



CNR: KAHC010119862016

NC: 2026:KHC:42204  
WP NO.52127 OF 2016  
C/W  
WP NO.37213 OF 2016

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

DATED THIS THE 10<sup>TH</sup> DAY OF AUGUST, 2026

BEFORE

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

**WRIT PETITION NO. 52127 OF 2016 (KLR-RES)**

**C/W**

**WRIT PETITION NO. 37213 OF 2016 (KLR-RES)**

**IN WP NO.52127/2016**

**BETWEEN:**

1. SRI. MOHANDAS SHETTY  
SINCE DECEASED, REP. BY LR.
- 1(a). MR. MOHIT KUMAR  
S/O LATE MOHANDAS SHETTY,  
R/AT SAGAR NIVAS, NO.4-5,  
SHANTHINAGAR ROAD,  
YEYYADI KONCHADI POST,  
MANGALURU,  
DAKSHINA KANNADA - 575 008.
2. SRI. JAYANTH  
S/O GANAPATHI,  
R/AT BHAVISHYA NAGAR,  
THIRUVAIL VILLAGE, VAMANJURU,  
MANGALURU - 574 145.
3. SRI. DINESH PURUSHA  
S/O SANJEEVA,  
R/AT KOIL HOUSE,  
RAKTHESHWARI TEMPLE BACKSIDE,  
MALEMAR KOTTARA CHWKA,  
MANGALURU - 575 006.

...PETITIONERS

(BY SRI. D.R. RAVISHANKAR, SENIOR COUNSEL FOR  
SRI. KARUNAKARA P., ADVOCATE FOR P2 AND P3;  
SRI. M. SUDHAKARA PAI, ADVOCATE FOR P1[a])

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



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**AND:**

1. THE DISTRICT COMMISSIONER  
DAKSHINA KANNADA DISTRICT,  
MANGALURU - 575 001.
2. THE ASSISTANT COMMISSIONER  
MANGALURU SECTION,  
MANGALURU,  
DAKSHINA KANNADA - 575 001.
3. THE TAHASILDHAR  
MANGALURU TALUK,  
DAKSHINA KANNADA - 575 001.

...RESPONDENTS

(BY SRI. MITHUN G.A., AAG A/W  
SMT. B.P. RADHA, AGA )

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE ORDER DATED 26<sup>TH</sup> APRIL, 2016 PASSED BY THE RESPONDENT NO.1 IN CASE NO.LND(1)PDR.74/13-14 VIDE ANNEXURE-A; QUASH THE ORDER DATED 12<sup>TH</sup> APRIL, 2011 PASSED BY THE RESPONDENT NO.1 IN CASE NO.ADS.LND(1)PDR/130/07-08(B2) VIDE ANNEXURE-Q AND ETC.

**IN WP NO.37213/2016**

**BETWEEN:**

SRI. VIJAYAPRASAD ALVA  
S/O LATE RAGHURAM ALVA,  
AGED ABOUT 52 YEARS,  
R/AT VIMARSHA, JAYANAGARA,  
1<sup>ST</sup> MAIN, MAROLI VILLAGE,  
KULASHEKHARA POST,  
MANGALURU SOUTH,  
DAKSHINA KANNADA DISTRICT - 575 001.

...PETITIONER

(BY SRI. MAHESH KIRAN SHETTY, ADVOCATE)



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**AND:**

1. THE DEPUTY COMMISSIONER  
DAKSHINA KANNADA DISTRICT,  
MANGALURU - 575 001.
2. THE ASSISTANT COMMISSIONER  
MANGALURU DIVISION,  
MANGALURU,  
DAKSHINA KANNADA DISTRICT - 575 001.
3. THE TAHASILDHAR  
MANGALURU TALUK,  
DAKSHINA KANNADA DISTRICT - 575 001.
4. MOHANDAS SHETTY  
SINCE DECEASED, REP. BY LR.
- 4(a). MR. MOHIT KUMAR  
S/O LATE MOHANDAS SHETTY,  
R/AT SAGAR NIVAS, NO.4-5,  
SHANTHINAGAR ROAD,  
YEYYADI KONCHADI POST,  
MANGALURU,  
DAKSHINA KANNADA - 575 008.
5. SRI. JAYANTH  
S/O GANAPATHY PURUSHA,  
R/AT BAVISHYA NAGAR,  
THIRUVAIL VILLAGE, VAMANJORE,  
MANGALURU - 575 001.
6. SRI. DINESH PURUSHA  
S/O SANJEEVA PURUSHA  
R/AT KOYAL HOUSE,  
BEHIND RATHISHWARI TEMPLE,  
MALEMAR KOTTAR CHOWKI,  
MANGALURU,  
DAKSHINA KANNADA DISTRICT - 575 001.



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7. SMT. CHANCHALAKSHI  
W/O LATE MADHAVA RAO.
8. SRI. PAVAN  
S/O LATE MADHAVA RAO.

RESPONDENTS 7 AND 8 ARE  
R/AT NO.3-16, OPP. TO ITI,  
YEYYADI JOGI MUTT,  
YEYYADI, MANGALURU,  
DAKSHINA KANNADA DISTRICT - 575 001.

...RESPONDENTS

(BY SRI. MITHUN G.A., AAG A/W  
SMT. B.P. RADHA, AGA FOR R1 TO R3;  
SRI. SUDHAKAR PAI M., ADVOCATE FOR R4(a);  
SRI. D.R. RAVISHANKAR, SENIOR COUNSEL FOR  
SRI. P. KARUNAKAR, ADVOCATE FOR R5 AND R6;  
R7 AND R8 - SERVED AND UNREPRESENTED)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226  
AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO  
QUASH THE ORDER PASSED BY THE RESPONDENT NO.1  
DATED 26<sup>TH</sup> APRIL, 2016 IN CASE NO.LND(1)PDR.74/13-  
14 VIDE ANNEXURE-A; AND ETC.

THESE WRIT PETITIONS 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



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### **CAV ORDER**

In Writ Petition No.52127 of 2016, petitioners are challenging the order dated 26<sup>th</sup> April, 2016 (Annexure-A) passed by the respondent No.1 in Case No.LND(1)PDR.74/13-14 and order dated 12<sup>th</sup> April, 2011 (Annexure-Q) passed by the respondent No.1 in Case No.ADS.LND(1)PDR/130/07-08(B2) in respect of the schedule property.

2. In WP No.37213 of 2016, the petitioner is challenging order dated 26<sup>th</sup> April, 2016 (Annexure-A) passed by the respondent No.1 in Case No.LND(1)PDR.74/13-14.

### **FACTS OF THE CASE**

3.1. In Writ Petition No.52127 of 2016, it is stated that the grandfather of petitioners had purchased land bearing No.284/2A1 measuring 1.19 acres in Kadri B. Village, Mangaluru Taluk, Dakshina Kannada District from one Subbaiah Purusha @ Subba Purusha, who claims to be a grantee of the schedule property during the year-1910. It is stated that the land an extent of 7.80 acres in Survey No.54/4B and an extent of 0.42 acres of land in Survey No.54/4C at Kadri B. Village was granted in favour of the great grandfather of the vendor of



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petitioners. It is also stated that the said Subbaiah Purusha was in possession of the schedule property and there was a dispute in the family members of the said Subbaiah Purusha and as such, Original Suit No.403/1996 was filed before the jurisdictional Civil Court seeking relief of partition and separate possession in respect of the subject land and the said suit was ended with compromise between the parties. The copy of the compromise petition filed in Original Suit No.403/1996 is produced at Annexure-B. It is further stated that the legal heirs of Subbaiah Purusha have approached the respondent-Authorities seeking change of RTC extracts, however, the same has not been considered by the respondent-Authorities and as such, one Kamalaksha Purusha filed Writ Petition No.17084 of 2001 and this Court, by order dated 04<sup>th</sup> October, 2001 (Annexure-C), allowed the petition and directed the respondent-Authorities to delete the entry 'Government' in the concerned registers and to consider the request of the petitioners to enter their names as claimed in representation.

3.2. It is further stated in the writ petition that, pursuant to the order passed by this Court in Writ Petition No.17084 of 2001, an enquiry was conducted by the



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respondent No.3 and passed order dated 06<sup>th</sup> July, 2006 (Annexure-D) directing to remove the name of 'Government' in respect of the land in question. Thereafter, on account of some anomalies, the said Kamalaksha Purusha filed appeal before the respondent No.2-Assistant Commissioner challenging the order of the respondent No.3 dated 06<sup>th</sup> July, 2006 (Annexure-D) and the respondent No.2, by order dated 29<sup>th</sup> January, 2007 (Annexure-E) passed an order to enter the name of Kamalaksha Purusha S/o Annappa Purusha in the revenue records and thereby, the RTC extract at Annexure-F stands in the name of the Kamalaksha Purusha. It is also stated in the writ petition that the respondent No.2 passed an order for conversion of land to an extent of 0.90 acres in schedule property of Kadri B. Village for non-agricultural purpose as per Annexure-G and thereafter, the said Kamalaksha Purusha took permission from the Mangaluru Development Authority as per Annexure-H. In the meanwhile, petitioners have purchased the said converted land to an extent of 0.90 acres of converted land from the said Kamalaksha Purusha and Madhava Rao as per the registered Sale Deed dated 08<sup>th</sup> October, 2010 (Annexure-K). Accordingly, the revenue records changed in the



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name of petitioners and the Corporation Authorities have changed the Khata in the name of petitioners as per Annexure-M. In the meanwhile, proceedings against the petitioners was initiated under the provision of the Karnataka Prevention and Destruction and Loss of Public Property Act, 1981 at the instance of the respondent No.3 before the jurisdictional JMFC. II Court at Mangaluru as per Annexure-N. The petitioners have filed Original Suit No.651 of 2011 before the III Additional Civil Judge and JMFC, Mangaluru, Dakshina Kannada against the private individuals seeking relief of permanent injunction as per the proceedings at Annexure-P.

3.3. It is also stated that the petitioners came to know that the respondent-Authorities have taken steps to allot the land in question to the Commanding Officer, N.C.C., as per the proceedings at Annexure-Q. The respondent No.1, by order dated 12<sup>th</sup> April, 2011 (Annexure-Q) passed an order in favour of the proposed grantees of the land in question and thereafter, the respondent No.1 has passed an order dated 29<sup>th</sup> / 30<sup>th</sup> April, 2011 to enter the name of the Government in the revenue records. Hence, the petitioners came to know that the respondent-Authorities have passed an order depriving the



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right of the petitioners as to the land in question and same was challenged before this Court in Writ Petition No.51732 of 2012 and this Court, disposed of the same on 19<sup>th</sup> June, 2013, remanding the matter to the respondent No.1. Thereafter, the respondent No.1 passed impugned orders Annexures 'A' and 'Q'. Being aggrieved by the same, petitioners are before this Court.

4. In Writ Petition No.37213 of 2016, the case of the petitioner is that the petitioner had entered into an agreement in respect land bearing Survey No.284/2 measuring to an extent of 1.19 acres situate at Kadri B. Village, Mangaluru with the owners of the property in question as per Agreement of Sale dated 15<sup>th</sup> May, 2004. The grievance of the petitioner is that the respondent No.1 had erroneously rejected the claim made by the owners of the land in question as per impugned order dated 26<sup>th</sup> April, 2016 (Annexure-A) in Case No.LND(1)PDR.74/13-14. Hence, the petitioner is before this Court.

5. Heard Sri. D.R. Ravishankar, learned Senior Counsel on behalf of Sri. Karunakar P., appearing for



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petitioners 2 and 3 in WP No.52127/2026 and for respondents 5 and 6 in WP No.37213/2016; Sri. M. Sudhakar Pai, learned counsel appearing for the petitioner No.1(a) in WP No.52127/2026 and for respondent No.4(a) in WP No.37213/2016; and Sri. Mithun G.A., learned Additional Advocate General along with Smt. B.P. Radha, learned Additional Government Advocate appearing for respondent-State.

6. Sri. D.R. Ravishankar, learned Senior Counsel appearing for the petitioners 2 and 3 in WP No.52127 of 2016 contended that the conclusion reached by the respondent-Authorities without considering the fact that the right of the vendor of the petitioners is traced from the year-1910 as per the order of grant-Darkasth made in favour of the predecessor of the vendor of the petitioners, is in correct. By referring to the order dated 04<sup>th</sup> October, 2001 (Annexure-C) passed by this Court in Writ Petition No.17084 of 2001, learned Senior Counsel appearing for petitioners argued that, this Court specifically directed the Revenue Authorities to remove the name of the 'Government' and to enter the name of the vendor of the petitioners, which has reached finality and therefore



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entire exercise made by the Revenue Authorities rejecting the claim made by the petitioners is required to be set-aside.

7. Learned Senior Counsel appearing for the petitioners, while referring to the order dated 29<sup>th</sup> January, 2007 (Annexure-E) passed by the respondent No.2-Assistant Commissioner contended that, as the said order has reached finality and as such, the said respondent-Authority has no jurisdiction under law to investigate the matter as to the right of the petitioners. By referring to the RTC extract produced at Annexure-F, learned Senior Counsel argued that the name of the vendor of petitioners has been rightly inserted in the RTC extracts, however the respondent No.1, without considering earlier orders passed by the Revenue Authorities had interfered with the entries made in the revenue records, which requires to be set-aside.

8. Learned Senior Counsel appearing for the petitioners by inviting the attention of the Court to the order dated 26<sup>th</sup> April, 2016 passed by the respondent No.2 in Case No.CDS:RRT:SR:135/2007-08 argued that the respondent No.2 has directed the revenue authorities to enter the name of the



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vendor of petitioners in the revenue records and same has not been questioned by the respondent-State. Accordingly, learned Senior Counsel submits that the action on the part of the respondent No.1 requires to be interfered with in this petition.

9. In this regard learned Senior Counsel appearing for petitioners referred to the judgment of Hon'ble Supreme Court in the case of **MAKARDHWAJ RAM vs. JAGDISH RAI (DEAD) THRU. LRS AND ANOTHER** reported in 2026 SCC OnLine SC 1112 and contended that the doctrine of *res judicata* is applicable to quasi judicial authorities also and accordingly, sought for setting aside the impugned orders passed by the respondent No.1.

10. Per contra Sri. Mithun G.A., learned Additional Advocate General appearing for the respondent-State argued that the respondent No.1, after considering the entire material on record has passed the impugned orders, which are just and proper and do not call for interference before this Court. Learned Additional Advocate General further submits that, though the petitioners claim right over the property based on the grant made in favour of the predecessors of the title in



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question, however, they have not produced any document. It is also submitted by the learned Additional Advocate General that, though the portion of land has been granted in favour of Commanding Officer-5, KAR-NOVAL Unit, NCC, however, the said grant was later cancelled and therefore the portion of the land in question is a part of the public park at Kadri B. Village. Accordingly, learned Additional Advocate General sought for dismissal of the writ petition.

11. Learned Additional Advocate General appearing for the respondent-State further argued that the revenue records available with the respondent-State would indicate that the land in question has been assessed as waste land and belonging to the Government as per the order in LND.4.CR.215/1970-71 to an extent of 0.81 acres. It is further contended that the predecessors of the land in question have no title in respect of the land in question and therefore, sought for dismissal of the petition.

12. In the light of the submission made by learned counsel appearing for the parties, the petitioners in Writ Petition No.52127 of 2016 are claiming right over the property



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based on the vendor of the grandfather of the petitioner namely Subbaiah Purusha, who was granted with the land as Dharkasth in Kadri B. Village to an extent of 7.80 acres in Survey No.54/4B and an extent of 0.42 acres in Survey No.54/4C by the respondent-Government. Thereafter, as there was a partition in the family of the vendor of the grandfather of the petitioners, Original Suit No.403/1996 was filed and the said suit came to be settled by Compromise Petition as per Annexure-B and as such, the land in question had fallen to the share of petitioners. It is also forthcoming from the order dated 04<sup>th</sup> October, 2001 (Annexure-C) passed in Writ Petition No.17084 of 2001 that, this Court has directed the respondent-Authorities to delete the name of the 'Government' in the revenue records and to consider the case of vendor of petitioners to enter their names in the revenue records. Paragraphs 2 and 3 of the order dated 04<sup>th</sup> October, 2001 (Annexure-C) reads as under:

*"2. The petitioner is not seeking relief against any individual. The grievances of the petitioner are not disputed by the learned High Court Government. Pleader. Under what circumstances the entry 'Government' is*



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*entered is not forthcoming. In the circumstances, it is a fit case to issue the direction sought for by the petitioner.*

3. Writ Petition is allowed directing respondents 1 and 2 to delete the entry 'Government' in the concerned registers and consider the request of the petitioner to enter his name after considering his representation."

*(emphasis supplied)*

13. It is also forthcoming that, pursuant to the above direction issued by this Court, the respondent No.3 passed an order dated 06<sup>th</sup> July, 2006 (Annexure-D), to remove the name of the 'Government' in respect of land in question. However, the said Kamalaksha Purusha in view of certain anomalies and denial of entry in the revenue records by the respondent No.3, challenged the order dated 06<sup>th</sup> July, 2026 (Annexure-D) before the respondent No.2 in case No. CDS:RRT.SR:84/2006-07. The respondent No.2, by order dated 29<sup>th</sup> January, 2007 (Annexure-E), after considering the material on record as to the grant made in favour of the vendor of the grandfather of the petitioners has directed the respondent No.3 to enter the name of Kamalaksha Purusha in the revenue records. The said order passed by the respondent No.2 has reached finality and same was not questioned by respondent-Authorities. It is also



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forthcoming from the RTC Extracts at Annexure-F that the name of Kamalaksha Purusha is shown at Column Nos.9 and 12.

14. It is also to be noted that the proceedings were again initiated as to the questioning the ownership of the vendor of the petitioners and the order dated 26<sup>th</sup> April, 2016 came to be passed by the respondent No.2 in case No. CDS/RRT/SR/135/2007-08, directing the respondent No.3 to enter the name of Kamalaksha Purusha in the revenue records as per the survey map, saguvali chit and the settlement register extract as to the grant made in favour of the vendor of the grandfather of the petitioners and the matter was concluded that the grant has been made in accordance with law. The aforementioned order has reached finality. In that view of the matter, as the title to the property is settled as per the issuance of grant made in favour of vendor of the grandfather of the petitioners, I am of the opinion that the respondent No.1 has not considered the above two orders passed by respondent-Assistant Commissioner in respect of land in question. Therefore, impugned orders passed by the respondent No.1 is without application of mind.



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15. It is forthcoming from the records that, this Court in Writ Petition No.51732 of 2001 disposed of on 19<sup>th</sup> June, 2013 had an occasion to consider the claim made by petitioners and accordingly, quashed the order dated 29<sup>th</sup>/30<sup>th</sup> April, 2011 passed by the respondent No.3 and therefore, the aforementioned aspect makes it clear that the earlier orders passed by the respondent No.2 is fairly binding on the respondent No.1 and the respondent No.1 cannot deviate from the settled principle by this Court in Writ Petition No.17084 of 2001 dated 04<sup>th</sup> October, 2001 (Annexure-C).

16. Hon'ble Supreme Court in the case of **SAMIR KUMAR MAJUMDER vs. UNION OF INDIA** reported in (2024)16 SCC 738 at paragraph 33 held as follow:

***"Law on constructive res judicata***

*33. Almost two centuries ago, in Henderson v. Henderson [Henderson v. Henderson, (1843) 3 Hare 100 : 67 ER 313] , the Vice-Chancellor Sir James Wigram felicitously puts the principle thus: (ER p. 319)*

*"In trying this question I believe I state the rule of the Court correctly when I say that, where a given matter becomes the subject of litigation in, and of adjudication by, a court of competent jurisdiction, the Court requires the parties to that litigation to bring forward their whole case, and will not (except under special circumstances) permit the same parties to open*



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*the same subject of litigation in respect of matter which might have been brought forward as part of the subject in contest, but which was not brought forward, only because they have, from negligence, inadvertence, or even accident, omitted part of their case. The plea of res judicata applies, except in special cases, not only to points upon which the Court was actually required by the parties to form an opinion and pronounce a judgment, but to every point which properly belonged to the subject of litigation, and which the parties, exercising reasonable diligence, might have brought forward at the time."*

17. In terms of the law declared by Hon'ble Supreme Court in the case of **SAMIR KUMAR MAJUMDER** (supra), constructive *res judicata* mandates that all grounds that might and ought to have been employed in the proceedings, should be employed to avoid multiplicity of proceedings and therefore, I am of the view that the finding recorded by the respondent No.1 in the impugned orders at Annexures 'A' and 'Q' is required to be set-aside. Accordingly, the petitioners in Writ Petition No.52127 of 2016 have to be declared as the owners in possession of the land in question as per the observation made above and the petitioner in Writ Petition No.37212 of 2016 has to agitate his right based on the Sale Agreement with the petitioners in Writ Petition No.52127 of 2016 in a manner known to law. Accordingly, I pass the following:



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**ORDER**

- (i) Writ Petition No.52127 of 2016 ***allowed;***
- (ii) Order dated 26<sup>th</sup> April, 2016 (Annexure-A) and order dated 12<sup>th</sup> April, 2011 (Annexure-Q) passed by the respondent No.1 are hereby set-aside;
- (iii) Respondent No.3 is directed to mutate the name of petitioners in Writ Petition No.52127 of 2016 in the revenue records in respect of the subject land forthwith;
- (iv) Writ Petition No.37213 of 2016 stands disposed of in terms of the observation made above.

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

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List No.: 1 Sl No.: 76