



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF JUNE, 2026

BEFORE

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

WRIT PETITION NO.33271 OF 2016 (LR)

BETWEEN:

SRI. RAMA KULAL
S/O ANNAPPA HANDA,
AGED ABOUT 64 YEARS,
OCC: AGRICULTURE,
R/AT RANJI KEREMANE,
PERDOOR VILLAGE,
UDUPI TALUK AND DISTRICT - 576 124.

....PETITIONER

(BY SRI. PRASANNA V.R., ADVOCATE)

AND:

1. THE STATE OF KARNATAKA,
REP. BY ITS SECRETARY,
DEPARTMENT OF REVENUE,
M.S. BUILDING,
BENGALURU - 560 001.
2. THE LAND TRIBUNAL,
REP. BY ITS CHAIRMAN,
UDUPI TALUK,
UDUPI - 576 101.
3. SMT. P.M. LAVALI HEBBAR
W/O LATE LAXMI NARAYANA HEBBAR,
AGE: MAJOR.
4. SRI. P.M. GANESH MOORTHY HEBBAR
S/O LATE LAXMI NARAYANA HEBBAR,
AGE: MAJOR.



5. SRI. P.M. RAJA MOORTHY HEBBAR
S/O LATE LAXMI NARAYANA HEBBAR,
AGE: MAJOR.
6. SRI. P.M. GURU MOORTHY HEBBAR
S/O LATE LAXMI NARAYANA HEBBAR,
AGE: MAJOR.
7. SRI. P.M. SATHYA MOORTHY HEBBAR
S/O LATE LAXMI NARAYANA HEBBAR,
AGE: MAJOR.
8. SRI. P.M. RAMA MOORTHY HEBBAR
S/O LATE LAXMI NARAYANA HEBBAR,
AGE: MAJOR.
9. SMT. VIJAYALAKSHMI RAO
D/O LATE LAXMI NARAYANA HEBBAR
AGE: MAJOR.

RESPONDENTS NO.3 TO 9 ARE
R/AT PERDOOR VILLAGE AND POST,
UDUPI TALUK,
UDUPI DISTRICT - 576 124.

...RESPONDENTS

(BY SRI. B.J. ESWARAPPA, AGA FOR R1 & R2;
SRI. KRISHNAMOORTHY D., ADVOCATE FOR R3 TO R9)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226
AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO
QUASH THE ORDER DATED 24TH FEBRUARY, 2015 PASSED
IN NO.LRY-39-97-TRI-3918/1977-78 BY THE
RESPONDENT NO.2-LAND TRIBUNAL VIDE ANNEXURE-A;
DIRECT THE RESPONDENT NO.2-LAND TRIBUNAL TO
RECONSIDER THE CLAIM OF THE PETITIONER IN FORM
NO.7 VIDE ANNEXURE-B.



THIS PETITION HAVING BEEN RESERVED FOR ORDERS, COMING ON FOR PRONOUNCEMENT, THIS DAY, **E.S. INDIRESH J.**, MADE THE FOLLOWING:

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

CAV ORDER

The petitioner is challenging the order dated 24th February, 2015 (Annexure-A) passed by the respondent No.2-Land Tribunal in Case No.LRY-39-97-TRI-3918/1977-78; *inter alia* sought for a direction to the respondent No.2-Land Tribunal to reconsider the claim of the petitioner in Form No.7 (Annexure-B).

2. The relevant facts for adjudication of this petition are that the petitioner claims to be a tenant under the landlord-Laxmi Narayana Hebbar. It is stated that the petitioner is in possession of land bearing Survey No.164/5I measuring 51 cents and Survey No.157/32 measuring 37 cents at Perdoor Village, Udupi Taluk and District. It is stated that the petitioner has filed Form No.7 (Annexure-B) on 22.08.1974, seeking occupancy right in respect of the aforementioned land. The respondent No.2-Land Tribunal, by order dated 25th September, 1981 (Annexure-C) granted occupancy right in respect of the



land bearing Survey No.157/32 measuring to an extent of 37 guntas situate at Pardoor Village, however, the respondent No.2-Land Tribunal has not considered the claim of the petitioner in respect of the land bearing Survey No.164/5I. Both the landlord and tenant have challenged the aforementioned order passed by the Land Tribunal before this Court in Writ Petition No.2152 of 1997 c/w WP No.25169 of 1994. This Court, by order dated 07th June, 2000 (Annexure-D) set-aside the order passed by the respondent No.2-Land Tribunal and remitted the matter to the Land Tribunal for fresh consideration. After the remand made by this Court, the respondent No.2-Land Tribunal has recorded the evidence of the parties and by order, dated 24th February, 2015 (Annexure-A) rejected the application made by the petitioner seeking grant of occupancy rights. Hence this writ petition.

3. Heard Sri. Prasanna V.R., learned counsel appearing for the petitioner; Sri. B.J. Eswarappa, learned Additional Government Advocate appearing for respondents 1 and 2; and Sri. Krishnamoorthy D., learned counsel appearing for respondents 3 to 9.



4. Sri. Prasanna V.R., learned counsel appearing for the petitioner contended that the petitioner was in cultivation of the land in question as on the relevant period i.e., on 01st March, 1974 and the said cultivation was admitted by the respondent landlord in the evidence at Annexure-J. Learned counsel appearing for the petitioner further contended that the petitioner constructed tiled roof house in the schedule property and therefore, the Tribunal has not properly appreciated the material on record in a right perspective. Accordingly, he sought for interference of this Court.

5. Per contra, learned counsel appearing for the respondents 3 to 9 invited the attention of the Court to evidence of the petitioner at Annexure-H and contended that the petitioner admits that he is in cultivation of land in question during the year-1984 and therefore, the petitioner cannot be considered as tenant under the provisions of the Karnataka Land Reforms Act. Accordingly, he sought for dismissal of the writ petition.



6. Learned Additional Government Advocate produced the original records and sought to justify the impugned order passed by the respondent No.2-Land Tribunal.

7. In the light of submission made by learned counsel appearing for the parties, petitioner herein claims to be a tenant has filed Form No.7, seeking declaration for confirmation of occupancy right in respect of the subject land. The respondent 3 to 9 herein are the owner/landlords of the subject land. Perusal of the original records would indicate that the respondent No.2-Land Tribunal, by order dated 24th February 2015 (Annexure-A), rejected the application filed by the petitioner seeking occupancy right on the ground that there is no material that the petitioner is cultivating the subject land. However, the Land Tribunal wrongly granted occupancy right to the petitioner on 25th September, 1981 (Annexure-C) in respect of one item of the subject land i.e., land bearing Survey No.157/32 measuring 0-37 acres, and rejected insofar as another item of the subject land namely land bearing Survey No.154/5I of Perdoor village. The aforementioned order dated 25th September, 1981 (Annexure-C) was questioned by both



the parties before this Court in Writ Petition No.2152 of 1997 C/W WP No.25169 of 1994. This Court, by order dated 07th June, 2000 (Annexure-D) allowed the writ petitions and remanded the matter to the respondent No.2-Land Tribunal for fresh consideration. Thereafter, the Land Tribunal recorded evidence of the parties for adjudication of the application filed by the petitioner seeking occupancy right. In the deposition of the petitioner on 24th February, 2011 (Annexure-H), the petitioner has stated that, he is not in possession of the land bearing Survey No.157/32 measuring 37 acres.

8. Perusal of the record would indicate that the name of the petitioner is not reflected in the RTC extracts during the year 1973-74 nor the petitioner has produced any chit/payment of geni to the respondent/landlords. It is the case of the petitioner that the land in question was in possession of his father. Though the petitioner has stated that he has constructed tiled roof house in the schedule land, however, he has admitted that, prior to year-1984, the petitioner was residing at Hebbar Mutt with one Subbaraya Bhatta and construction of house made during the year-1984.. In that



view of the matter, it is made clear that the petitioner has not produced any material to demonstrate that the petitioner or his father was cultivating the land in question as a tenant under the respondents during the year 1973-74. Though the learned counsel appearing for the petitioner contended that the respondents admits the possession of the land in question with the petitioner, however, on careful consideration of the deposition of the respondent No.6 before the Land Tribunal at Annexure-J would indicate that the construction/repair of the house was made during the year-1984 and denied the possession of the subject land with the petitioner. Therefore, taking into consideration the law declared by this Court in the case of **KRISHNA BHAT vs. LAND TRIBUNAL, BANTWAL** reported in ILR 1986 KAR 1574, wherein, at paragraph 11 and 18, it reads as under:

"11. Section 2 is the definition section. Sub-section (18) defines 'land' means agricultural land that is to say, land which is used or capable of being used for agricultural purposes or purposes subservient thereto and includes horticultural land, forest land, garden land, pasture land, plantation and tope but does not include house site, or land used exclusively for non agricultural purposes. Sub-section (32A) stipulates that 'Tahsildar'



includes a Special Tahsildar empowered by the State Government to exercise all or any of the powers of the Tahsildar under the Act. Sub-section (33) defines 'tenancy' means the relationship of landlord and tenant. Sub-section (34) defines 'tenant' means an agriculturist who cultivates personally the land he holds on lease from a landlord and includes (i) a person who is deemed to be a tenant under Section 4; (ii) a person who was protected from eviction from any land by the Karnataka Tenants (Temporary Protection from Eviction) Act, 1961; (iia) a person who cultivates personally any land on lease under a lease created contrary to the provisions of Section 5 and before the date of the commencement of the amendment Act; (iii) a person who is a permanent tenant and (iv) a person who is a protected tenant. Sub-section (35) defines 'Tribunal' means the tribunal constituted under Section 48 of the Act.

Section 44 provides for vesting of all lands held by or in the possession of tenants immediately prior to the date of commencement of the Amendment Act with effect on and from the said date in the State Government.

Section 45 provides for registering tenants as occupants of lands on certain conditions. It stipulates that every person who was a tenant in respect of the land before the date of vesting and which he has been cultivating personally is entitled to be registered as an occupant subject to the provisions of the other Section in Chapter III.



Section 48 provides for constitution of the Tribunals Sub-section (1) stipulates that there shall be a Tribunal for each Taluk consisting of the Assistant Commissioner of the Revenue Sub-Division having jurisdiction over the Taluk or an Assistant Commissioner specially appointed for the purpose by the State Government and four other members to be nominated by the State Government of whom at least one shall be a person belonging to Scheduled Caste or Scheduled Tribe. Provision is also made for constituting additional Tribunals for any Taluk. Sub-section (2) stipulates that the Assistant Commissioner shall be the Chairman of the Tribunal. Sub-section (7) provides that the Tahsildar or any officer specially appointed for the purpose by the State Government shall be the Secretary of the Tribunal.

Section 48A deals with enquiry by the Tribunal. Sub-section (1) provides that every person entitled to be registered as an occupant under Section 45 may make an application to the Tribunal within the period stipulated therein. Sub-section (2) stipulates publication of the public notice calling upon the landlord and all other persons having an interest in the land to appear before it on the date specified in the notice. It further provides that the tribunal shall also issue individual notices to the persons mentioned in the application and also to such others as may appear to it to be interested in the land. Sub-section (3) contemplates that the form of the application, the form of the notices, the manner of publishing or serving the notices and all other matters connected therewith shall be such as may be prescribed.



It further provides that the Tribunal may for valid and sufficient reasons permit the tenant to amend the application. Sub-section (4) provides that the Tribunal may after such verification as it considers necessary by order either grant or reject the application, where no objection is filed to the claim. Sub-section (5) stipulates that where an objection is filed disputing the claim or setting up a rival claim, the Tribunal shall hold an enquiry and determine by order the person entitled to be registered as occupant and pass orders accordingly. Sub-section (5A) provides that where there is no objection in respect of any part of the claim, the Tribunal may at once pass orders granting the application as regards that part and proceed separately in respect of the other part objected to. Sub-section (6) stipulates that the order of the Tribunal shall be final and it shall send a copy of every order passed by it to the Tahsildar and parties concerned. Sub-section (8) stipulates that where no application is made within the time allowed under sub-section (1), the right of any person to be registered as an occupant shall have no effect.

Section 48B deals with the powers of the Tahsildar to determine the amount payable under Section 47, whereas Section 50 deals with his power in determining the encumbrances and payment of the amount while determining the amount payable under Section 48B.

Section 55 empowers the Tahsildar to issue certificate of registration in favour of the tenant subject to such rules as may be prescribed.



Section 112(A) lays down the duties of the Tahsildar and Section 112(B) lays down the duties of the Tribunal. Section 133 confers exclusive jurisdiction to the Tribunal to decide whether the land is or is not agricultural land and whether the person claiming to be in possession is or is not a tenant of the said land from prior to 1st March 1974 and when such questions arise in any suit, case or proceedings concerning a land before a Civil or Criminal Court or Officer or Authority, the question shall be referred to the Land Tribunal and the Tribunal shall decide the question so referred to it and communicate its decision to such Court, Officer or Authority.

Rule 19 of the Karnataka Land Reforms Rules, 1974 (for short the 'Rules') prescribes the form of application under Section 48A and the notice. Rule 19(1) lays down that the application under sub-section (1) of Section 48A shall be in Form-7. It further stipulates that the application shall furnish particulars of all the lands held under each separate tenancy in one or more than one Taluk in respect of which the applicant claims to be entitled to be registered as an occupant and where the lands are situated in more than one Taluk, the application shall be filed before the Tribunal of the Taluk where the greater part of the lands are situated and on receipt of such application, the Tahsildar shall send the extracts of the application to the Tribunals concerned and in so far as the lands in his Taluk are concerned, he shall verify the particulars mentioned in the application with reference to the revenue records, including the record of rights wherever they are prepared and also note the same on



the application. It further stipulates that the public notice and the individual notice referred to in sub-section (2) of Section 48A shall be in Form-8 and Form-9 respectively.

Rule 17 provides the procedure to be followed by the Tribunal. Sub-rule (1) contemplates that the procedure to be followed in respect of the applications made to the Tribunal is as specified for a summary enquiry under Section 34 of the Karnataka Land Revenue Act, 1964. Sub-rule (4) stipulates that the progress in the enquiry of each case shall be noted by the Chairman immediately after hearing or the holding of the spot inspection by the Tribunal. Sub-rule (5) provides that the opposite party shall be allowed to cross-examine the witness and if he does not wish to cross-examine, a note shall be made accordingly and further a brief summary of the evidence given by such witness shall be recorded by the Chairman.

Rule 21 provides that the Certificate of Registration of a tenant as an occupant of land shall be in Form-10 and Rule 21C provides that immediately on receipt of the final orders passed by the Tribunal under Section 48A conferring occupancy right to a tenant, the Tahsildar shall issue a certificate to such tenant that he has been registered as an occupant.

Rule 24 provides for enquiry by Tahsildar and it lays down that on receipt of a declaration under Section 66, the Tahsildar shall verify the correctness of the particulars furnished therein with reference to the entries in the record of rights, other documents if any produced and by making such local enquiry and inspection as he considers



necessary either by himself or through any officer of the Revenue Department not lower in rank than of a Revenue Inspector.

Rule 44 stipulates that Tahsildar shall maintain certain registers. Sub-rules (1C) and (1D) proscribe the registers to be maintained in connection with the proceedings under Section 48A. These sub-rules came into effect from 12-6-1980.

Form-7 is the form prescribed for making an application under Section 48A(1) for registration of occupancy right. Among other things, the applicant is required to furnish the name of the landlord and his address, the survey number, sub-division number and the extent of the land in respect of which occupancy right is claimed, together with the assessment, the village and taluk in which the land in question is situated and the period for which the applicant has been cultivating the said land as tenant.

Public notice in Form-8 and the individual notice in Form-9 shall be issued by the Secretary of the Tribunal in which among other things, the description of the lands in respect of which claim was made shall also be given.

12. xxxxx

13. xxxxx

14. xxxxx

15. xxxxx

16. xxxxx

17. xxxxx



18. The two conditions laid down in Section 45 for registration of occupancy right are that the person claiming registration was a tenant of the land before the date of vesting and which he has been cultivating personally. The precondition for the operation of Section 45 is that the land in question was vested in the State Government under Section 44 of the Act. In Balesharam v. Land Tribunal, Chikodi [1978 (1) K.L.J. 116.] the Full Bench of this Court, while explaining the scope of Sections 44 & 45 observed that the land held by a person in his capacity as a tenant immediately prior to the date of commencement of the Amendment Act, 1974, which was not in his actual possession before the said date, also stood transferred to and vested in the State Government under Section 44(1) if the land is not held by him under a lease permitted by Section 5 of the Act, that the land must have been tenanted immediately prior to 1st March 1974 and not at any time in the past and that the person claiming occupancy right must have been a tenant of any of the classes stipulated in sub-section 1 of Section 45 and such person must have been personally cultivating the land immediately before 1st March 1974 and that the primary requirement for registration of occupancy rights therefore is that the person claiming such right must have been cultivating the land personally immediately prior to 1st March 1974 and if he was then out of possession by wrongful or illegal Act of others, he cannot be registered as an occupant merely on proof that the land was tenanted and so vested in the State Government. However, it was emphasized that if the



tenant who was lawfully entitled to cultivate the land personally immediately prior to 1st March 1974 but was wrongfully or illegally prevented from doing so, he may take recourse to any one of the remedies provided under the Act to recover possession from the unauthorised occupant and request the Tribunal to defer consideration of his application till the possession of the land is restored to him and if he recovers possession in accordance with law, he may then ask the Tribunal to proceed with his application on the merits and when possession is so recovered, the Tribunal has to proceed on the basis that the tenant must be deemed to have been personally cultivating the land from the date of his dispossession till the date of restoration of possession."

9. Following the law declared by this Court in the case of **KRISHNA BHAT** (supra), since the respondent No.2-Land Tribunal in the instant case afforded reasonable opportunity to both the sides to adduce evidence in the matter and further the Land Tribunal followed the procedure contemplated under the Karnataka Land Reforms Act and Rules made thereunder as to consider the application filed by the tenant seeking occupancy right, I am of the view that, no interference be called for in this petition. Hon'ble Supreme Court in the case of **NADAKERAPPA SINCE DECEASED BY LEGAL**



***REPRESENTATIVES AND OTHERS vs. PILLMMA SINCE
DECEASED BY LEGAL REPRESENTATIVES AND OTHERS***

reported in (2024) 15 SCC 740, it is held that, if the entire material is made available before this Court as to take decision to determine the occupancy right, the Appellate Court has to decide the appeal on merits instead of remanding the case to the lower court or the tribunal. Therefore, on perusal of original records would indicate that there is no way for taking another view except considering the material on record that the petitioner is cultivating the subject land on 01st March, 1974. In that view of the matter, the contentions raised by learned counsel appearing for the petitioner as to remand the matter to the Land Tribunal for fresh consideration at this stage cannot be accepted. Accordingly, I find no material to interfere with the impugned order dated 24th February, 2015 (Annexure-A) passed by the respondent No.2-Land Tribunal. Accordingly, writ petition is ***dismissed*** as devoid of merits.

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

ARK
List No.: 1 Sl No.: 71