



CNR: KAHC010079732026

NC: 2026:KHC:40566-DB
WA No. 421 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 3RD DAY OF AUGUST, 2026

PRESENT

THE HON'BLE MR. JUSTICE D K SINGH

AND

THE HON'BLE MR. JUSTICE T.M.NADAF

WRIT APPEAL NO. 421 OF 2026 (LR)

BETWEEN:

SRI CHANDRAYYA NAIKA,
(SINCE DECEASED BY LRS),

SRI. VASANTH NAIK,
S/O LATE CHANDRAYYA NAIKA,
AGED ABOUT 63 YEARS,
POST: KELARKALABETTU VILLAGE,
UDUPI - 576 105.

...APPELLANT

(BY SRI. K. CHANDRANATH ARIGA, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA,
REPRESENTED BY ITS SECRETARY,
TO REVENUE DEPARTMENT,
M.S. BUILDING,
BENGALURU - 560 001.
2. THE LAND TRIBUNAL,
UDUPI BY ITS SECRETARY,
UDUPI - 576 101.



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3. SRI. MANSUKH LAL PATEL,
S/O JEEVARAJ G PATEL,
MAJOR, R/AT AMARADEEP,
NEAR SHARADAMBA TEMPLE,
CHITAPADI,
76 BADAGABETTU VILLAGE - 576 102.
UDUPI TALUK AND DISTRICT
4. SRI. NARENDRA J PATEL,
S/O JEEVARAJ G PATEL,
MAJOR, R/AT SHARADAMBA TEMPLE,
CHITAPADI,
76 BADAGABETTU VILLAGE - 576 102.
UDUPI TALUK AND DISTRICT.

...RESPONDENTS

(BY SRI. M.N. SUDEV HEGDE, AGA FOR R1 AND R2,
SRI. ASHOK HARANAHALLI, SR. ADVOCATE FOR
SRI. VINAYAKA B., ADVOCATE FOR R3 AND R4)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE
KARNATAKA HIGH COURT ACT,1961, PRAYING TO SET ASIDE
THE ORDER PASSED BY THE LEARNED SINGLE JUDGE
DATED:19.12.2025 IN WP No. 11111/2016 (LR) DISMISS THE
W.P No.11111/2016 (LR) BY CONFIRMING THE ORDER
DATED:01.03.2024 PASSED BY THE RESPONDENT No. 2 AND
ALLOW THIS WRIT APPEAL AND ETC.,

THIS APPEAL, COMING ON FOR PRELIMINARY HEARING,
THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE D K SINGH
and
HON'BLE MR. JUSTICE T.M.NADAF



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ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE T.M.NADAF)

Respondent No.3(a) in W.P.No.11111/2016 is before us in this intra Court appeal assailing the order dated 19.12.2025 passed by the Writ Court.

2. The Writ Court under the impugned order allowed the writ petition, quashed the order dated 01.03.1994 passed by the Land Tribunal-respondent No.2 (***Annexure-A***) and remanded the matter to Land Tribunal for fresh consideration by extending opportunity to both the parties to put forth their claim by placing relevant documents and directed the parties to maintain status quo in respect of possession and revenue entries of the subject land, till the disposal of the case.

3. Parties are referred to as per the ranking before the Writ Court.



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4. Facts in short, to file the present appeal are as under:

4.1 The petitioner claims that he has purchased the subject land, that is, 25 cents in Sy.No.159, situated at Shivalli Village, Udupi Taluk under Registered Deed dated 16.08.2012.

4.2 He further claims that originally the land belongs to Sode Vadiraja Mutt. The Mutt in the year 1963 with the permission of the then Commissioner for Hindu Religious and Charitable Endowments, Mysuru formed a layout. Thereafter, the Mutt leased the subject land (marked as Plot No.46 in the Layout Plan) to one Rama Rao under registered lease deed dated 09.05.1966, who in turn, sold his lease hold rights to one Jagannath Shetty under a registered lease deed dated 21.08.1974. The said Jagannath Shetty in turn sold the leasehold rights under above reference deed to Victoria D'Silva Bai on 06.11.1974 and thereafter petitioner purchased the same from



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said Victoria D'Silva Bai under Registered Deed stated afore.

4.3 Thereafter the petitioner has purchased the moolageni right and leasehold right (Moolageni right) of the subject land from the Mutt and Purushottam P.Shetty under registered Deed dated 27.08.2012 and ever since, he continued possession and enjoying the same. After the registered deed the mutation entries effected in his name and his name reflected in Encumbrance certificate from 01.01.1974 to 27.08.2012. The revenue records including Muncipal Khata also stands in the name of petitioners.

4.4 It was further contended that the original respondent No.3 was the resident of Kelarkalabettu Village, Udupi Taluk, which is situated 10 kms away from the subject land, filed under Form No.7 claiming 9 items of land in Kelarkalabettu village. The Land Tribunal by means of its order dated 10.08.1978, granted the said lands which was the subject matter before it.



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- 4.5 Thereafter, in the year 1994, respondent No.3 had fraudulently inserted survey numbers of subject land in old Form No.7, which had already been considered and disposed of vide order dated 10.08.1978 and filed an application for correction of order.
- 4.6 The Land Tribunal without issuing notice either to Ramarao/petitioner or to the Mutt passed the impugned order, by granting occupancy right in favour of respondent No.3 in respect of the subject land. Thereafter a fresh Form No.10 came to be issued on 16.10.2014. When the children of respondent No.3 started interference in the peaceful possession and enjoyment of the property of the petitioners, the petitioners after enquiry noticed the impugned order which was passed without any notice to them.
- 4.7 A complaint came to be filed before the Deputy Commissioner of concerned District, seeking to cancel the conversion order, which as per the



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petitioners obtained fraudulently. An enquiry was ordered to be conducted in that regard and referred the matter to Tahsildar.

4.8 Thereafter the Revenue Inspector has *prima facie* observed that respondent No.3 has obtained occupancy rights fraudulently.

4.9 The petitioners thereafter approached this Court, calling in question the order passed by the Land Tribunal. They have contended before the Writ Court that the Land Tribunal way back in the year 1978 passed orders in terms of Form No.7 in respect of lands claimed thereunder. In that view of the matter after 16 years thereafter by means of an application that too without notice to either the landlord or the petitioners that the order has been passed which *prima facie* found to be obtained by means of fraud as per report of the Revenue Inspector afore and accordingly, sought for quashing of the order.



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4.10 It was further contended that even Form No.10 issued in the year 2014 clearly reflects that the subject land is a house site. In that view of the matter, the land itself is out of definition of "Land" defined under Section 2(18) of Karnataka Land Reforms Act, 1961.

4.11 It was further contended in Form No.7 that, predecessor in title or Mutt were not shown as landlord, but some other persons such as Narasimha Baliga, Anandaraya Baliga and Krishnaraj Baliga were shown as landlords. This clearly contemplates that respondent No.3 never claimed the land in the earlier proceedings. However, subsequently by manipulating the record the claim was made which was considered without any notice to the person interested and sought to allow the petition.

5. In contrast learned counsel appearing for respondent No.3 canvassed:



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5.1 *firstly* that the order was passed way back on 01.03.1994 and the petition was filed in the year 2016 that is after 22 years. In that circumstances the inordinate delay caused in filing the writ petition is hit by delay and laches and the petition is required to be dismissed in *limine*.

5.2 *Secondly*, it was contended that the petitioners have no *locus standi* to file the petition, since they are neither the landlords nor rival claimants.

5.3 *Thirdly*, it was contended that the petitioners said to have purchased the property from one Purushothama P.Shetty in the year 2012, which was much after the grant order made in favour of respondent No.3 in the year 1994.

5.4 *Fourthly*, even after purchase the revenue entries of the subject land did not reflect the name of the petitioners.

5.5 *Fifthly*, it was contended that he has claimed the land in Form No.7 under Ramarao, which was inadvertently not been considered by the Land Tribunal



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and subsequently respondent No.3 had approached the Land Tribunal with an application and the Land Tribunal after issuing notice to Ramarao, who said to have given statement before the Land Tribunal on 22.02.1994 categorically admitting the tenancy of respondent No.3 and consenting for grant of occupancy right. Based on the said statement the Land Tribunal passed the impugned order, by granting occupancy right in respect of subject land on 01.03.1994.

5.6 *Lastly*, he contended that in the year 2010-11 the RTC reflects name of respondent No.3 and he has converted the subject land for residential purpose vide order dated 18.02.2013 and formed the layout and alienated some of the sites.

6. In that view of the matter, the writ petition does not survive for consideration and to buttress his arguments, he has relied on the judgment of Supreme



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Court in ***MRINMOY MAITY VS. CHHANDA KOLEY AND OTHERS¹***.

7. The Writ Court having considered the rival submissions answered the point of delay raised by the respondents stating that, petitioners were not put on notice regarding the order. In that view of the matter for lack of knowledge they have not challenged and further taking into note of the inordinate delay in approaching the Land Tribunal in the year 1994, seeking for correction of order and not arraigned the parties interested as respondents in the said application, answered the contention against the respondent and in favour of the petitioners.

8. Further, the Writ Court negated the contention of the respondent that the sale deed was executed on 28.04.1974 after the coming into force of Land Reforms Act and as such sale deed was executed were barred

¹ (2014) 15 SCC 215



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under law, in view of the report filed by the Revenue Officer, *prima facie* stating that there is fraud committed in obtaining the order. Further the Writ Court was of the opinion that the petitioners are required to be heard prior to passing of the order in order to say whether the land was a tenanted as on 01.03.1974 and to sustain the claim of the ancestor of respondent No.3. In that view of the matter, the Writ Court having found *prima facie* case in favour of the petitioners, allowed the writ petition and passed the order stated supra. It is this order passed by the Writ Court is called in question in this writ appeal.

9. Heard Sri.K.Chandranath Ariga, learned counsel for the appellant, Sri.M.N.Sudev Hegde, learned Additional Government Advocate for respondent Nos.1 and 2 and Sri.Ashok Haranahalli, learned Senior counsel assisted by Sri. Vinayaka B, learned counsel for the contesting respondents/petitioners.



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10. Sri.Chandranath Ariga, reiterated the very same contentions which we have already stated above.

11. In contrast, Sri.Ashok Haranahalli, learned Senior counsel argued in support of the judgment and order stating that, neither the petitioners nor their predecessors in title or the Mutt were put on notice prior to passing of the order. The learned Senior counsel further submits that, on the earlier Form No.7, the lands which were claimed had already been granted way back in the 1978 and subsequently by means of certain insertion in Form No.7, the rights has been claimed in respect of the subject land, only in the year 1994, that is after 16 years, which during the enquiry on the complaint of petitioners to the Deputy Commissioner, found by the Revenue Inspector *prima facie* that the order was obtained by means of fraud and sought to dismiss the appeal.



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12. We have considered the rival submissions, and perused the entire writ appeal papers. This Court as well as Supreme Court and all High Courts across the Country in the legion of cases held that fraud and justice will never dwell together. *'Fraud unravels all the equitable principles including legal principles. The fraud vitiates and goes to the roots of claim'*. The Writ Court having considered that the petitions were not put on notice and noticing the fact that the report of the Revenue Inspector contemplates that *prima facie* fraud has been played in obtaining the order. However, without expressing any opinion on that, remanded the matter in order to consider whether the land claimed by the respondent No.3 under Form No.7 was a tenanted land as on the date of coming into force of the Act i.e., 01.03.1974.

13. In that view of the matter, the Writ Court passed an equitable order, which we find does not require any interference. The Land Tribunal to dispose of the



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matter as expeditiously as possible, taking note of the fact that the matter is very old, after issuing notice to both the parties and providing them opportunity to produce their documents and evidence.

14. With these observations writ appeal stands ***dismissed.***

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

**Sd/-
(T.M.NADAF)
JUDGE**

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List No.: 1 Sl No.: 19
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