



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 1ST DAY OF JULY, 2026

BEFORE

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

WRIT PETITION NO.45816 OF 2017 (LR)

BETWEEN:

1. MRS. KASTHURI SALINS
W/O LATE EMANUEL SALINS
AGED ABOUT 61 YEARS
OCC : AGRICULTURE,
R/AT PADE MANE,
KUTHYAR VILLAGE,
UDUPI TALUK & DISTRICT - 574 504.

...PETITIONER

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

AND:

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

1. THE STATE OF KARNATAKA
REP BY ITS SECRETARY
DEPARTMENT OF REVENUE,
M S BUILDING
BENGALURU - 560001.
2. THE LAND TRIBUNAL
REP BY ITS CHAIRMAN
UDUPI TALUK,
UDUPI - 576101.



3. SMT. SARASWATHI J. SHETTY
W/O SRI GOPAL SHETTY
AGE : MAJOR
R/AT NO.3, SHU-JEEVAN SOCIETY,
3RD FLOOR, GULMOHAR ROAD
JUHU, MUMBAI - 40049.
4. SRI. S. BHOJA SHETTY
S/O SRI. GIRIYANNA SHETTY
AGE : MAJOR
R/AT NO.303, BRINDAVAN (14-A),
IIT MAIN GATE, POWAI
MUMBAI - 400006.
5. MRS. VANILA M. SHETTY
W/O SRI. MAHABALA H. SHETTY
AGE: MAJOR
R/AT NO.401-A, AATHMARAM TOWERS
B-WING, IC COLONY
NEAR CORPORATION BANK,
BORIVLI WEST
MUMBAI- 400092.
6. SRI SUNDARA HEGDE
S/O SRI GIRIYANNA SHETTY
AGE : MAJOR
R/AT NO.101, SUJATHA,
MEENA NAGAR
VASAYI WEST (W.RLY)
MUMBAI-400054.
7. SMT. SHAMA B. SHETTY
D/O SRI GIRIYANNA SHETTY
AGED : MAJOR
R/AT NO.13, KARAMCHAND MANSION



BARRACK ROAD
MUMBAI-400020.

8. SMT. DEVAKI M. RAI
W/O SRI. MAHABALA RAI,
AGED : MAJOR
R/AT KALYAN COMPLEX NO.303
MUKTHI YARY ROAD
MUMBAI - 400061.
9. DR. VIJAYA RAGHAVA HEGDE
S/O SRI GIRIYANNA SHETTY
AGED : MAJOR,
R/AT B-14, RATHNA PALACE,
186, GARODIYA NAGAR,
GHAT KOPAR,
MUMBAI - 460077.
10. MRS. SUSHEELA R. SHETTY
W/O SRI RAJEEVA SHETTY
AGED : MAJOR
R/AT NO.204, THASHKENT,
PRATHAMESH COMPLEX
VEERA DESAYI ROAD
ANDERI (W),
MUMBAI - 400058.
11. MRS. PREMA S. SHETTY
W/O SRI. SUDHAKARA SHETTY
R/AT NO.4, JEEVAN JAGRUTHI
DR AMBEDKAR ROAD
PALLY HILL, BANDRA,
MUMBAI -400050.



...RESPONDENTS

(BY SMT. SHARADA H.B., AGA FOR R1 & R2;
SRI. K. PRASANNA SHETTY, ADVOCATE FOR R3 TO R11)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE ORDER DATED 08.09.2017 PASSED BY THE RESPONDENT NO.2 LAND TRIBUNAL VIDE ANNEXURE-A; DIRECT THE RESPONDENT NO.2 LAND TRIBUNAL TO RECONSIDER THE CLAIM OF THE PREDECESSOR OF THE PETITIONER AS PER THE FORM NO.7 DATED 15.12.1974 VIDE ANNEXURE-B.

THIS WRIT 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 JUDGMENT

In this writ petition, the petitioner is assailing the order dated 08.09.2017 (Annexure-A) in No.LRY-109-175-TRI-1042/77-78, passed by the respondent No.2, Land Tribunal *inter-alia* sought for direction to respondent No.2, to re-consider the claim of the



predecessors of the petitioner as per the Form No. 7, dated 15.12.1974 (Annexure-B).

2. Relevant facts for the adjudication of this writ petition are that, the petitioner claims to be in possession and enjoyment of the land measuring 4.93 acres, in Sy.No. 332/1 of Shirva Village, Udupi Taluk and District, as the successor of the agricultural tenant-late Abraham Salin under the predecessors of respondent Nos. 3 to 11 namely Abbakka Heggadathi. It is stated in the writ petition that the Abraham Salin-father in law of the petitioner was a tenant in respect of land bearing Sy.No. 38/6A measuring, 10 cents; land bearing Sy.No. 38/6C to an extent of 67 cents and Sy.No.38/3C2 of 4 cents of Kuthyar village and land bearing Sy.No.332/1 measuring 4.93 acres, of Shirva village and has filed Form No.7, under Section 48A of the Karnataka Land



Reforms 1961 (Annexure-B) seeking occupancy rights in respect of the aforementioned lands. It is further stated that the Land Tribunal, after considering material on record has granted occupancy rights in favour of father in law of the petitioner (Abraham Salin) by order dated 04.09.1981 and same was challenged before this court in W.P.No.3466 of 1997 and this court vide order dated 15.06.1999 (Annexure-E) allowed the writ petition and remitted the matter to the Land Tribunal for fresh consideration. Thereafter, the Tribunal conducted enquiry and passed an order dated 08.09.2017 holding that the land bearing Sy.No. 332/1 is a 'Punja land' and accordingly, rejected the Form No. 7 in respect of the aforementioned land. Being aggrieved by the same, the petitioner has presented writ this petition.



3. I have heard Sri. Prasanna V.R. learned counsel for the petitioner; Smt. Sharada H.V. learned Additional Government Advocate appearing for the respondent-State and Sri. K. Prasanna Shetty, learned counsel for the respondent Nos. 3 to 11.

4. Sri. Prasanna V.R., learned counsel for the petitioner contended that, the Land Tribunal without considering the material on record has arrived at a conclusion that, the land bearing Sy.No. 332/1, measuring 4.93 acres is a 'Punja land', and he further argued by referring to the Geni chits produced at Annexure-D series and argued that, the tenant-Abraham Salin, was cultivating the land in question and the said aspect of the matter was ignored by the Land Tribunal and accordingly, sought for interference of this Court. It is also argued by the learned counsel for the petitioner by referring to the



Kulavaru Takte prepared by the Surveyor at Annexure-C which indicates that the father-in-law of the petitioner was cultivating the land in question and therefore, sought for interference of this Court. It is also the submission of the learned counsel for the petitioner by referring to the cross-examination dated 10.08.2015 before the Land Tribunal that, the son of the landlord - Vijaya Raghava Hegde, admitted that the land in question is cultivable land and was receiving Geni from the applicants-tenants and therefore, contended that the finding recorded by the Tribunal requires to be interfered with in this writ petition. It is also the submission made by the learned counsel for the petitioner that the respondents are residing at Mumbai, and therefore, the said aspect of the matter was ignored by the Tribunal and accordingly, sought for interference of this Court. In order to buttress his arguments, the



learned counsel for the petitioner places reliance on the judgment of this court in the case of ***Krishnappa Poojary vs. N.V. Rangappaiah since deceased by his LR's*** reported in ***ILR 1999 KAR 1932*** and argued that, the Tribunal has not properly appreciated the material on record in the right perspective and as such, sought for interference of this Court. Learned counsel places reliance on the judgment of this Hon'ble Supreme Court in the case of ***Monthi Menezes (D) by Lrs vs. Devaki Amma (D) by LRs. and another*** reported in ***AIR 2019 SC (supp) 292*** and argued that, the tenanted land which is actually used for agricultural purposes but even to the land which is used or is capable of being used for agricultural purposes, or even the purposes subservient thereto has to be considered for tenancy and accordingly, sought for interference



5. Per contra, Sri. Prasanna Shetty, learned counsel for the respondent Nos.3 to 11 submitted that the land in question is 'Punja Land' which cannot be cultivated and therefore, filing of the application seeking occupancy rights does not arise. Hence, he supported the impugned order passed by the Land Tribunal.

6. Smt. Sharada H.V., learned Additional Government Advocate appearing for the respondent-State sought to justify the impugned order passed by the Land Tribunal and produced the original records before this Court for its perusal and assistance.

7. Having Heard the learned counsel appearing for the parties and on careful consideration of the finding recorded by the Land Tribunal would indicate that the father in law of the petitioner-Abraham Salin has made claim for



occupancy rights in respect of four items of the land, however, the controversy in the present writ petition is as to the land bearing Sy.No.332/1 measuring 4.93 acres of Shirva Village, Udupi Taluk and District. On careful consideration of the writ papers and the records would indicate that, as the Form No.7 filed by the applicant show that the said land is a 'Punja land' however, the Kuluvaru Takte produced at Annexure-C would indicate that, the father-in-law of the petitioner was cultivating the land in question. It is also to be noted from the Annexure- D series which reveals that the Geni is being paid to the landlord. That apart, the evidence of the respondents herein would indicate that, the respondents are residing at Mumbai and the applicant was paying Geni to their family. The aforesaid admission ought not to have been ignored by the Land Tribunal. Though the learned counsel for the respondents



argued that land in question is a 'Punja land' however, upon perusal of the evidence of one S. Mohidin dated 24.10.2016 would indicate that the land in question is of cultivable in nature. It is well established principle in law that, even if the land is classified as 'Punja land' but the said land is under tenancy, by the competent tenant, under the landlord and if such land is made capable of cultivable subsequently, and as such, there is no impediment for the Land Tribunal to confer occupancy rights in respect of such 'Punja land', and therefore, I am of the opinion that, Land Tribunal has committed error in ignoring the true facts. Taking into consideration the Form No. 7 is filed by the father-in-law of the petitioner and on earlier occasion also the matter was remitted by this Court, and further taking into consideration the fact that the cause of action is more than 50 years, this Court is



of the considered view that another remand is unwarranted. In view of declaration of law made by the Hon'ble Supreme Court in the case of ***Nadakerappa since dead by legal representatives and others vs. Pillamma since deceased by the legal representatives and others*** reported in ***(2024) 15 SCC 740*** wherein it is held that, remand should not be ordered routinely and this court should decide the case on merits based on the available material, instead of sending it back to the Tribunal and also remand at this stage would be futile exercise and therefore, based on the original documents, I am of the opinion that, the Tribunal ought to have granted occupancy rights in favour of father-in-law of the petitioner in respect of subject land. Accordingly, I pass the following:



ORDER

- i) Writ Petition is ***allowed;***
- ii) Order dated 08.09.2017 in No.LRY:109-175-TR1-1042/1977-78 (Annexure-A) passed by respondent No.2 is set aside in respect of the land bearing Sy.No. 332/1, of Shirva village, Udupi Taluk and District.
- iii) The revenue authorities are directed to enter the name of the petitioner in the revenue records in respect of subject land, within an outer limit of two months from the date of receipt of certified copy of this order.

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

SB