



CNR: KAHC010134452019

NC: 2026:KHC:47251
WP No. 21692 of 2019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31ST DAY OF AUGUST, 2026

BEFORE

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

WRIT PETITION NO.21692 OF 2019 (KLR-RES)

BETWEEN:

ARAVINDA
S/O ACHAUTHAN
AGED ABOUT 45 YEARS
R/AT ACHUTHAN COMPOUND
KADABETTU UDUPI - 576 101
UDUPI DISTRICT.

...PETITIONER

(BY SRI. B.S. JEEVAN KUMAR, ADVOCATE)

AND:

1. STATE OF KARNATAKA
DEPARTMENT OF REVENUE
M.S.BUILDING
BENGALURU - 560 001
REP. BY ITS SECRETARY.
2. THE DEPUTY COMMISSIONER
UDUPI DISTRICT
RAJATHADRI, MANIPAL - 576 104
UDUPI DISTRICT.
3. THE ASSISTANT COMMISSIONER
KUNDAPURA SUBDIVISION

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



CNR: KAHC010134452019

NC: 2026:KHC:47251
WP No. 21692 of 2019

KUNDAPURA - 576 124
UDUPI DISTRICT.

4. THE THASHILDAR
UDUPI DISTRICT
UDUPI - 576 101.

5. SRIRAMA DIWANA
AGED ABOUT 45 YEARS,
SOCIAL WORK ACTIVIST
R/AT OMSAI, D.NO.1-236(9)
NELLIKATTE THABAIL ROAD
BELLE VILLAGE
POST MOODUBELLE - 574 105
UDUPI TALUK AND DISTRICT.

...RESPONDENTS

(BY SRI. SPOORTHY HEGDE N., HCGP FOR R1 TO R4;
SRI. K. PRASANNA SHETTY, ADVOCATE FOR R5)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE IMPUGNED ORDER DATED 28.01.2019 PASSED ON THE FILE OF THE RESPONDENT NO.2 - DEPUTY COMMISSIONER, UDUPI BY IMPROPERLY CONFIRMING THE IMPUGNED ORDER DATED 28.12.2017 PASSED ON THE FILE OF THE RESPONDENT NO.3 - ASSISTANT COMMISSIONER, KUNDAPURA SUB-DIVISION, KUNDAPURA VIDE ANNEXURE-A AND TO DECLARE THE SAID ORDER AT ANNEXURE-A AS UNCONSTITUTIONAL AND ILLEGAL; AND ETC.



CNR: KAHC010134452019

NC: 2026:KHC:47251
WP No. 21692 of 2019

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 ORDER

1. In this writ petition, the petitioner is assailing the order dated 28.01.2019 (Annexure-A) passed by respondent No. 2 – the Deputy Commissioner, as well as order dated 28.12.2017 (Annexure-B) passed by respondent No. 3 – the Assistant Commissioner inter-alia, sought for quashing of the entire proceedings at Annexure-B, as being, non-est.

2. Heard Sri. B. S. Jeevan Kumar, learned counsel appearing for the petitioner; Sri. Spoorthy Hegde N., learned counsel appearing for the respondent Nos. 1 to 4 and Sri. K. Prasanna Shetty, learned counsel appearing for the respondent No.5.



CNR: KAHC010134452019

3. Sri. B.S. Jeevan Kumar, learned counsel appearing for the petitioner, contended that the proceedings under Section 136(2) of the Karnataka Land Revenue Act, 1964 (for short, "the Act"), was initiated at the instance of respondent No. 5, who is in no way connected with the land in question. Therefore, it was contended that respondent No. 3 lacks jurisdiction under Section 136(2) of the Act to interfere with the mutation entry made in favour of the petitioner.

4. It is further contended by the learned counsel appearing for the petitioner that respondent No. 5 is not an "aggrieved person" in respect of the schedule land and, therefore, the impugned proceedings initiated against the petitioner are liable to be set aside.



CNR: KAHC010134452019

5. It is further argued that the land in question is in the lawful possession of the petitioner, who inherited the same from his ancestors. The learned counsel further contended that the respondent-authorities have committed an error in interfering with the revenue records on the basis of the registered Will purportedly executed by Smt. Narayaniammal, who died on 14.07.1965, without leaving any children.

6. Learned counsel appearing for the petitioner further submitted that the said Narayani Ammal was looking after Krishnabai, the mother of the petitioner, and therefore, contended that the petitioner has been in possession of the land in question for a long period. Accordingly, it is submitted that the impugned orders passed by the respondent-authorities, interfering with the petitioner's possession and the revenue records, is liable to be set aside.



CNR: KAHC010134452019

7. Per contra, Sri. K. Prasanna Shetty, learned counsel appearing for respondent No. 5, referring to the averments in the statement of objections, contended that the land in question belonged to one Narayani Ammal, who died leaving behind a registered Will dated 01.04.1944. Under the said Will, the schedule land was bequeathed in favour of her mother-Kalyani, with a life estate and, thereafter, in favour of children of her mother, if any, to be born after the death of the testator.

8. It is submitted that the mother of the said Narayani Ammal predeceased her and, consequently, in terms of the Will, the land in question was to devolve upon the Udupi Local Fund Hospital for meeting the expenses of poor pregnant women.

9. It is further submitted that, after the death of Narayani Ammal, one Achuthan, claims to be her



CNR: KAHC010134452019

NC: 2026:KHC:47251
WP No. 21692 of 2019

husband, instituted suit in O.S. No.31/1968 against the State Government, questioning the validity of the Will in respect of the subject land and also seeking, by way of an alternative relief, reimbursement of the value of the improvements effected by him on the schedule land.

10. The said suit came to be decreed in part by the Trial Court on 07.04.1973 (Annexure-R1 of statement of objections filed by respondent No.5), insofar as the alternative claim for reimbursement of Rs.6,206.31/- with interest at 6% per annum was allowed. However, the suit was dismissed insofar as the questioning the validity of the registered Will said to have been executed by Narayani Ammal. The said judgment and decree were confirmed by the First Appellate Court in R.A. Nos. 5 and 6 of 1973, vide judgment and decree dated 10.02.1976 (Annexure-R2 to the statement of



CNR: KAHC010134452019

NC: 2026:KHC:47251
WP No. 21692 of 2019

objections filed by respondent No.5), and the same was further confirmed by this Court in R.S.A. No.735 of 1976 (Annexure-R3 to the statement of objections filed by respondent No.5). It is, therefore, contended by the learned counsel appearing for respondent No.5 that the petitioner is fraudulently claiming right over the land in question, which belonged to Government and, accordingly, seeks dismissal of the writ petition.

11. With regard to the contention of the petitioner relating to the *locus-standi* of respondent No.5, it is submitted that the respondent-State has not taken any action pursuant to the Will said to have been executed by Narayani Ammal. It is further submitted that the validity of the said Will was questioned and that an attempt has been made to illegally grab the land in question by perpetrating fraud upon the respondent-State. Accordingly, the learned counsel



CNR: KAHC010134452019

**NC: 2026:KHC:47251
WP No. 21692 of 2019**

appearing for respondent No.5 seeks dismissal of the writ petition.

12. Sri. Spoorthy Hegde N., Learned High Court Government Pleader appearing for the respondent-State submitted that, the petitioner has no title in respect of land in question as the land has been given to Udupi Local Fund Hospital for the well being of the pregnant women as per the Will said to have been executed by the Narayani Ammal and therefore, sought for dismissal of this petition.

13. In the light of the arguments advanced by the learned counsel appearing for the parties, I have carefully examined the findings recorded by the respondent-Authorities. It is to be noted that one Narayani Ammal was the owner of the schedule land and had bequeathed the same in favour of the Government under a registered Will dated



CNR: KAHC010134452019

NC: 2026:KHC:47251
WP No. 21692 of 2019

01.04.1944, specifically for the purpose of wellbeing of a Destitute Women's Maternity Hospital at Udupi.

14. It is also stated that the said Narayani Ammal died on 14.07.1965 without leaving any issues. Thereafter, one A. Achuthan, the father of the petitioner, claiming to be the husband of the said Narayani Ammal, instituted O.S. No.31 of 1968, challenging the registered Will dated 01.04.1944, said to have been executed by Narayani Ammal. The said suit came to be decreed in part on 07.04.1973 (Annexure-R1 to the statement of objections filed by respondent No.5), wherein the Trial Court upheld the validity of the Will, however, directed reimbursement of a sum of Rs.6,206.31/- with interest to the plaintiff A. Achuthan, who has made improvements in the schedule land. The said judgment and decree of the Trial Court was challenged by the said A. Achuthan in



CNR: KAHC010134452019

NC: 2026:KHC:47251
WP No. 21692 of 2019

R.A. No.5 of 1973 and by the State of Mysuru in R.A. No.7 of 1973. The First Appellate Court, by its judgment and decree dated 10.04.1976 (Annexure-R2, to the statement of objections filed by respondent No.5), dismissed both the appeals. Thereafter, the said A. Achuthan preferred R.S.A. No.735 of 1976, and this Court, by its judgment and decree dated 04.01.1985 (Annexure-R3 to the statement of objections filed respondent No.5), dismissed the said appeal, and thereby confirmed the validity and execution of the registered Will dated 01.04.1944 executed by Narayani Ammal.

15. A perusal of the findings recorded by this Court in R.S.A. No.735 of 1976 would indicate that the said Narayani Ammal had executed a registered Will dated 01.04.1944, bequeathing her estate, namely, the buildings and garden comprised in Survey Nos.89/5,



CNR: KAHC010134452019

NC: 2026:KHC:47251
WP No. 21692 of 2019

89/10 and 89/11 (Holding No.69) of Mudanidambur, Udupi Taluk. The said Will further stipulates that the properties bequeathed thereunder should be enjoyed by her mother or by the children born to her and living as on the date of her death. It was further stipulated that, in the event of there being no surviving children, the said properties should devolve upon the Udupi Local Fund Hospital, so that the income derived therefrom could be utilised towards meeting the expenses of poor pregnant women who approached the Hospital for delivery.

16. In that view of the matter, having regard to the intention of the testator, namely, Narayani Ammal, the property was to bequeath upon the Government, as there being no surviving legal heirs of the said Narayani Ammal. In the present case, the petitioner is the son of A. Achuthan, who has contended that the



CNR: KAHC010134452019

NC: 2026:KHC:47251
WP No. 21692 of 2019

petitioner's family had looked after Narayani Ammal during her lifetime and, on that basis, claims a right over the property in question. The said contention is specifically pleaded at paragraph 5 of the writ petition. However, there is proof to link the relationship between the petitioner and the deceased Narayani Ammal. No record has been produced to establish the title over the schedule property. Further, the father of the petitioner, namely, A. Achuthan, had already suffered a judgment and decree in O.S. No.31 of 1968, which came to be confirmed by this Court in R.S.A. No.735 of 1976. In view of the aforesaid circumstances, I am of the considered view that the petitioner has no legal right to claim any right or interest over the property in question.

17. Though the revenue records stand in the name of the petitioner in respect of the property in question,



CNR: KAHC010134452019

NC: 2026:KHC:47251
WP No. 21692 of 2019

and the respondent-authorities have not taken any steps to take possession of the said property, resulted in challenging the mutation entries made in favour of the petitioner, by the respondent No.5. Therefore, I find some force in the submission made by the learned counsel appearing for the petitioner that respondent No.5, being a stranger to the property, has no locus standi to challenge the mutation entries. However, the petitioner himself has no legal right or title to claim the property in question, which, in terms of the registered Will, has devolved upon and vested in the State Government. Therefore, respondent No.5 has merely brought to the notice of the respondent-authorities their inaction in taking steps to secure possession of the property in question in accordance with law.



CNR: KAHC010134452019

**NC: 2026:KHC:47251
WP No. 21692 of 2019**

18. It is also to be noted that the property in question was bequeathed by deceased Narayani Ammal in favour of the respondent-Government for the specific purpose of establishing a Destitute Women's Maternity Hospital. In view of the same, I am of the considered view that the contentions advanced by the learned counsel appearing for the petitioner cannot be accepted. The father of the petitioner, namely, A. Achuthan, had already suffered a judgment and decree in respect of the said property, which was carried up to this Court and ultimately confirmed, and thereby attained finality. Consequently, the petitioner cannot claim any right or interest over the property in question contrary to the findings which have attained finality.

19. In that view of the matter, it is relevant to cite the judgment of Hon'ble Supreme Court in the case of



CNR: KAHC010134452019

NC: 2026:KHC:47251
WP No. 21692 of 2019

Prestige Lights Limited v. State Bank of India

reported in **(2007) 8 SCC 449**, wherein at paragraphs 27, 28 and 33 to 35, it is held as under:

"27. In Gordon v. Gordon [(1904) 73 LJP 41 : 90 LT 597 : 16 Dig 90 : (1904-07) All ER Rep 702] , Cozens-Hardy, L.J. put the principle succinctly in the following words: (All ER p. 706 E-F)

"... I desire to limit my judgment to a case in which the [party in contempt is saying] that the order complained of is outside the jurisdiction of the court, as distinguished from the case of an order which, although it is within the jurisdiction of the court, ought not, it is said, to have been made."

28. Lord Denning made the following pertinent observations in Hadkinson [1952 P 285 : (1952) 2 All ER 567 (CA)] : (All ER pp. 574 H-575 A)

"It is a strong thing for a court to refuse to hear a party to a cause and it is only to be justified by grave considerations of public policy. It is a step which a court will only take when the contempt itself impedes the course of justice and there is no other effective means of securing his compliance."

33. It is thus clear that though the appellant Company had approached the High Court under Article 226 of the Constitution, it had not candidly stated all the facts to the Court. The High Court is exercising discretionary and



CNR: KAHC010134452019

NC: 2026:KHC:47251
WP No. 21692 of 2019

extraordinary jurisdiction under Article 226 of the Constitution. Over and above, a court of law is also a court of equity. It is, therefore, of utmost necessity that when a party approaches a High Court, he must place all the facts before the Court without any reservation. If there is suppression of material facts on the part of the applicant or twisted facts have been placed before the Court, the writ court may refuse to entertain the petition and dismiss it without entering into merits of the matter.

34. *The object underlying the above principle has been succinctly stated by Scrutton, L.J., in R. v. Kensington Income Tax Commrs. [(1917) 1 KB 486 : 86 LJKB 257 : 116 LT 136 (CA)] , in the following words:*

"[I]t has been for many years the rule of the court, and one which it is of the greatest importance to maintain, that when an applicant comes to the court to obtain relief on an ex parte statement he should make a full and fair disclosure of all the material facts—facts, not law. He must not misstate the law if he can help it—the court is supposed to know the law. But it knows nothing about the facts, and the applicant must state fully and fairly the facts, and the penalty by which the court enforces that obligation is that if it finds out that the facts have not been fully and fairly stated to it, the court will set aside, any action which it has taken on the faith of the imperfect statement."

(emphasis supplied)



CNR: KAHC010134452019

NC: 2026:KHC:47251
WP No. 21692 of 2019

35. It is well settled that a prerogative remedy is not a matter of course. In exercising extraordinary power, therefore, a writ court will indeed bear in mind the conduct of the party who is invoking such jurisdiction. If the applicant does not disclose full facts or suppresses relevant materials or is otherwise guilty of misleading the court, the court may dismiss the action without adjudicating the matter. The rule has been evolved in larger public interest to deter unscrupulous litigants from abusing the process of court by deceiving it. The very basis of the writ jurisdiction rests in disclosure of true, complete and correct facts. If the material facts are not candidly stated or are suppressed or are distorted, the very functioning of the writ courts would become impossible."

(Underlined by me)

20. It is well established principle in law that, exercising jurisdiction under Article 226 of the Constitution of India is discretionary in nature to effectuate the equitable principles. In this regard, it is relevant to cite the judgment of Hon'ble Supreme Court in the case of **Benedict Denis Kenny v. Tulip Brian Miranda and Others** reported in **(2021) 12**



CNR: KAHC010134452019

NC: 2026:KHC:47251
WP No. 21692 of 2019

SCC 780, wherein, at paragraphs 21 and 22, it is held as under:

"21. We need to first notice the nature and extent of the jurisdiction of the High Court under Article 226 of the Constitution of India. The power of judicial review vested in the High Courts under Article 226 and this Court under Article 32 of the Constitution is an integral and essential feature of the Constitution and is basic structure of our Constitution. The jurisdiction under Article 226 is original, extraordinary and discretionary. The lookout of the High Court is to see whether injustice has resulted on account of any decision of a constitutional authority, a statutory authority, a tribunal or an authority within the meaning of Article 12 of the Constitution. The judicial review is designed to prevent cases of abuse of power or neglect of a duty by the public authority. The jurisdiction under Article 226 is used for enforcement of various rights of the public or to compel public/statutory authorities to discharge the public functions entrusted on them. The courts are guardians of the rights and liberties of the citizen and they shall fail in their responsibility if they abdicate their solemn duty towards the citizens. The scope of Article 226 is very wide and can be used to remedy injustice wherever it is found. The High Court and the Supreme Court are the constitutional courts, which have been conferred right of judicial review to protect the fundamental and other rights of the citizens. Halsbury's Laws of England, Fifth Edn., Vol. 24 dealing with the nature of the jurisdiction of superior and inferior courts stated that no matter is deemed to be beyond



CNR: KAHC010134452019

NC: 2026:KHC:47251
WP No. 21692 of 2019

the jurisdiction of a superior court unless it is expressly shown to be so. In para 619, Halsbury's Laws of England states:

"The chief distinctions between superior and inferior courts are found in connection with jurisdiction. Prima facie, no matter is deemed to be beyond the jurisdiction of a superior court unless it is expressly shown to be so, while nothing is within the jurisdiction of an inferior court unless it is expressly shown on the face of the proceedings that the particular matter is within the cognizance of the particular court. An objection to the jurisdiction of one of the superior courts of general jurisdiction must show what other court has jurisdiction, so as to make it clear that the exercise by the superior court of its general jurisdiction is unnecessary. The High Court, for example, is a court of universal jurisdiction and superintendency in certain classes of claims, and cannot be deprived of its ascendancy by showing that some other court could have entertained the particular claim."

22. *The nature of jurisdiction exercised by the High Courts under Article 226 came for consideration by this Court in large number of cases. In Sangram Singh v. Election Tribunal [Sangram Singh v. Election Tribunal, AIR 1955 SC 425] , Article 226 of the Constitution of India in reference to Section 105 of the Representation of the People Act, 1951 came for consideration. Section 105 of the Representation of the People Act provided that "every order of the Tribunal*



CNR: KAHC010134452019

NC: 2026:KHC:47251
WP No. 21692 of 2019

made under this Act (Representation of the People Act) shall be final and conclusive". Argument was raised in the above case that neither the High Court nor the Supreme Court can itself transgress the law in trying to set right what it considers is an error of law on the part of the court or tribunal whose records are under consideration. It was held that jurisdiction of the High Court remains to its fullest extent despite Section 105. This Court also held that jurisdiction of the High Court in Article 226 and under Article 136 conferred on this Court cannot be taken away by a legislative device. In para 13, the following has been laid down : (AIR pp. 428-29)

"13. The jurisdiction which Articles 226 and 136 confer entitles the High Courts and this Court to examine the decisions of all tribunals to see whether they have acted illegally. That jurisdiction cannot be taken away by a legislative device that purports to confer power on a tribunal to act illegally by enacting a statute that its illegal acts shall become legal the moment the tribunal chooses to say they are legal. The legality of an act or conclusion is something that exists outside and apart from the decision of an inferior tribunal.

It is a part of the law of the land which cannot be finally determined or altered by any tribunal of limited jurisdiction. The High Courts and the Supreme Court alone can determine what the law of the land is vis-à-vis all other courts and tribunals and they alone can pronounce with authority and finality on what is legal and what is not. All that an inferior tribunal can do is to reach a tentative conclusion which is subject to review



CNR: KAHC010134452019

NC: 2026:KHC:47251
WP No. 21692 of 2019

under Articles 226 and 136. Therefore, the jurisdiction of the High Courts under Article 226 with that of the Supreme Court above them remains to its fullest extent despite Section 105." "

(underlined by me)

21. In view of the law declared by the Hon'ble Supreme Court in the aforesaid case, it is the duty of this Court, while exercising its writ jurisdiction, to prevent abuse of the process of law and to ensure that the ends of justice are met within the constitutional framework. In that view of the matter, having regard to the findings recorded by the respondent-Authorities, I do not find any perversity or illegality in the impugned orders calling for interference by this Court in exercise of its writ jurisdiction. Accordingly, the writ petition stands ***dismissed***.

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