even by administrative bodies.

(g) Reasons facilitate the process of judicial review by superior courts.

(h) The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the lifeblood of judicial decision-making justifying the principle that reason is the soul of justice.

(i) Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have

been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

(j) Insistence on reason is a requirement for both judicial accountability and transparency.

(k) If a judge or a quasi-judicial authority is not candid enough about his/her decision-making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

(l) Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or "rubber-stamp reasons" is not to be equated with a valid decision-making process.

(m) It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision-making not only makes the judges and decision-makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in Defence of Judicial Candor [(1987) 100 Harvard Law Review 731-37]).

(n) Since the requirement to record reasons emanates from the broad doctrine of fairness in decision-making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See Ruiz Torija v. Spain [(1994) 19 EHRR 553] EHRR, at 562 para 29 and Anya v. University of Oxford [2001 EWCA Civ 405 (CA)], wherein the Court referred to Article 6 of the European Convention of Human Rights which requires, "adequate and intelligent

reasons must be given for judicial decisions".

(o) In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of "due process".

(emphasis supplied)

22. In **SANT LAL GUPTA v. MODERN COOP. GROUP HOUSING SOCIETY LTD. [(2010) 13 SCC 336]**, the Supreme Court considered an umpteen number of decisions and decided as follows:

"27. It is a settled legal proposition that not only administrative but also judicial orders must be supported by reasons recorded in it. Thus, while deciding an issue, the court is bound to give reasons for its conclusion. It is the duty and obligation on the part of the court to record reasons while disposing of the case. The hallmark of order and exercise of judicial power by a judicial forum is for the forum to disclose its reasons by itself and giving of reasons has always been insisted upon as one of the fundamentals of sound administration of the justice delivery system, to make it known that there had been proper and due application of mind to the issue before the court and also as an essential requisite of the principles of natural justice.

"3. ... The giving of reasons for a decision is an essential attribute of judicial and judicious disposal of a matter before

courts, and which is the only indication to know about the manner and quality of exercise undertaken, as also the fact that the court concerned had really applied its mind." [Ed.:As observed in State of Rajasthan v. Sohan Lal, (2004) 5 SCC 573, p. 576, para 3.]

The reason is the heartbeat of every conclusion. It introduces clarity in an order and without the same, the order becomes lifeless. Reasons substitute subjectivity with objectivity. The absence of reasons renders an order indefensible / unsustainable particularly when the order is subject to further challenge before a higher forum. Recording of reasons is the principle of natural justice and every judicial order must be supported by reasons recorded in writing. It ensures transparency and fairness in decision making. The person who is adversely affected must know why his application has been rejected. (Vide State of Orissa v. Dhaniram Luhar [(2004) 5 SCC 568 : (2008) 2 SCC (Cri) 49 : AIR 2004 SC 1794] , State of Rajasthan v. Sohan Lal [(2004) 5 SCC 573 : (2008) 2 SCC (Cri) 53] , Vishnu Dev Sharma v. State of U.P. [(2008) 3 SCC 172 : (2008) 1 SCC (L&S) 596] , SAIL v. STO [(2008) 9 SCC 407] , State of Uttaranchal v. Sunil Kumar Singh Negi [(2008) 11 SCC 205 : (2008) 2 SCC (L&S) 1093] , U.P. SRTC v. Jagdish Prasad Gupta [(2009) 12 SCC 609 : (2010) 1 SCC (L&S) 156] , Ram Phal v. State of Haryana [(2009) 3 SCC 258 : (2009) 2 SCC (Cri) 72 : (2009) 1 SCC (L&S) 645] , State of H.P. v. Sada Ram [(2009) 4 SCC 422] and Victoria Memorial Hall v. Howrah Ganatantrik Nagrik Samity [(2010) 3 SCC 732] .)"

(emphasis supplied)

23. In **CHIEF EXECUTIVE OFFICER, KARNATAKA INDUSTRIAL AREAS DEVELOPMENT BOARD & ANOTHER v. STATE OF KARNATAKA & OTHERS (W.A.NO.4520/2015 & CONNECTED MATTERS, DECIDED ON 09.09.2026)**, this

Court held as follows:

"38. It is trite law that a quasi-judicial or judicial authority must pass a reasoned and speaking order, as reasoned decisions form the cornerstone of the rule of law. A speaking order reveals the mind of the adjudicating authority, demonstrating that the relevant facts, material evidence, and legal submissions raised by the parties were objectively evaluated. When an authority fails to consider, address, or deal with specific objections raised by an aggrieved party, the resulting order is rendered non-speaking and unreasoned. Such an omission violates the core principles of natural justice – specifically the rule of fair procedure (audi alteram partem) – as affected parties are entitled to know the precise grounds upon which their claims or objections were rejected. Consequently, an unreasoned order that turns a blind eye to material objections is arbitrary, procedurally defective, and unsustainable in the eyes of the law."

24. In the present case, the order dated 03.08.2010 passed by the learned Single Judge, on a careful consideration thereof, does not disclose due and proper application of mind to the material contentions urged by the Appellant or to the

documents relied upon in support thereof. The learned Single Judge has noticed the respective contentions of the parties and has thereafter proceeded to uphold the order dated 09.05.2003 passed by the Land Tribunal, without independently examining the specific objections raised by the Appellant with regard to the extent of land in respect of which tenancy and cultivation as on 01.03.1974 were claimed, the entries in the RTC/pahani records, the earlier spot inspection and the subsequent survey report relied upon by the Tribunal. The order also does not disclose any discussion as to whether the material relied upon by the Tribunal was sufficient to establish the Respondent No.3 – tenant's claim over the entire extent of 16 acres 30 guntas, particularly when the extent of the claim made in Form No.7 and the evidentiary material relied upon by the parties were themselves matters in dispute. These were not peripheral or incidental contentions but went to the very root of the Respondent No.3 – tenant's entitlement to occupancy rights over the extent ultimately granted by the Tribunal. In such circumstances, merely affirming the conclusion of the Tribunal, without examining the material issues and contentions having a direct bearing upon the correctness of such conclusion, cannot be regarded as a sufficient judicial determination. The order

dated 03.08.2010, therefore, does not disclose the requisite application of mind to the substantial grounds urged by the Appellant and, consequently, fails to satisfy the requirement of a reasoned judicial order as explained in the aforesaid decisions.

B. The Learned Single Judge erred in dismissing the Review Petition vide order dated 25.01.2016 without examining the grounds urged by the Appellant and failed to exercise review jurisdiction in accordance with law:

25. It can be observed that the Appellant, after being granted liberty by the Coordinate Bench of this Court in W.A.No.3901/2010 to seek review before the learned Single Judge and leaving all contentions open, filed R.P.No.1249/2010 before the learned Single Judge. However, the same came to be dismissed vide order dated 25.01.2016 on the ground that the Coordinate Bench did not assign any ground for granting liberty to the Appellant to seek a review. Despite the Coordinate Bench granting liberty to seek a review and leaving all grounds urged in the appeal open for contention, the learned Single Judge dismissed the review petition without going into the merits of the case.

26. A perusal of the review petition in R.P.No.1249/2010 would indicate that the primary grounds on which review was sought were that:

- i. The learned Single Judge did not consider the fact that the RTCs for the years 1971-72, 1972-73, and 1973-74 were in the name of the Respondent No.3 – tenant, only to an extent of 1 acre 30 guntas, while the RTC for 1971-72 was fabricated. This further discloses that the Respondent No.3 – tenant was not in cultivation of the entire extent of lands.
- ii. The learned Single Judge was not presented with the evidence of Respondent No.3 – tenant along with their witnesses, both of which go against the claim of the tenant.
- iii. The learned Single Judge did not consider the fact that the Respondent No.3 – tenant did not produce any other document apart from RTCs, which are in dispute, to prove his cultivation over the subject lands.

27. It is well settled that the jurisdiction of the Court in reviewing its own orders is limited and cannot be exercised as an appellate jurisdiction. The power of review is available only

on the grounds recognised in law and is intended to correct an error apparent on the face of the record, or to address such other circumstances as may justify reconsideration of the order in accordance with the applicable legal principles. A review is not a rehearing of the matter on merits and cannot be invoked merely because the party seeks to canvass the same grounds which were considered and rejected earlier, or because another view on the same material is possible. At the same time, where the Court finds that a material contention or document having a direct bearing on the adjudication was not considered, or that the order sought to be reviewed proceeds on an apparent error which has materially affected the decision, the Court should exercise its review jurisdiction to prevent miscarriage of justice. However, the exercise of such jurisdiction must, remain confined to correcting an error or omission falling within the recognised parameters of review and cannot be permitted to become a substitute for an appeal.

28. The scope of review jurisdiction exercisable by this Court under Section 114 read with Order 47 Rule 1 of CPC is limited to three grounds: (i) Discovery of new and important matter or evidence which, after the exercise of due diligence, was not within knowledge of the petitioner or could not be produced by

him, (ii) Mistake or error apparent on the face of the record, and (iii) Any other sufficient reason. (See **KAMLESH VERMA V. MAYAWATI, [(2013) 8 SCC 320]**). The words "any other sufficient reason" have been interpreted in **CHHAJJU RAM V. NEKI [(1921-22) 49 IA 144 : (1922) 16 LW 37 : AIR 1922 PC 112]** and approved by the Supreme Court in **MORAN MAR BASSELIOS CATHOLICOS v. MOST REV. MAR POULOSE ATHANASIOS [AIR 1954 SC 526 : (1955) 1 SCR 520]** to mean "a reason sufficient on grounds at least analogous to those specified in the rule". The same principles have been reiterated in **UNION OF INDIA v. SANDUR MANGANESE & IRON ORES LTD. [(2013) 8 SCC 337 : JT (2013) 8 SC 275]**.

29. It was contended by the learned counsel for the Appellant that the order dated 03.08.2010 was passed without considering the oral submissions of the Appellant. This is not disputed by the Respondents. We have decided hereinabove that the order of dismissal of the writ petition dated 03.08.2010 passed by the learned Single Judge is a cryptic order and suffers from the infirmity of non-recording of reasons. The question is – whether the passing of an order without hearing the contentions of the Appellant, along with non-assignment of

reasons for such order, is a valid ground to invoke the review jurisdiction of this Court. This was answered in the case of **UNION OF INDIA v. SANDUR MANGANESE & IRON ORES LTD. [(2012) 9 SCC 683]** as follows:

"3. The principles of natural justice embody the right to every person to represent his interest to the court of justice. Pronouncing a judgment which adversely affects the interest of the party to the proceedings who was not given a chance to represent his/its case is unacceptable under the principles of natural justice.

4. In the case on hand, though during the course of hearing, a reference was made as to the presence of the learned Attorney General by the learned Senior Counsel for the respondents, as mentioned above, we are satisfied that the Union of India was not given an opportunity to represent its case due to mistake on the part of the Registry. Applying the well-settled principles governing a review petition and giving our anxious and careful consideration to the facts and circumstances of this case, we have come to the conclusion that the review petition filed by the Union of India should be admitted on the basis of the above reasoning."

30. This decision was followed by this Court in **DEEPAK KUMAR B. v. SAHARA PRIME CITY LTD. AND OTHERS (R.P. No.36/2024, decided on 25.03.2024)**, wherein this Court, upon considering the scope of review jurisdiction in the

context of violation of the principles of natural justice, held that where a party to the proceedings was not afforded an effective opportunity of hearing and the order passed in its absence adversely affected its rights, such violation constituted a valid ground for exercise of review jurisdiction.

31. The principle emerging from the aforesaid decisions is that, though the jurisdiction of review is limited and cannot be exercised as an appellate jurisdiction, the same does not preclude the Court from reviewing an order where the very process of adjudication stands vitiated by violation of the principles of natural justice or where the order suffers from a fundamental procedural infirmity. Denial of an effective opportunity of hearing, non-consideration of the submissions of a party, and failure to record reasons on material contentions having a bearing on the adjudication are not matters relating merely to the correctness of the ultimate conclusion, but concern the legality and fairness of the decision-making process itself. A non-speaking order, particularly where material contentions have not been considered, deprives the aggrieved party of the basis upon which its case has been rejected and, at the same time, prevents the reviewing or appellate Court from effectively examining whether the decision was arrived at upon

due consideration of the relevant material. Consequently, where an order has been passed without affording an effective opportunity to the affected party to advance its case, or where the Court has failed to consider material submissions and has disposed of the matter without assigning reasons, exercise of review jurisdiction to cure such defect would not amount to re-appreciation of the merits or an impermissible exercise of appellate jurisdiction. The purpose of such review is to correct the procedural infirmity and to ensure that the matter is adjudicated in accordance with the principles of natural justice and by a reasoned order.

32. In the present case, the aforesaid principles, when applied to the order dated 25.01.2016, leave us with no hesitation in holding that the learned Single Judge failed to exercise the review jurisdiction in accordance with the parameters referred to hereinabove. The review petition was filed pursuant to the liberty granted by the Coordinate Bench of this Court in W.A.No.3901/2010, whereby the Appellant was permitted to seek review of the order dated 03.08.2010 and all contentions were expressly left open. The grounds urged in the review petition were not confined to a mere request for re-

appreciation of the evidence or substitution of another possible view on the merits.

33. The Appellant specifically brought to the notice of the learned Single Judge that material contentions and documents having a direct bearing upon the correctness of the order dated 03.08.2010 had not been considered, and that the Appellant had not been afforded an effective consideration of its submissions before the writ petition was dismissed. In such circumstances, the question before the learned Single Judge was not merely whether the Coordinate Bench had assigned reasons for granting liberty to seek review, but whether the grounds raised in the review petition disclosed an error or procedural infirmity falling within the recognised parameters of review jurisdiction. The order dated 25.01.2016, however, proceeded to dismiss the review petition on the ground that the Coordinate Bench had not assigned any reason or ground for granting such liberty, without examining the grounds urged in the review petition and without adjudicating whether the alleged non-consideration of the Appellant's contentions and the absence of reasons in the order dated 03.08.2010 warranted interference in review. The effect of the order dated 25.01.2016 was thus, to deny consideration of the very

grounds on which review had been sought, despite the liberty granted by the Coordinate Bench and the specific direction that all contentions remained open.

34. We are, therefore, of the considered view that the order dated 03.08.2010 passed by the learned Single Judge in W.P.No.51794/2003 cannot be sustained. The learned Single Judge, while dismissing the writ petition, failed to consider the material contentions and documents specifically relied upon by the Appellant and proceeded to affirm the order of the Land Tribunal without independently examining the issues which went to the root of the claim for occupancy rights. The order does not disclose the requisite application of mind to the substantial objections raised by the Appellant and is consequently vitiated by the failure to record adequate and intelligible reasons. The subsequent order dated 25.01.2016 in R.P.No.1249/2014 also cannot be sustained, as the review petition was dismissed without examining the grounds urged therein and without considering whether the alleged non-consideration of material contentions and denial of an effective opportunity of hearing constituted a procedural infirmity warranting exercise of review jurisdiction.

35. Consequently, Issue (i) is answered in favour of the Appellant. The order dated 03.08.2010 passed by the learned Single Judge in W.P.No.51794/2003 and the order dated 25.01.2016 passed in R.P.No.1249/2014 are hereby set aside. Since the order of the learned Single Judge was founded upon an adjudication which failed to consider the material contentions and evidence placed by the Appellant, and the subsequent review petition was dismissed without examining the grounds on which review was sought, the said order cannot be permitted to stand. The matter is accordingly required to be considered in accordance with law, subject to the findings recorded by us on Issue (ii) hereinabove.

Re: Issue (ii)

36. The question that now arises for consideration is whether the order dated 09.05.2003 passed by the Land Tribunal granting occupancy rights in favour of Respondent No.3 – Tenant over an extent of 16 acres 30 guntas is sustainable in law, having regard to the material evidence on record, the earlier spot inspection, the subsequent survey report, the genuineness and reliability of the RTC extracts relied upon by the Tenant, his own evidence regarding his place of residence and migration, and the requirement of establishing actual

cultivation and possession as on the relevant date, namely, 01.03.1974.

37. At the outset, it is necessary to bear in mind that the jurisdiction of this Court under Article 226 of the Constitution is supervisory in nature. This Court does not ordinarily undertake a re-appreciation of evidence as an appellate court or substitute its own view merely because another view is possible. However, where the finding of a statutory authority is based upon irrelevant considerations, ignores material evidence, proceeds upon documents whose genuineness is seriously impeached and remains unexplained, or is such that no reasonable authority properly applying its mind to the material on record could have arrived at the conclusion recorded, interference under Article 226 is warranted. The present case is required to be examined within these parameters.

38. The essential requirement in a claim for conferment of occupancy rights is not merely the existence of an entry in a revenue record, but the establishment of the statutory conditions relating to tenancy, possession and personal cultivation as on the relevant date. The burden was, therefore, upon Respondent No.3 – Tenant to establish that he was in

lawful tenancy and was personally cultivating the subject lands as on 01.03.1974. The extent over which such cultivation was established was equally material, since the Tribunal ultimately conferred occupancy rights over 16 acres 30 guntas.

39. In the present case, the Land Tribunal had material before it, which required careful and reasoned consideration, particularly with regard to the extent of cultivation. The earlier spot inspection conducted on 27.03.1981 had resulted in a finding that Respondent No.3 – Tenant was cultivating only an extent of 2 acres. It was on the basis of that material that occupancy rights were initially granted only to the extent of 2 acres. Thereafter, pursuant to the order of remand, another inspection/survey was conducted, and the Tribunal proceeded to hold that the Tenant was cultivating the entire extent ultimately granted. The material question, therefore, was not merely whether a subsequent inspection disclosed physical cultivation at a later point of time, but whether such material could establish the existence and extent of tenancy and personal cultivation as on 01.03.1974.

C. Burden of Proof as to Tenancy and Personal Cultivation on the Appointed Date:

40. It is the contention of the Learned Counsel for the Respondent No.3 – Tenant that the grant of occupancy rights was based not only on the survey report dated 27.03.1981, but also on the pahanis, statements of witnesses, and other relevant documents. We do not find force in this contention. The essential requirement for conferment of occupancy rights under the Karnataka Land Reforms Act, 1961 is the establishment by the claimant of the statutory conditions of tenancy, possession and personal cultivation as on the appointed date, namely, 01.03.1974. The burden of establishing these foundational facts rests upon the person who seeks registration of occupancy rights. In ***K. SADANANDA BHAT v. AKKU POOJARTHY (W.P.NO.32937/2002, DECIDED ON 07.02.2014)***, this Court reiterated that the burden of proving tenancy lies upon the person who has filed Form No.7 and that such burden may be discharged by cogent documentary evidence, including revenue records, rent receipts and other contemporaneous material demonstrating possession and cultivation as a tenant on 01.03.1974. The Court emphasised that revenue entries constitute relevant evidence

for determining possession, but the claimant must establish that such possession was in the capacity of a tenant and that the land was personally cultivated by him on the appointed date. Similarly, in ***MADAIAH BIN DODDAMADAIAH v. STATE OF KARNATAKA (2016 SCC ONLINE KAR 898)***, this Court affirmed that occupancy rights cannot be claimed merely on the basis of oral assertions unsupported by reliable documentary evidence and that the claimant must establish cultivation as a tenant as on 01.03.1974 or immediately prior thereto. Thus, the question before the Tribunal was not merely whether Respondent No.3 was found to be cultivating the land at some subsequent point of time, but whether the evidence on record satisfactorily established his tenancy, possession and personal cultivation over the extent claimed as on the statutory date.

D. Non-Consideration of the Earlier Inspection dated 27.03.1981 vis-à-vis the Subsequent Survey:

41. Tested on the aforesaid principle, the material relied upon by the Tribunal does not satisfactorily establish the claim of Respondent No.3 – Tenant over the entire extent of 16 acres 30 guntas as on 01.03.1974. The earlier inspection conducted on 27.03.1981 recorded cultivation over only 2 acres, whereas the subsequent survey came to be relied upon for accepting

cultivation over 16 acres 30 guntas. The Tribunal has not adequately explained this substantial variation or identified contemporaneous material which could establish that the larger extent found in the subsequent survey represented the extent personally cultivated by the Tenant nearly seven years prior thereto, i.e., as on 01.03.1974. A later survey or spot inspection may constitute a relevant piece of evidence, but it cannot, in the absence of a satisfactory evidentiary foundation connecting its findings to the appointed date, by itself establish the extent of tenancy and personal cultivation prevailing on that date. The requirement was to examine whether there was a credible chain of evidence commencing from or sufficiently proximate to 01.03.1974 and leading to the extent claimed. Such an exercise assumes significance particularly when an earlier inspection had recorded cultivation over a substantially lesser extent. The Tribunal was, therefore, required to consider both materials, assess their evidentiary value and give cogent reasons for preferring the subsequent survey over the earlier inspection. The failure to undertake such reconciliation assumes significance in determining whether the Tenant had discharged the burden resting upon him.

E. Non-Supply of the Subsequent Survey Report and Denial of Effective Opportunity:

42. The manner in which the subsequent survey was relied upon also raises a distinct question of procedural fairness. The Appellant has specifically contended that the subsequent survey report was not furnished to him and that he was consequently deprived of an effective opportunity to examine and contest the material upon which the Tribunal ultimately proceeded to determine the extent of cultivation.

43. The principle that a quasi-judicial authority cannot rely upon material adverse to a party without affording an effective opportunity to meet the same is well settled. In ***DHAKESWARI COTTON MILLS LTD. v. COMMISSIONER OF INCOME TAX (AIR 1955 SC 65)***, the Supreme Court emphasised that material relied upon for arriving at an adverse conclusion must not be used behind the back of the affected party. Likewise, in ***DHARAMPAL SATYAPAL LTD. v. DEPUTY COMMISSIONER OF CENTRAL EXCISE [(2015) 8 SCC 519]***, the Supreme Court, following its decision in ***ECIL v. B. KARUNAKAR [(1993) 4 SCC 727]***, reiterated that the opportunity contemplated by the rule of *audi alteram partem* must be real and effective and not merely an empty formality. In the present

case, therefore, once the subsequent survey was relied upon to enlarge the extent of cultivation from 2 acres to 16 acres 30 guntas, the Appellant was entitled to know the contents and basis of that report and to have a meaningful opportunity to controvert the same. The absence of such opportunity assumes greater significance because the subsequent survey constituted material evidence for determining the very extent of occupancy rights claimed by the Tenant.

F. Denial of Opportunity to Test the Surveyor's Report by Cross-Examination:

44. The denial of an opportunity to question the Surveyor who prepared the subsequent report further compounds the prejudice caused to the Appellant. Where a finding of possession or cultivation is substantially founded upon a survey or inspection conducted by an officer, the affected party must, where the circumstances so warrant, have a meaningful opportunity to test the factual basis, methodology and conclusions contained therein. In **STATE OF KERALA v. K.T. SHADULI GROCERY DEALER [(1977) 2 SCC 777]**, the Supreme Court recognised cross-examination as an important facet of a fair adjudicatory process where the authority

proposes to rely upon evidence adverse to the party concerned.

The relevant paragraph is as hereunder:

"3. One of the rules which constitutes a part of the principles of natural justice is the rule of audi alteram partem which requires that no man should be condemned unheard. It "is indeed a requirement of the duty to act fairly which lies on all quasi-judicial authorities and this duty has been extended also to the authorities holding administrative enquiries involving civil consequences or affecting rights of parties because as pointed out by this Court in A.K. Kraipak v. Union of India [(1969) 2 SCC 262 : (1970) 1 SCR 457] "the aim of the rules of natural justice is to secure justice or to put it negatively, to prevent miscarriage of justice" and justice, in a society which has accepted socialism as its article of faith in the Constitution is dispensed not only by judicial or quasi-judicial authorities but also by authorities discharging administrative functions. This rule which requires an opportunity to be heard to be given to a person likely to be affected by a decision is also, like the genus of which it is a species, not an inflexible rule having a fixed connotation. It has a variable content depending on the nature of the inquiry, the framework of the law under which it is held, the constitution of the authority holding the inquiry, the nature and character of the rights affected and the consequences flowing from the decision. It is, therefore, not possible to say that in every case the rule of audi alteram partem requires that a particular specified procedure is to be followed. It may be that in a given case the rule of audi alteram partem may import a requirement that witnesses whose statements are sought to be relied upon

by the authority holding the inquiry should be permitted to be cross-examined by the party affected while in some other case it may not. *The procedure required to be adopted for giving an opportunity to a person to be heard must necessarily depend on facts and circumstances of each case."*
(emphasis supplied)

45. The principle was reiterated in **ANDAMAN TIMBER INDUSTRIES v. CCE [(2016) 15 SCC 785]**, wherein denial of an opportunity to cross-examine persons whose statements were relied upon for an adverse conclusion was held to constitute a serious violation of natural justice. The principle is not confined to any particular statutory proceeding and applies wherever the adjudicating authority relies upon material whose factual correctness is disputed and whose author or maker is capable of being questioned. The relevant paragraphs are as hereunder:

"6. According to us, not allowing the assessee to cross-examine the witnesses by the adjudicating authority though the statements of those witnesses were made the basis of the impugned order is a serious flaw which makes the order nullity inasmuch as it amounted to violation of principles of natural justice because of which the assessee was adversely affected. It is to be borne in mind that the order of the Commissioner was based upon the statements given by the aforesaid two witnesses. Even when the assessee disputed the correctness of the

statements and wanted to cross-examine, the adjudicating authority did not grant this opportunity to the assessee. It would be pertinent to note that in the impugned order passed by the adjudicating authority he has specifically mentioned that such an opportunity was sought by the assessee. However, no such opportunity was granted and the aforesaid plea is not even dealt with by the adjudicating authority. As far as the Tribunal is concerned, we find that rejection of this plea is totally untenable. The Tribunal has simply stated that cross-examination of the said dealers could not have brought out any material which would not be in possession of the appellant themselves to explain as to why their ex-factory prices remain static. **It was not for the Tribunal to have guesswork as to for what purposes the appellant wanted to cross-examine those dealers and what extraction the appellant wanted from them.**

7. As mentioned above, the appellant had contested the truthfulness of the statements of these two witnesses and wanted to discredit their testimony for which purpose it wanted to avail the opportunity of cross-examination. That apart, the adjudicating authority simply relied upon the price list as maintained at the depot to determine the price for the purpose of levy of excise duty. Whether the goods were, in fact, sold to the said dealers/witnesses at the price which is mentioned in the price list itself could be the subject-matter of cross-examination. **Therefore, it was not for the adjudicating authority to presuppose as to what could be the subject-matter of the cross-examination and make the remarks as mentioned above.** We may also point out that on an earlier occasion when the matter came up before this Court in CCE v. Andaman Timber Industries Ltd. [CCE v. Andaman Timber Industries Ltd., (2005) 12 SCC 151] , order dated 17-3-2005 was passed remitting

the case back to the Tribunal with the directions to decide the appeal on merits giving its reasons for accepting or rejecting the submissions.”

(emphasis supplied)

46. In the present case, the Appellant had specifically disputed the subsequent survey and its implication as to the extent of cultivation. In such circumstances, reliance upon the report without furnishing the same and without affording an effective opportunity to test its factual basis materially affected the fairness of the adjudicatory process.

G. Evidentiary Value of the RTC Entries and Failure to Consider the Challenge to Their Genuineness:

47. The evidentiary value of the revenue records relied upon by the Tribunal also required a careful and reasoned examination. Revenue entries may undoubtedly constitute relevant evidence regarding possession. However, they are not, by themselves, conclusive proof of tenancy or personal cultivation, particularly when their correctness and genuineness are specifically put in issue. The Supreme Court has repeatedly held that revenue entries are not conclusive proof of the rights claimed on the basis thereof and that the evidentiary value of such entries depends upon the circumstances in which they

were made and the other material available on record. The presumption attached to a revenue entry, wherever applicable, is a rebuttable presumption and cannot relieve the claimant of establishing the foundational facts necessary for the statutory right claimed.

48. In the present case, the Appellant had raised specific objections regarding the correctness of the RTC entries relied upon by the Tenant, including the alleged alterations, overwriting and the circumstances in which the entries came to reflect cultivation over the larger extent. These objections went to the root of the claim of possession and cultivation and, therefore, required specific consideration by the Tribunal. The Tribunal was required to examine whether the disputed entries, when tested against the earlier inspection dated 27.03.1981, the other contemporaneous revenue records, the oral evidence and the subsequent survey, established possession and personal cultivation by Respondent No.3 over 16 acres 30 guntas as on 01.03.1974. The principle emerging from **K. SADANANDA BHAT** (*Supra*) and **NARASAMMA v. STATE OF KARNATAKA [(2009) 5 SCC 591]**, is that revenue records constitute a piece of evidence throwing light on possession, but their probative value has to be assessed in the context of the

entire evidence on record. Where the very entries relied upon are specifically challenged, the Tribunal cannot simply accept them at face value without examining the objections raised against them. The failure to deal with such material objections assumes significance in the present case because the Tribunal's conclusion regarding the extent of cultivation substantially rests upon such entries and the subsequent survey.

49. The aforesaid failure must be considered in the context of the fundamental requirement that a quasi-judicial authority is bound to record reasons dealing with the material facts, evidence and objections which arise for determination. In **UNION OF INDIA v. ESSEL MINING & INDUSTRIES LTD. [(2005) 6 SCC 675]**, the Supreme Court observed as follows:

*"4. We find that though the High Court referred to various statutes relating to the mining activities e.g. the Mining Act, etc. it did not indicate any reason as to why it was of the view that the authority issuing the notification lacked statutory power to issue the notification. Though the judgment runs to several pages, after noticing the rival submissions, the High Court in a very cryptic manner, disposed of the writ petition coming to the aforesaid view. **It is not the number of pages in a judgment which is relevant. It is on the other hand, the sufficiency of reasons indicated to justify the conclusions.** We may only add here that paras 28 and 29 of the judgment which are supposed to contain the conclusions are not*

only confusing, but also make little sense. They, to quote the immortal words of Lord Sumner in R. v. Nat Bell Liquors Ltd. [(1922) 2 AC 128 : 127 LT 437 (PC)] "speak only with the inscrutable face of a sphinx". It is "unspeaking order" as classically described by Lord Cairns, IC in Overseers of the Poor of Walsall Overseers v. London & NWR Co. [(1878) 4 AC 30 : 39 LT 453 (HL)] ..."

50. In **SBI v. AJAY KUMAR SOOD** (*Supra*), the Supreme Court laid down the important elements and the comprehensibility of a judgement as follows:

12. In Shakuntala Shukla v. State of U.P. [Shakuntala Shukla v. State of U.P., (2021) 20 SCC 818 : 2021 SCC OnLine SC 672] as well, a two-Judge Bench of this Court, was faced with an order [Swami Nath Yadav v. State of U.P., 2018 SCC OnLine All 5465] of the High Court of Judicature at Allahabad which made it difficult to discern between the submissions of counsel and the reasons of the court. Laying emphasis on the purpose of a judgment, this Court elaborated on what should be the content of a judgment.

The Court observed that : (Shakuntala Shukla case [Shakuntala Shukla v. State of U.P., (2021) 20 SCC 818 : 2021 SCC OnLine SC 672] , SCC para 9)

"9. ... 9.2. ... "Judgment" means a judicial opinion which tells the story of the case; what the case is about; how the court is resolving the case and why. "Judgment" is defined as any decision given by a court on a question or questions or issue between the parties to a proceeding properly before court. It is also defined as the decision or the sentence of a court in a legal proceeding along with the

reasoning of a Judge which leads him to his decision. The term "judgment" is loosely used as judicial opinion or decision. **Roslyn Atkinson, J., Supreme Court of Queensland, in her speech once stated that there are four purposes for any judgment that is written:**

(i) to spell out Judge's own thoughts;

(ii) to explain your decision to the parties;

(iii) to communicate the reasons for the decision to the public; and

(iv) to provide reasons for an appeal court to consider.

9.3. It is not adequate that a decision is accurate, it must also be reasonable, logical and easily comprehensible. ... What the court says, and how it says it, is equally important as what the court decides.

9.4. **Every judgment contains four basic elements and they are (i) statement of material (relevant) facts, (ii) legal issues or questions, (iii) deliberation to reach at decision, and (iv) the ratio or conclusive decision.**

A judgment should be coherent, systematic and logically organised. It should enable the reader to trace the fact to a logical conclusion on the basis of legal principles. It is pertinent to examine the important elements in a judgment in order to fully understand the art of reading a judgment. **In the Path of Law, Holmes, J. has stressed the insentient factors that persuade a Judge. A judgment has to formulate findings of fact, it has to decide what the relevant principles of law are, and it has to apply those legal**

principles to the facts. The important elements of a judgment are:

(i) Caption

(ii) Case number and citation

(iii) Facts

(iv) Issues

(v) Summary of arguments by both the parties

(vi) Application of law

(vii) Final conclusive verdict

9.5. The judgment replicates the individuality of the Judge and therefore it is indispensable that it should be written with care and caution. The reasoning in the judgment should be intelligible and logical. Clarity and precision should be the goal. All conclusions should be supported by reasons duly recorded. The findings and directions should be precise and specific.

Writing judgments is an art, though it involves skilful application of law and logic. We are conscious of the fact that the Judges may be overburdened with the pending cases and the arrears, but at the same time, quality can never be sacrificed for quantity. Unless judgment is not in a precise manner, it would not have a sweeping impact. There are some judgments that eventually get overruled because of lack of clarity. **Therefore, whenever a judgment is written, it should have clarity on facts; on submissions made on behalf of the rival parties; discussion on law points and thereafter reasoning and thereafter the ultimate conclusion and the findings and thereafter the operative portion of the order.** There must be a clarity on the final relief granted. A party to the litigation must know what actually he has got by way of final relief. The aforesaid aspects are to

*be borne in mind while writing the judgment, which would reduce the burden of the appellate court too. We have come across many judgments which lack clarity on facts, reasoning and the findings and many a times it is very difficult to appreciate what the learned Judge wants to convey through the judgment and because of that, matters are required to be remanded for fresh consideration. **Therefore, it is desirable that the judgment should have a clarity, both on facts and law and on submissions, findings, reasonings and the ultimate relief granted.***
(emphasis supplied)

51. At the cost of repetition, we finally place reliance on the decision of this Court in **CHIEF EXECUTIVE OFFICER, KARNATAKA INDUSTRIAL AREAS DEVELOPMENT BOARD** (*Supra*), which, though considered hereinabove in the context of the requirement of a reasoned and speaking order, also elucidates the consequence of an adjudicating authority failing to consider material evidence and objections bearing directly upon the rights of the parties.

52. Applying these principles to the present case, the Tribunal was required to demonstrate, by a reasoned analysis, why the earlier inspection dated 27.03.1981 showing cultivation over only 2 acres was not accepted, why the subsequent survey

indicating 16 acres 30 guntas was preferred, what material established the nexus of the subsequent survey with possession and personal cultivation as on 01.03.1974, and why the specific objections raised by the Appellant regarding the subsequent survey and the correctness of the RTC entries did not merit acceptance. The Tribunal has not undertaken this exercise. The failure assumes further significance in view of the fact that the subsequent survey report was not furnished to the Appellant, and the Surveyor was not made available for effective cross-examination. Thus, the defect in the impugned order is not merely that the Tribunal may have attached greater weight to one piece of evidence than another. Rather, it failed to disclose the reasoning process by which it arrived at the crucial finding that Respondent No.3 had established possession and personal cultivation over 16 acres 30 guntas as on the appointed date.

H. Cumulative Assessment of the Evidence and the Resulting Failure of the Tribunal to Discharge its Adjudicatory Duty:

53. There is yet another circumstance which assumes significance. The material on record, as relied upon by the Appellant, discloses that Respondent No.3 – Tenant was residing at Gowdanapalya, stated to be approximately 20

kilometres away from the subject lands, and that he admitted having migrated to B.M. Kaval only in the year 1980. If this evidence is accepted, it directly bears upon the claim that the Tenant was personally cultivating the subject lands as on 01.03.1974. At the very least, this circumstance required the Tribunal to examine how the Tenant could have been in personal possession and cultivation of the subject lands in 1974 despite admittedly residing at a different place and migrating to B.M. Kaval only in 1980.

54. The significance of this evidence becomes greater when considered alongside the earlier spot inspection of 27.03.1981, which found cultivation only over 2 acres. The Tenant's alleged migration to B.M. Kaval in 1980, followed by an inspection in 1981 showing cultivation over only 2 acres, cannot be brushed aside while determining whether he was personally cultivating 16 acres 30 guntas nearly seven years earlier, i.e. on 01.03.1974. The Tribunal was required to address this cumulative evidentiary circumstance and record a finding based upon cogent material. The impugned order does not undertake such an exercise.

55. Viewed cumulatively, the following deficiencies in the Tribunal's approach materially affect the sustainability of its finding:

- (i) The earlier inspection dated 27.03.1981 disclosed cultivation over only 2 acres,
- (ii) the subsequent survey indicated cultivation over 16 acres 30 guntas, without the Tribunal satisfactorily establishing its evidentiary nexus with 01.03.1974,
- (iii) the subsequent survey report was not furnished to the Appellant,
- (iv) the Surveyor was not subjected to effective cross-examination, and
- (v) the genuineness and correctness of the revenue records relied upon by the Tenant were specifically disputed but were not subjected to a reasoned examination.

These were not peripheral or inconsequential objections. Each of them had a direct bearing upon the foundational question whether Respondent No.3 had discharged the burden of proving tenancy, possession and personal cultivation over the entire extent claimed as on the appointed date. The Tribunal was therefore required to consider these circumstances cumulatively

and record clear reasons for accepting or rejecting them. Instead, the Tribunal proceeded to accept the subsequent material without reconciling it with the earlier inspection and without adequately addressing the objections raised by the Appellant. The order, consequently, does not disclose a logical chain of reasoning connecting the evidence relied upon with the ultimate finding granting occupancy rights over 16 acres 30 guntas. Such non-consideration of material evidence and specific objections, coupled with the absence of adequate reasons for preferring the subsequent material, renders the finding vulnerable not merely on the ground of erroneous appreciation of evidence but also on the ground of non-application of mind and failure to discharge the obligation to pass a reasoned and speaking order. The grant of occupancy rights over 16 acres 30 guntas, therefore, cannot be sustained.

56. We are conscious that this Court, while exercising jurisdiction under Article 226, would not ordinarily interfere merely because another view of the evidence is possible. The present case, however, is not one where the Tribunal has chosen one of two equally plausible views. The defect lies in the failure of the Tribunal to consider material evidence which had a direct bearing upon the very foundation of the claim. The

earlier inspection, the subsequent survey, the disputed RTCs, the circumstances relating to the Tenant's residence and migration, and the extent of actual cultivation were all relevant to the determination of whether the statutory conditions for conferment of occupancy rights had been satisfied. Their non-consideration has materially affected the conclusion reached by the Tribunal.

57. We are, therefore, of the considered view that the order dated 09.05.2003 passed by the Land Tribunal granting occupancy rights to Respondent No.3 – Tenant over 16 acres 30 guntas cannot be sustained. The finding of the Tribunal that the Tenant had established personal cultivation over the entire extent is vitiated by non-consideration of material evidence and is unsupported by a proper assessment of the evidence as a whole. The order is accordingly liable to be set aside to that extent.

58. Consequently, Issue (ii) is answered in favour of the Appellant. The order dated 09.05.2003 passed by the Land Tribunal granting occupancy rights over 16 acres 30 guntas is hereby set aside. The consequence of setting aside the Tribunal order shall follow insofar as the order dated 03.08.2010 passed

by the learned Single Judge in W.P.No.51794/2003 upheld the said order of the Tribunal.

59. In view of the findings recorded by us on Issue (i), particularly with regard to the infirmities in the order dated 03.08.2010 and the manner in which the review petition came to be disposed of on 25.01.2016 and having regard to our independent findings on Issue (ii), the present appeal deserves to be allowed to the aforesaid extent. We clarify that we have not directed a remand to the Land Tribunal, as the material on record and the nature of the infirmities in the impugned order enable this Court to finally determine the challenge before it.

60. Accordingly, the writ appeal is partly allowed. The order dated 03.08.2010 passed by the learned Single Judge in W.P.No.51794/2003, insofar as it upholds the order dated 09.05.2003 passed by the Land Tribunal, is set aside. The order dated 09.05.2003 passed by the Land Tribunal granting occupancy rights over 16 acres 30 guntas in favour of Respondent No.3 – Tenant is also set aside. The order dated 25.01.2016 passed in R.P.No.1249/2014 is set aside. However, occupancy rights of the tenant so far as two acres of land as granted by the Tribunal vide order dated 07.04.1981 is not

interfered with, as the said order dated 07.04.1981 was challenged by the appellant and has attained finality.

Pending Interlocutory Applications, if any, do not survive for consideration and accordingly, they stand disposed of.

**Sd/-
(D K SINGH)
JUDGE**

**Sd/-
(H.SHANTHI BHUSHAN)
JUDGE**

BKV
CT:SN