

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF JANUARY, 2026



PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE C.M. POONACHA

WRIT APPEAL NO. 55 OF 2005 (SC-ST)

BETWEEN:

KALAPPA
SINCE DECEASED, BY HIS LRS

1. KRISHNAPPA
S/O LATE KALAPPA
AGED ABOUT 55 YEARS
R/AT SINGAVARA VILLAGE
DODDASAGARAHALLI
DEVANAHALLI TALUK
BANGALORE RURAL DISTRICT
2. NARASIMHA MURHTY
S/O LATE KALAPPA
AGED ABOUT 45 YERS
R/AT SINGAVARA VILLAGE
DODDASAGARAHALLI
DEVANAHALLI TALUK
BANGALORE RURAL DISTRICT
3. SMT. SAROJAMMA
W/O RAMACHANDRA
AGED ABOUT 43 YEARS
R/AT NANDI VILLAGE - 562 103
KOLAR DISTRICT, PRESENTLY
CHIKKABALLAPURA DISTRICT

Digitally signed
by PRABHAKAR
SWETHA
KRISHNAN
Location: High
Court of
Karnataka

4. SMT. ANASUYAMMA
W/O MUNIRAJU
AGED ABOUT 40 YERS
R/AT YAGADAHALLI - 561 203
TUBAGERE HOBLI
DODDABALLAPURA TALUK
BANGALORE RURUAL DISTRICT
5. SMT. LALITHAMMA
W/O BYREGOWDA
AGED ABOUT 38 YEARS
R/O. GADENAHALLY
JALA HOBLI
BANGALORE NORTH TALUK
6. SMT. RADAMMA
W/O RAMAKRISHNA
AGED ABOUT 34 YEARS
R/AT YELEUR, CHANNARAYAPATNA HOBLI
DEVANAHALLI TALUK - 562 135
BANGALORE RURAL DISTRICT
7. RAJANNA
S/O LATE KALAPPA
AGED ABOUT 34 YEARS
R/AT SINGAVARA VILLAGE
DODDASAGARAHALLY DAKLE
VENKATAGIRIKOTE POST - 562 110
DEVANAHALLI TALUK
BANGALORE RURAL DISTRICT
8. GOWRAMMA
D/O LATE KALAPPA
AGED ABOUT 32 YEARS
R/AT SINGAVARA VILLAGE
DODDASAGARAHALLY DAKLE
VENKATAGIRIKOTE POST - 562 110
DEVANAHALLI TALUK
BANGALORE RURAL DISTRICT

9. SWATHAPPA
S/O MUNISWAMAPPA
AGED ABOUT 85 YEARS
R/AT SINGAVARA VILLAGE
DODDASAGARAHALLY DAKLE
VENKATAGIRIKOTE POST - 562 110
DEVANAHALLI TALUK
BANGALORE RURAL DISTRICT
10. MUNIYAPPA
S/O MUNISHAMAPPA
SINCE DECEASED, BY HIS L.Rs.,
- 10.(a) SMT. SARASWATHI
W/O LATE S.M. NARAYANASWAMY
AGED ABOUT 48 YEARS
R/A SINGAVARA VILLAGE
DODDASAGARAHALLI DAKLE
VENKATAGIRIKOTE POST - 562 110
VIJAYAPURA HOBLI
DEVANAHALLI TALUK
BENGALURU RURAL DISTRICT
- 10.(b) SRI KISHOR N.
S/O LATE S.M. NARAYANASWAMY
AGED ABOUT 27 YEARS
R/O SINGAVARA VILLAGE
DODDASAGARAHALLI DAKLE
VENKATAGIRIKOTE POST - 562 110
VIJAYAPURA HOBLI
DEVANAHALLI TALUK
BENGALURU RURAL DISTRICT
- 10.(c) SRI ADARSHA N.
S/O LATE S.M. NARAYANASWAMY
AGED ABOUT 24 YEARS
R/O SINGAVARA VILLAGE
DODDASAGARAHALLI DAKLE
VENKATAGIRIKOTE POST - 562 110
VIJAYAPURA HOBLI

DEVANAHALLI TALUK
BENGALURU RURAL DISTRICT

10.(d) SRI M. JAYACHANDRA
S/O LATE MUNIYAPPA
AGED ABOUT 57 YEARS
R/O SINGAVARA VILLAGE
DODDASAGARAHALLI DAKLE
VENKATAGIRIKOTE POST - 562 110
VIJAYAPURA HOBLI
DEVANAHALLI TALUK
BENGALURU RURAL DISTRICT

10.(e) SRI M. MANJU
S/O LATE MUNIYAPPA
AGED ABOUT 53 YEARS
R/O SINGAVARA VILLAGE
DODDASAGARAHALLI DAKLE
VENKATAGIRIKOTE POST - 562 110
VIJAYAPURA HOBLI
DEVANAHALLI TALUK
BENGALURU RURAL DISTRICT

10. (f) SMT. YASHODAMMA
W/O PRAKASH
D/O LATE MUNIYAPPA
R/O HYADALA - 562 135
CHANNARAYAPATNA HOBLI
DEVANAHALLI TALUK
BENGALURU RURAL DISTRICT

11. MUNINARAYANAMMA
W/O BYRAPPA
AGED ABOUT 70 YEARS
R/AT SINGAVARA VILLAGE
DODDASAGARAHALLI DAKLE
DEVANAHALLI TALUK
BANGALORE RURAL DISTRICT

12. VENKATESHA
S/O BYRAPPAR
AGED ABOUT 45 YEARS
R/O SINGAVARA VILLAGE
DODDASAGARAHALLI DAKLE
DEVANAHALLI TALUK
BANGALORE RURAL DISTRICT

13. RAMESH
S/O BYRAPPAR
AGED ABOUT 40 YEARS
R/O SINGAVARA VILLAGE
DODDASAGARAHALLI
DEVANAHALLI TALUK
BANGALORE RURAL DISTRICT

...APPELLANTS

(BY SRI JAYAKUMAR S. PATIL, SENIOR ADVOCATE A/W
SRI K. VARAPRASAD, ADVOCATE)

AND:

1. SMT. NAGAMMA
W/O LATE VENKATARAYAPPA
AGE: MAJOR, R/AT SINGAVARA VILLAGE
DODDASAGARAHALLI DAKLE
DEVANAHALLI TALUK
BANGALORE RURAL DISTRICT

2. V CHANDRAPPA
S/O LATE VENKATARAYAPPA
SINCE DECEASED, BY L.Rs

2(a) SMT. ALUVELAMMA
W/O LATE V. CHANDRAPPA
AGED ABOUT 67 YEARS
R/AT NO.69, NAIDU BEEDI
NEAR GANESH TEMPLE
BABUSAPALYA, KALYAN NAGAR POST
BANGALORE EAST TALUK
BANGALORE - 560 043

- 2(b) SMT. PADMA
D/O LATE V. CHANDRAPPA
AGED ABOUT 43 YEARS
R/AT NO.69, NAIDU BEEDI
NEAR GANESH TEMPLE
BABUSAPALYA, KALYAN NAGAR POST
BANGALORE EAST TALUK
BANGALORE - 560 043
- 2(c) SMT. LAKSHMI DEVI
D/O LATE V. CHANDRAPPA
AGED ABOUT 41 YEARS
R/AT NO.69, NAIDU BEEDI
NEAR GANESH TEMPLE
BABUSAPALYA, KALYAN NAGAR POST
BANGALORE EAST TALUK
BANGALORE - 560 043
3. RAJANNA
S/O LATE VENKATARAYAPPA
AGED ABOUT 53 YEARS
R/AT SINGAVARA VILLAGE
DODDASAGARAHALLI DAKLE
VENKATAGIRIKOTE POST - 562 110
DEVANAHALLI TALUK
BANGALORE RURAL DISTRICT
4. VENKATARAYAPPA
S/O LATE VENKATARAYAPPA
AGED ABOUT 50 YEARS
R/AT SINGAVARA VILLAGE
DODDASAGARAHALLI DAKLE
VENKATAGIRIKOTE POST - 562 110
DEVANAHALLI TALUK
BANGALORE RURAL DISTRICT
5. HANUMANTHARAJU
S/O V CHANDRAPPA
AGED ABOUT 38 YEARS
DODDASAGARAHALLI DAKLE

VENKATAGIRIKOTE POST - 562 110
DEVANAHALLI TALUK
BANGALORE RURAL DISTRICT

6. MUNISWAMAPPA
SINCE DIED, BY HIS L.Rs.
- 6(a) SMT. AKKAYAMMA
W/O LATE MUNISWAMAPPA
AGED ABOUT 72 YEARS
R/AT SINGAVARA VILLAGE
DODDASAGARAHALLI
VIJAYAPURA HOBLI
DEVANAHALLI TALUK - 562 110
BENGALURU - 560 043
- 6(b) SMT. VENKATALAKSHMI
D/O LATE MUNISWAMAPPA
W/O BHASKAR BEENI
AGED ABOUT 37 YEARS
NO.5/110, NEW OFFICE POST ROAD
LINGARAJAPURAM
BENGALURU - 560 084
- 6(c) SMT. SARASWATHI
D/O LATE MUNISWAMAPPA
AGED ABOUT 33 YEARS
NO.82/A, OLD KURUBARAKUNTE
YELIYUR POST, KASABA HOBLI
DEVANAHALLI TALUK - 562 110
BENGALURU RURAL DISTRICT
- 6(d) SRI LOKESH
S/O LATE MUNISWAMAPPA
AGED ABOUT 34 YEARS
R/AT SINGAVARA VILLAGE
DODDASAGARAHALLI DAKLE
VENKATAGIRIKOTE POST-562 110
VIJAYAPURA HOBLI
DEVANAHALLI TALUK - 562 110
BENGALURU RURAL DISTRICT

7. ASSISTANT COMMISSIONER
DODDABALLAPURA SUB-DIVISION
BANGALORE
PRESENTLY HAVING
THE OFFICE AT:
DODDABALLAPURA - 561 203
BANGALORE RURAL DISTRICT
8. THE DEPUTY COMMISSIONER
BANGALORE RURAL DISTRICT
PODIUM BLOCK
VISWESWARAYA TOWER
DR. AMBEDKAR VEEDHI
BANGALORE - 560 001

...RESPONDENTS

(BY SRI C. MUDDURAJ, ADVOCATE FOR R-1, 3 TO 5,
SRI A.T. JAYARAJA, ADVOCATE FOR R-6(a),
SRI K.S. HARISH, GOVERNMENT ADVOCATE FOR R-7 & 8,
RESPONDENTS 2(a), 2(b), 6(b) to (d) ARE SERVED &
UNREPRESENTED)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE
KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE
ORDER PASSED IN THE WRIT PETITION NO.7988/2002
(SC-ST) DATED 17/11/2004.

THIS WRIT APPEAL HAVING BEEN HEARD AND
RESERVED FOR JUDGMENT, COMING ON FOR
PRONOUNCEMENT THIS DAY, JUDGMENT WAS
PRONOUNCED AS UNDER:

CORAM: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE
and
HON'BLE MR. JUSTICE C.M. POONACHA

C.A.V. JUDGMENT

(PER: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE)

INTRODUCTION

1. The appellants have filed the present appeal impugning an order dated 17.11.2004 passed by the learned Single Judge of this Court in W.P.No.7988/2002 (SC/ST).

2. The said writ petition was preferred by the legal representatives of one Doddathammaiah who belongs to Bovi community, *inter alia*, impugning an order dated 15.10.2001 [**the Appellate Order**] passed by respondent No.8 [**Deputy Commissioner**] in Case No.(LND.SC/ST(A)8/2000-01). The Deputy Commissioner, in terms of the Appellate Order, allowed the appeal preferred by the appellants-predecessors in interest.

3. The dispute in this appeal primarily concerns land measuring 5 acres and 11 guntas situated in Survey No.27 of Doddasagarahalli village, Devanahalli Taluk, [**the subject land**]. The petitioners in the case assert that the subject land was granted to Sri Thimmaiah [**the original grantee**], a resident of Singavara

Village, Devanahalli Taluk, Bengaluru District, through a grant dated 26.04.1938. The original grantee subsequently alienated the land, which, according to the petitioners, violated the Karnataka Scheduled Castes and Scheduled Tribes (Prohibition of Transfer of Certain Lands) Act, 1978 [**PTCL Act**], rendering the transaction invalid. Claiming through the original grantee, the writ petitioners sought the resumption of the subject land before respondent No.7 [**Assistant Commissioner**]. The Assistant Commissioner found no records to substantiate the writ petitioners' case and, therefore, by an order dated 28.09.1998, dismissed the petition. However, his successor subsequently issued an order dated 26.09.2000 [**the original order**], granting the claim of respondent Nos. 1 to 6 and directing the resumption of the subject land in their favour.

4. The appellants being aggrieved by the same, preferred an appeal before the Deputy Commissioner, which was allowed in terms of the Appellate Order. Respondent Nos.1 to 6 (the writ petitioners) challenged the same before the learned Single Judge, which was allowed in terms of the impugned order.

THE ISSUE

5. The principal question to be addressed is whether there is any material on record to establish that the subject land was granted to the original grantee, and if so, whether the proceedings instituted by the writ petitioners for resumption of land after an inordinate delay of almost 47 years are sustainable.

PREFATORY FACTS

6. There is no dispute that the original grantee, one Sri Thimmaiah, was the original owner of the subject land. As noted above, the dispute essentially is whether he owned the said land by virtue of a grant or otherwise.

7. The original grantee sold the land to one Sri Muniveerappa by a registered sale deed dated 11.07.1951 for valuable consideration. Sri Muniveerappa further sold the subject land under a registered sale deed dated 03.04.1957 in favour of Sri Munishamappa. The appellants are claiming their rights through Sri Munishamappa as legal heirs/descendants.

8. The appellants claim that Sri Munishamappa was in possession and enjoyment of the subject land till his demise. They also claim that during his lifetime, he had effected improvements in

the subject land. The appellants claim that after his demise, they have been in possession of the subject land.

9. Respondent Nos. 1 to 6 had filed an application for resumption in Case No.(LND/SC-ST/71/97-98) (New No. PTCL . SR. 41/1999-2000). The said case was kept in abeyance by an order dated 28.09.1998, as the Assistant Commissioner found that the original grant records were not available.

10. It is also relevant to note that the applications to the Tahsildar for change of khatha, were rejected on 14.10.1997, as he found that the land had been sold by the original grantee in the year 1951 and the possession of the land had been transferred from the family of the grantee to the purchasers. The Tahsildar also found that the appellants/predecessors were in possession of the land for over 25 years.

11. The said proceedings were revived at the instance of the writ petitioners' counsel. The writ petitioners claim that the original grantee, who belonged to the Bovi community, was granted the subject land through *Darkhast* on 26.04.1938, and after his demise, they came into possession of the subject land but could not get the khata transferred in their names. They prayed that the sale deeds

dated 11.07.1951, whereby Sri Thimmaiah sold the land to Sri Muniveerappa, as well as the sale deed dated 03.04.1957, whereby the subject land was sold by Sri Muniveerappa to Sri Munishamappa, be cancelled.

12. The averments made by the writ petitioners before the Assistant Commissioner were contested. Notwithstanding the findings of the Tahsildar, the Assistant Commissioner allowed the application by the original order dated 26.09.2000. He observed that "as per the documents available on record", the subject land was granted to Sri Thimmaiah on 26.04.1938, and he belonged to the Bovi community. He also observed that, under the conditions prevailing at the time of the grant, the land could not be alienated. Thus, he concluded that the subject land had been alienated on 11.07.1951, in violation of Section 4(1) of the PTCL Act.

13. By the original order, the Assistant Commissioner directed that the subject land be resumed from the purchaser and be vested with the Government in terms of Section 5(1) of the PTCL Act. He further directed the re-grant of subject land in favour of the applicants (legal representatives of the original grantee). Additionally, the Tahsildar was directed to make the necessary changes in the revenue records.

14. Aggrieved by the said order, the appellants preferred an appeal (Case No.LND.SC/ST.(A)8/2000-01) before the Deputy Commissioner, which was allowed in terms of the Appellate Order (order dated 15.10.2001). The Deputy Commissioner found that the original order was not issued on the basis of the original grant records, and that efforts to obtain those records had not materialised. The Deputy Commissioner also noted that no particulars were available for examination by the Assistant Commissioner to satisfy the several conditions required for the said purpose. The Deputy Commissioner referred to the decision of this Court in W.P.No.10997/1997, dated 04.12.1997, by which the Court set aside the orders passed in the absence of the necessary records and declined to remand the matter to the concerned authorities, as the records were not forthcoming. Following the aforesaid decision, the Deputy Commissioner allowed the appeal.

15. Respondent Nos. 1 to 6, claiming to be legal heirs of the original grantee, preferred the writ petition impugning the appellate order, which was allowed in terms of the impugned order.

16. A plain reading of the impugned order indicates that the learned Single Judge proceeded on the basis that there was no

dispute that the original grantee belonged to the Bovi community and thus, it was held that the subject land was granted to a person belonging to the depressed class in the year 1938. The learned Single Judge further held that the transaction for sale in the year 1951 was automatically invalid by virtue of the provisions of Rule 43(8) of the Karnataka Land Revenue Code (Mysore) in terms of the notification dated 13.12.1938. The learned Single Judge faulted the Deputy Commissioner for setting aside the original order and set aside the same by the impugned order passed on 17.11.2004.

17. Aggrieved by the same, the appellants filed the present appeal. However, it was dismissed as withdrawn by an order dated 14.11.2005. The appellants state that the appeal had been withdrawn in view of a compromise petition; however, after an inordinate delay of eight years, the respondents (writ petitioners) had lodged a complaint before the Karnataka Scheduled Castes and Scheduled Tribes Commission. The said Commission issued notices to the Assistant Commissioner and the Tahsildar to collect original records and submit a report.

18. The appellants claim that they made further enquiries and found that as per the Darkhast register No.71/1937-38 dated 18.03.1938, the subject land was sold to Sri Thimmaiah by public

auction and was not granted free of cost or at concessional rates. Thereafter, the appellants filed a review petition and an application for recalling the order dated 14.11.2005. The said application was allowed and in terms of the order dated 25.11.2022, the present appeal was restored. The appellants had also filed an application and placed on record a copy of the Darkhast Register dated 17.03.1938, which indicates that the subject land was sold in an auction.

19. The appellants also produced a certified copy of an endorsement dated 11/12.02.2014 confirming that the Darkhast register mentions that the subject land measuring 5 acres and 11 guntas in Survey No.27 of Doddasagarahalli Village has been sold in a public auction to Sri Thimmaiah.

20. In view of the above, this Court had also issued directions for production of the original register. However, the concerned authorities had responded to the same by stating that the said register was in a "dilapidated condition".

REASONS AND CONCLUSIONS

21. As noticed at the outset, the first question to be examined is whether there is any material to establish that the subject land was

granted to the original grantee through whom respondent Nos.1 to 6 claim their rights.

22. Concededly, there is no original document on record, which would establish that the subject land was granted to the original grantee. The Assistant Commissioner thus passed an order dated 28.09.1998, keeping the proceedings in abeyance and directing the production of the original records in respect of the grant. However, no such record was produced. Notwithstanding the same, the subsequent incumbent in the said office had proceeded to pass the original order on two assumptions. First, that the subject land had been granted to Sri Thimmaiah (original grantee) on 26.04.1938. Second, the grant was subject to a condition that the subject land would not be alienated. Both of the said assumptions are not supported by any original record or even authenticated copies of the same. Concededly, there was no material change from 28.09.1998 when the proceedings were kept in abeyance till the date of passing of the original order dated 26.09.2000.

23. The relevant extract of the original order is set out below:

"After hearing the above arguments and as per the documents available on record, the land measuring 5 acres 11 guntas in Sy.no.27 of Doddasagarahalli Village was granted to Sri Thimmaiah on 26-4-1938, and the grantee belonged to Bovi community, and as

per the condition prevailing at the time of grant, the land should not be alienated forever and in violation of the grant condition, the land has been alienated on 11-7-1951 in the case, and this is in clear violation of Sec.4(1) of the Act. Therefore, the argument advanced by the Respondents is set aside."

24. Although the above passage refers to documents and records, the order does not specify any particular record that was found to substantiate the claim of the writ petitioners.

25. The subject land was sold in 1951, and ownership was transferred from the original grantee's family to the purchaser. It is also significant to note that the application for restoration of the subject land was submitted by the writ petitioners on 11.09.1997, which was more than 46 years after the land was sold through a registered sale deed.

26. In our view, the Assistant Commissioner could not have proceeded on an assumption that the subject land was granted to the original grantee and had been alienated in violation of the conditions on which it was granted, without the original record or at least an authentic copy of the same.

27. The Deputy Commissioner allowed the appeal and had rightly found that there were no original records to substantiate the

claim of the applicants that the subject land had been granted. The Deputy Commissioner also examined the photocopies of documents produced by the writ petitioners and noted that the same did not specifically indicate the grant of the land in favour of the original grantee, Sri Thimmaiah. The Deputy Commissioner also noted the earlier decision of this Court where it has been observed that the resumption order is essentially an order of confiscation and such an order would be justifiable only if the case is fully and conclusively made out.

28. As noted above, the learned Single Judge proceeded on the basis that the findings in the original order were correct. However, the learned Single Judge had not addressed the principal question of whether such findings could be made in the absence of any authentic record.

29. Plainly, the impugned order is unsustainable and is liable to be set aside.

30. We also note that the learned Single Judge had not examined the inordinate delay on the part of the writ petitioners in questioning the alienation of the subject land. As noted above, the subject land had been sold under a registered sale deed to

Sri Muniveerappa on 11.07.1951 for valuable consideration. Clearly, the same could not be set aside in the absence of any conclusive evidence to establish that the alienation of subject land was illegal. In any event, the application to set aside the same after a lapse of 46 years was not maintainable.

31. The appeal is accordingly allowed, and the impugned order is set aside.

32. Pending applications stand disposed of.

**Sd/-
(VIBHU BAKHRU)
CHIEF JUSTICE**

**Sd/-
(C.M. POONACHA)
JUDGE**

KPS