



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 3RD DAY OF JULY, 2026

BEFORE

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

WRIT PETITION NO. 62967 OF 2016 (LR)

BETWEEN:

1. SRI. VIJAYA ATTAVAR
S/O RAMACHANDRAIAH
AGED ABOUT 69 YEARS
R/AT CHANDRANI HOUSE
NEAR CHAKRAPANI TEMPLE
4TH CROSS ROAD
N.G. ROAD, ATTAVARA
MANGALURU - 575 002.

...PETITIONER

(BY SRI. M. VISHWAJITH RAI, ADVOCATE)

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

AND:

1. STATE OF KARNATAKA
REP BY ITS REVENUE SECRETARY
DEPARTMENT OF REVENUE (LR CELL),
M S BUILDING
BENGALURU - 560001.
2. THE LAND TRIBUNAL
REP BY ITS CHAIRMAN



MANGALURU TALUK OFFICE,
MANGALURU - 575001.

3. SMT. LAKSHMI
W/O LATE GOPALA POOJARY
AGED ABOUT 68 YEARS
MAJALU HOUSE
MUDUPERAR VILLAGE
MANGALURU TALUK - 575 002.

....RESPONDENTS

(BY SMT. SHARADA H.B., AGA FOR R1 & R2;
SRI. O. SHIVARAMA BHAT, ADVOCATE FOR R3)

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.2
LAND TRIBUNAL, MANGALURU IN LRT NO.669, 734/78-79,
HEREIN PRODUCED 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 ORDER

1. In this Writ Petition, the petitioner is assailing the order dated Nil, in case No. LRT:669, 734 /78-79 on the file of the Land Tribunal, Mangaluru, as per Annexure-B.

2. Relevant facts for the adjudication of this Writ petition are that, the mother of the petitioner - Smt. Ambabai, purchased land bearing Sy.No.15/2, 15/6, 15/11, 15/25, 15/26, 15/30, 15/34, 15/40, 15/41, 15/46, 15/7, 191/3A, 228/4A, 254/3 and 255/2, in all measuring 8 acres 65 cents as per registered Sale Deed dated 23.01.1950. It is further stated that, one Puttegowda was a chalageni tenant under the mother of the petitioner and as such, he desired to surrender his chalageni right as per registered Surrender Deed dated 10.04.1968. It is



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further stated that, mother of the petitioner and elder brother - Sri. Venkatesh were cultivating the land till 1975. The petitioner has also produced the registered settlement deed dated 06.01.1975, in favour of the petitioner. It is the case of the petitioner that, petitioner was a retired Captain in Indian Army and retired on 03.03.1996. It is further stated that one Gopala Pujary was cultivating the land in question and was paying land revenue and levy to the State government. It is further stated that, the said Gopala Pujary filed Form-7 before the Land Tribunal, claiming right in respect of the land belonging to the petitioner. It is further stated that, the father of said Gopala Pujary - Bogra Pujary was owning several lands adjacent to the land in question situate at Muduperar Village, Mangaluru Taluk and the said aspect was suppressed by Gopala Pujary. It is also stated that, the said Gopala Pujary,



trespassed into the land belonging to the petitioner and was cultivating the land as the mother of the petitioner and brother were staying at Attavara, Mangaluru. It is further stated that the Land Tribunal initiated proceedings in LRT:CR:734/75-76, based on the Form-7 filed by said Gopal Pujary and after conducting spot inspection, rejected the Form-7 filed by the said Gopala Pujary. Feeling aggrieved by the same, Gopala Pujary filed W.P.No.15459/1982 before this Court and the said Writ Petition came to be allowed and this Court remanded the matter to the Tribunal for fresh consideration. Thereafter, the Land Tribunal by order dated 25.03.1998, allowed Form-7 filed by the said Gopala Pujary and being aggrieved by the same, the petitioner filed W.P.No.22400/1998 and this Court, by Order dated 30.07.1998, allowed the Writ Petition and remanded the matter to Tribunal for fresh consideration. Thereafter, the Land



Tribunal, re-numbered the Form-7 as LRT:734/78-79 and conducted enquiry and conferred occupancy right in favour of said Gopala Pujary. Feeling aggrieved by the same, the petitioner filed W.P.No.53118/2003 and this Court allowed the Writ Petition on 03.02.2009 and remanded the matter to Land Tribunal for fresh consideration. Thereafter, after examining three more witnesses, the Land Tribunal allowed the Form-7 on 05.10.2012. Again the petitioner filed W.P.No.50072/2012 and this Court, vide order dated 26.09.2013, allowed the Writ Petition and remanded the matter to the Land Tribunal and the same was confirmed in Writ Appeal No.6359/2013. Thereafter, the Land Tribunal conducted spot inspection and passed Order at Annexure-B, granting occupancy right in favour of respondent No.3 and her children who were the legal heirs of late Gopala Pujary. Being aggrieved by the



Order at Annexure-B by the Land Tribunal, petitioner has presented this Writ Petition.

3. I have heard Sri. M. Vishwajith Rai, learned counsel appearing for the petitioner, Smt. Sharada H.V., learned Additional Government Advocate appearing for the respondent Nos.1 & 2, and Sri. O. Shivarama Bhat, learned counsel appearing for the respondent No.3.

4. Sri. M. Vishwajith Rai, learned counsel for the petitioner, submitted that the Land Tribunal committed error in ignoring the fact, that the subject land was not vested with the State Government, before considering the Form-7 filed by deceased Gopala Pujary. He further argued by referring to the Order passed by this Court in W.P.No.22400/1998 and W.P.No.53118/2003 and argued that, the said Gopala Pujary failed to establish the tenancy in



respect of the subject land, and therefore, sought for interference of this Court. It is further agued that, the Land Tribunal failed to consider the registered Surrender Deed dated 10.04.1968, in which the earlier tenant surrendered his chalageni right in favour of the petitioner's mother and thereafter, the land was not being cultivated by anyone, much less the said alleged tenant-Gopala Pujary, and therefore, sought for interference of this Court.

5. Per contra, Sri. O. Shivarama Bhat, learned counsel for respondent No.3 argued with reference to the Orders passed by this Court in three Writ Petitions referred to above and further argued that, Gopala Pujary was cultivating the land as a tenant and was paying gutta to the mother of the petitioner and also to the petitioner after execution of Settlement Deed and therefore, sought for dismissal



of the Writ Petition. Learned counsel for the respondent No.3, places reliance on the Judgment of this Court in CHANDRASHEKARAI AH Vs. LAND TRIBUNAL, SHIVAMOGGA, reported in 1980(1) KLJ short note - 153 page 47 and argued that the Land Tribunal has rightly conferred occupancy right in favour of said Gopala Pujary. He also referred to the Judgment of the Hon'ble Supreme Court in the case of RAM AND ANOTHER Vs. STATE OF KARNATAKA AND OTHERS reported in (2004) 7 SCC 796 and argued that the impugned order by the Land Tribunal is based on the spot inspection report and therefore, same cannot be interfered with in this Writ Petition.

6. Learned Additional Government Advocate appearing for the State, produced the original record and sought for dismissal of the Writ Petition.



7. In the light of the submissions made by the learned counsel appearing for the parties, it is not in dispute that the land in question was purchased by mother of the petitioner - Ambabai, as per the registered Sale Deed dated 23.01.1950. Thereafter, one Puttegowda - Chalageni Tenant was cultivating the land under the mother of the petitioner and he had executed registered Surrender Deed dated 10.04.1968. It is also stated that the mother of the petitioner executed registered Settlement Deed dated 06.01.1975 in favour of the petitioner. It is pertinent to mention here that, petitioner was working in the Indian Army and retired on 03.03.1996. It is the case of the petitioner that, mother of the petitioner and brother - Venkatesh were cultivating the land in question. The husband of respondent No.3 - Gopala Pujary had filed Form-7, seeking occupancy right in respect of the subject



land. Perusal of the record would establish that, mother of the petitioner and brother were residing at Mangaluru City. The record of rights, though indicated that, said Ambabai was cultivating the said land during 1968, 1979-80 and 1986, however, there is a discrepancy in the RTC extracts and as such, the surrounding circumstances have to be considered based on the documents filed by the parties. Perusal of the evidence on record and particularly, oral evidence of independent witnesses, would indicate that the family of the petitioner were not cultivating the land personally and were staying at Mangaluru City, on the other hand, Gopala Pujary, neighbouring land tenant was cultivating the land in question.

8. I have carefully examined the finding recorded by the Land Tribunal, and the orders of this Court in the earlier proceedings would establish the



cultivation of the land in question by said Gopala Pujary as on 01.03.1974. It is also pertinent to mention here that, though the learned counsel appearing for the petitioner submitted that mother of the petitioner and brother - Venkatesh were cultivating the land in question, however, the perusal of the record would indicate that, even prior to 1969, one Puttegowda was cultivating the land in question as chalageni tenant, and he had surrendered his rights as per registered Surrender Deed dated 10.04.1968. It is also forthcoming that, the petitioner and his mother were the resident of Mangaluru City and the tenanted land is situate Muduperar Village, little far away from Mangaluru City. Therefore, the Judgment of the Division Bench of this Court in the case of CHANDRASHEKARAI AH (supra) is aptly applicable to the case on hand to assess the tenancy right of husband of the



respondent No.3. In this regard, it is relevant to follow the declaration of the Hon'ble Supreme Court in the case of GOWDARA NANJAPPA Vs. MATADA BASAIAH AND OTHERS reported in (2008) 4 SCC 51, wherein the spot inspection report is one of the factors to consider the occupancy right of the parties. At this stage, it is relevant to follow the law declared by this Court in the case of KRISHNA BHAT Vs. LAND TRIBUNAL, BANTWAL, reported in ILR 1986 KAR 1574, and paragraph Nos.11 and 18 read 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'



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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 atleast 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,



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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.

** * **

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*



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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 declaration of law referred to above, I am of the view, that no interference is called for in this Writ Petition. It is also pertinent to mention here that, the Hon'ble Supreme Court deprecates the practice of remanding the matter on frivolous technical grounds and held that this Court is empowered to look into original records and pass appropriate orders without there being further repeated remand to the Tribunal. This aspect was considered by the Hon'ble Supreme Court in the case of NADAKERAPPA since deceased, by legal representatives Vs. PILLAMMA, since deceased, by legal representatives, reported in 2024 (15) SCC 740. Perusal of the record would indicate that the



land in question was tenanted as on 01.03.1974 with the applicant - Gopala Pujary and as such, the land was vested with the State and therefore, the contention raised by the learned counsel for the petitioner cannot be accepted in this regard.

10. In the result, the Writ Petition is dismissed.

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

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List No.: 1 Sl No.: 61