

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28th DAY OF SEPTEMBER, 2026

PRESENT

THE HON'BLE MR. JUSTICE D K SINGH

AND

THE HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN

WRIT APPEAL NO. 460 OF 2016 (LR)

BETWEEN:

1. SMT. MUDDAMMA
SINCE DEAD BY HER
LEGAL REPRESENTATIVES
- 1(a) SRI. KRISHNAPPA
S/O LATE CHIKKARASAPPA,
AGED ABOUT 87 YEARS,
(DELETED VIDE COURT
ORDER DATED 01/04/2026)
- 1(b) SRI. MUNIYAPPA
S/O LATE CHIKKARASAPPA
AGED ABOUT 72 YEARS
SINCE DEAD BY HER/HIS LRs
- 1(b)(i) M.MUNIRATHNAMMA,
D/O LATE MUNIYAPPA,
W/O CHINNANNA
AGED 57 YEARS,
6TH C.CROSS GOPALAPPA LAYOUT,
MANORAYANAPALYA
R.T.NAGAR POST,
BENGALURU NORTH-560032.
- 1(b)(ii) GAJALAKSHMAMMA,
D/O LATE MUNIYAPPA,
W/O VENKATESHAPPA
AGED 44 YEARS
GANGAREKALUVE RENUMAKALAHALLI
RENUMAKALAHALLI

Digitally
signed by
VASANTHA
KUMARY B K
Location:
HIGH
COURT OF
KARNATAKA

GANGAREKALUVE POST
CHIKKABALLAPURA DISTRICT
PIN-562101

1(b)(iii) MANJUNATHA
S/O LATE MUNIYAPPA,
AGED 38 YEARS
DASARAHALLI VILLAGE,
DEVANAHALLI TALUK,
AVATHI POST-562110.

1(b)(iv) VENKATAMMA
W/O LATE MUNIYAPPA
AGED 79 YEARS,
DASARAHALLI VILLAGE,
DEVANAHALLI TALUK
AVATHI POST-562110

**AMENDED VIDE COURT ORDER
DATED:28.09.2026**

1(c) SRI. THOPANNA
S/O LATE CHIKKARASAPPA
AGED ABOUT 70 YEARS

1(d) SRI. NARAYANASWAMY
SINCE DECEASED BY HIS LR

SMT.CHINNAMMA
AGED ABOUT 60 YEARS

ALL ARE R/O DASARAHALLI VILLAGE,
KASABA HOBLI,
DEVANAHALLI TALUK,
BENGLAURU RURAL DISTRICT-562 110

2. SMT THIMMAKKA
W/O LATE KRISHNAPPA
AGED ABOUT 75 YEARS

3. SRI. CHANDRASHEKAR
S/O LATE KRISHNAPPA
AGED ABOUT 39 YEARS

APPELLANTS 2 & 3 WERE ADDED
VIDE COURT ORDER
DATED:2-8-2022

A-2 AND A-3 ARE R/AT
DEVANAHALLI VILLAGE
KASABA HOBLI,
DEVANAHALLI TALUK
BENGALURU RURAL DISTRICT.

...APPELLANTS
(BY SRI. RAMESH N.K., ADVOCATE FOR A2, A3 AND
A1(C TO D), A1(B1 TO B4))

AND:

SRI M KEMPAIAH
**SINCE DEAD BY HIS
LEGAL REPRESENTATIVES**

1. SMT. MUNITHAYAMMA
D/O LATE KEMPAIAH
AGED ABOUT 75 YEARS
2. SRI K NARAYANASWAMY
S/O LATE KEMPAIAH
AGED ABOUT 71 YEARS
3. SRI PILLAMUNISHAMAIAH
S/O LATE KEMPAIAH
AGED ABOUT 68 YEARS
4. SRI D K MANJUNATH
S/O LATE KEMPAIAH
AGED ABOUT 60 YEARS

ALL ARE R/O SIDDESHWARA NILAYA,
OPP. ENGINEER SIDDEGOWDA HOME
WARD No.22,
SHANTHIPURA BALLAPIRA ROAD,
DEVANAHALLI TOWN

5. THE LAND TRIBUNAL
DEVANAHALLI TALUK

BANGALORE RURAL DISTRICT
REPRESENTED BY ITS CHAIRMAN

...RESPONDENTS

(BY SRI. S.H.RAGHAVENDRA, AGA FOR R5;
SRI. K. MURTHY, ADVOCATE FOR R1, R2 & R4;
R3 SERVED)

THIS WRIT APPEAL IS FILED U/S 4 OF THE KARNATAKA
HIGH COURT ACT PRAYING TO SET ASIDE THE ORDER PASSED
IN THE WRIT PETITION 11611/2003 DATED 18/01/2016.

THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR
JUDGMENT ON 25.08.2026, COMING ON FOR
PRONOUNCEMENT THIS DAY, **HON'BLE MR. JUSTICE
D K SINGH** PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE D K SINGH
and
HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN

CAV JUDGMENT

(PER: HON'BLE MR. JUSTICE D K SINGH)

PREFACE:

1. The present intra-court appeal has been filed impugning the judgment and order dated 18.01.2016 passed by the learned Single Judge in W.P. No.11611/2003 (LR), whereby the order of the Land Tribunal, Devanahalli Taluk dated 09.10.2002 granting occupancy rights in favour of late Smt. Muddamma (predecessor-in-interest of the appellants) came to be quashed, and Form No.7 filed by late Smt. Muddamma came to be rejected.

BRIEF FACTS:

2. The land in dispute is agricultural land bearing Sy.No.92 measuring 1 acre 33 guntas of Dasarahalli Village, Devanahalli Taluk. It is not in dispute that the land originally belonged to one Pilladevappa, who passed away. Late Smt. Muddamma, predecessor of the appellants, has claimed to have been cultivating the land as a tenant inducted by Pilladevappa for over five decades prior to the proceedings.

3. Late Sri. Pilladevappa's widow Smt. Lakshamma and his son Sri P. Muniswamy conveyed the land to late Sri. M. Kempaiah vide registered sale deed dated 22.06.1958 wherein the sale deed contains a specific recital directing the vendee (Kempaiah) to obtain possession of the property from late Smt. Muddamma, who was recorded therein as being in possession of the subject land on behalf of the vendors.

4. Between the erstwhile owner's family and late Sri. Kempaiah on the one hand, and late Smt. Muddamma on the other, several proceedings ensued over the decades: (i) a petition by late Smt. Muddamma under Section 28A of the Mysore Tenancy Act, 1952 in TC No.38/1956-57, which came to be allowed in her favour; (ii) tenancy proceedings filed by late

Sri. Kempaiah for recovery of possession in TC No.20/1960-61, which was dismissed; and (iii) proceedings for recovery of rent in TC No.52/1962-63 filed by late Sri. Kempaiah which also came to be dismissed. It is also on record that revenue entries between 1968-69 and 1975-76 reflected late Sri. Kempaiah as owner and late Smt. Muddamma as cultivator under the system of Wara.

5. On the Karnataka Land Reforms Act, 1961 (for short 'the KLR Act') coming into force, late Smt. Muddamma filed an application in Form No.7 on 11.11.1974, registered as LRF.1/1974-75, claiming occupancy rights. The land tribunal rejected the claim on 30.09.1988 which came to be the subject matter of writ proceedings in W.P.No.29330/1996, wherein the writ Court vide order dated 13.10.2000 remanded the matter to Land Tribunal for fresh consideration. Upon such remand, and after recording the evidence of both sides, the Land Tribunal, by its detailed order dated 09.10.2002, granted occupancy rights in favour of late Smt. Muddamma.

6. Late Sri. Kempaiah assailed the Tribunal's order dated 09.10.2002 in W.P.No.11611/2003. Vide order dated

18.01.2016, the learned Single Judge allowed the writ petition principally on two grounds: firstly, that Muddamma had, in the course of the proceedings, denounced the title/ownership of late Sri. Kempaiah and set the title in third persons i.e., the sons of Pilladevappa, which amounted to a repudiation of the landlord's title attracting forfeiture of any tenancy under Section 111(g) of the Transfer of Property Act, 1882, thereby denuding the Tribunal of jurisdiction to entertain Form No.7 in her favour; and secondly, that the claim of occupancy rights over the entire extent of 1 acre 33 guntas could not be sustained inasmuch as 16 guntas thereof was claimed to have been separately purchased by late Smt. Muddamma herself, without the said extent being demarcated by metes and bounds.

FINDINGS OF THE LEARNED SINGLE JUDGE:

7. The learned Single Judge has recorded that there was no denial that late Smt. Muddamma was in occupation of the land as on 01.03.1974, and observed that the contention that she had denounced late Sri. Kempaiah's ownership was not wholly correct, since the tenancy had never been attorned in late Sri. Kempaiah's favour by Pilladevappa or his legal heirs, and the

question of her accepting him as landlord, or paying him rent, did not on that account arise. On this basis, it was initially observed that the claim of deemed tenancy operated by force of Section 4 of the Act, and that the objection regarding non-demarcation of the 16 guntas purchased by late Smt. Muddamma was only a 'technical objection', since the revenue authorities could work out the extent purchased and the extent held as tenant once occupancy rights were granted.

8. The learned Single Judge, has, proceeded to hold that late Smt. Muddamma's claim to be a lawful tenant was not evidenced by any concrete material apart from the recital in the 1958 sale deed, and that it was late Sri. Kempaiah who had first initiated proceedings to resume possession, in the course of which late Smt. Muddamma had taken the specific stand that she was not his tenant and that he was not the owner of the land.

9. The learned Single Judge held that late Smt. Muddamma, having named late Sri. Kempaiah as the landlord in her application in Form No.7, could not simultaneously be permitted to contend, in the resumption proceedings and in her

evidence before the Tribunal, that he was not the true owner and that title vested in the sons of Pilladevappa. This was held to be a vacillating and mutually inconsistent stand on the question of ownership. Such denunciation of the landlord's title was held, by virtue of Section 111(g) of the Transfer of Property Act, 1882, forfeiture of any subsisting tenancy, whether contractual or deemed, since the assertion of a specific person as landlord, under whom the tenancy is claimed, is the *sine qua non* of a valid application in Form No.7. On this reasoning, it was held that the Land Tribunal stood denuded of jurisdiction to grant occupancy rights in favour of late Smt. Muddamma.

10. On the separate question of the 16 guntas said to have been independently purchased by late Smt. Muddamma, the learned Single Judge, relying on the decision of the Division Bench of this Court in the case of **SHIDDAPPA KARIYAPPA vs LAND TRIBUNAL, RANEBENNUR [1978(1) KLJ 83]** and **NARAYANAGOUDA M.S. vs GIRIJAMMA [1976(2) KLJ 254]**, reversed his own earlier, preliminary observation and held that this was not a mere technical objection, but a settled requirement of law, and that occupancy rights could not be

granted over the entire extent of 1 acre 33 guntas without the 16 guntas independently purchased by late Smt. Muddamma being demarcated by metes and bounds. It was further held that the sale deed under which late Smt. Muddamma claimed the 16 guntas, being subsequent in point of time to late Sri. Kempaiah's registered sale deed, could not affect his title unless his sale deed itself was set aside, which had not been done.

11. The decision of the Supreme Court in the case of ***HONNAMMA AND OTHERS vs NANJUNDAIAH (DEAD) BY L.RS. AND OTHERS [2008 (4) KLJ 385]***, relied upon on behalf of late Smt. Muddamma for the proposition that payment of rent is not a condition precedent for a deemed tenancy, was considered by the learned Single Judge, and was held, on facts, not to fully support her case, that decision having turned on a distinct and narrower question. On this reasoning, the learned Single Judge allowed the writ petition and quashed the order of the Land Tribunal dated 09.10.2002, with the effect that the application filed by late Smt. Muddamma in Form No.7 stood rejected.

SUBMISSIONS ON BEHALF OF THE APPELLANTS:

12. Sri. Ramesh N.K, learned counsel appearing on behalf of the appellants submits that the learned Single Judge erred in interfering with the order dated 09.10.2002 passed by the Land Tribunal, Devanahalli, whereby occupancy rights were granted in favour of late Smt. Muddamma in respect of the subject land.

13. It is submitted that late Smt. Muddamma had filed Form No.7 on 11.11.1974 claiming occupancy rights on the ground that she had been cultivating the land as a tenant under late Pilladevappa for about 20 to 25 years. Her claim was initially rejected by the Land Tribunal. The said order was challenged before this Court in W.P. No.29330/1996 and, by order dated 13.10.2000, the matter was remanded to the Land Tribunal for fresh consideration. Upon remand and after examining the material on record, the Tribunal allowed her claim vide order dated 09.10.2002.

14. The learned counsel further submits that the registered sale deed dated 22.06.1958, under which late Sri. Kempaiah purchased the subject land from Pilladevappa, itself refers to the possession of late Smt. Muddamma over the land. Thus,

her possession was anterior to the purchase made by late Sri. Kempaiah. It is further submitted that late Sri. Kempaiah, after acquiring the property, initiated proceedings for recovery of possession against late Smt. Muddamma, which were contested by her, and that she had also instituted proceedings under Section 28A of the Mysore Tenancy Act, 1952 for protection of her tenancy.

15. The learned counsel further submits that the subsequent purchase of the land by late Sri. Kempaiah did not, by itself, bring the tenancy of late Smt. Muddamma to an end. Since late Sri. Kempaiah did not obtain possession from her in accordance with law, her possession and cultivation still continued. Consequently, as on 01.03.1974, the date relevant under Section 44 of the Karnataka Land Reforms Act, 1961, she continued to be in possession and cultivation of the subject land.

16. The learned counsel further submits that the learned Single Judge proceeded on the premise that, for claiming occupancy rights, late Smt. Muddamma was required to establish a tenancy specifically under late Sri. Kempaiah. According to the appellants, such an approach overlooks the

statutory scheme of Sections 44 and 45 read with Section 4 of the Act. The relevant enquiry was whether late Smt. Muddamma was lawfully cultivating the land and was in possession thereof on the appointed day. Her claim could not be rejected merely because the person from whom she originally derived possession had subsequently sold the land.

17. The learned counsel further submits that the Land Tribunal, after remand, considered the oral and documentary evidence produced by the parties, the witnesses and recorded its findings after a detailed enquiry. The Tribunal's conclusion regarding the possession and cultivation by late Smt. Muddamma was supported by the material on record and did not warrant interference in writ jurisdiction. The learned counsel therefore submits that the order of the learned Single Judge proceeds on an erroneous understanding of the nature of the tenancy claimed by late Smt. Muddamma and fails to give due effect to the statutory scheme governing conferment of occupancy rights.

SUBMISSIONS ON BEHALF OF THE RESPONDENTS:

18. Sri. S.H. Raghavendra, learned AGA, Sri. K. Murthy, learned counsel appearing on behalf of the Respondents

submits that the order dated 09.10.2002 passed by the Land Tribunal is without jurisdiction and is liable to be set aside. It is submitted that, on earlier occasions, the Tribunal had taken the view that the dispute was one which required adjudication by the Civil Court and that the subsequent order granting occupancy rights was not maintainable.

19. It is submitted on behalf of the respondents that late Smt. Muddamma had herself disputed the title of late Sri. Kempaiah over the subject land and had asserted title in late Sri. Pilladevappa and, after his death, in his wife and children. Having denied late Sri. Kempaiah's title, she could not simultaneously claim to be his tenant. It is contended that, even assuming that a tenancy had existed between late Sri. Kempaiah and late Smt. Muddamma, such denial of the landlord's title brought the tenancy to an end in terms of Section 111(g) of the Transfer of Property Act. Consequently, the Land Tribunal could not have proceeded on the basis that a subsisting relationship of landlord and tenant existed between the parties.

20. It is further submitted that Section 44 of the KLR Act applies only to land held by or in the possession of a tenant.

Once late Smt. Muddamma had repudiated the title of late Sri. Kempaiah and denied the existence of a tenancy under him, her possession could not be treated as that of a tenant and her possession thereafter could only be regarded as unauthorised possession, and a person in such possession could not maintain a claim for registration of occupancy rights under the Act.

21. It is further submitted that late Smt. Muddamma herself had acquired 16 guntas of land from the sons of late Sri. Pilladevappa under a registered sale deed dated 13.10.1969, registered as Document No.2275/1969-70 and the said transfer had a direct bearing upon her claim in Form No.7. Once she had purchased a portion of the land which she claimed as a tenant, the Tribunal was required to determine the precise extent in respect of which tenancy was alleged to have continued. In the absence of such determination, the entire extent covered by Sy.No.92 could not have been treated as tenanted land as on 01.03.1974.

22. It is also submitted that the Land Tribunal failed to consider material circumstances bearing directly upon the maintainability of the claim in Form No.7, including the denial of Kempaiah's title, the assertion of title in third parties, the

absence of those persons before the Tribunal, the purchase of 16 guntas by Smt. Muddamma and the absence of particulars sufficient to identify the land claimed as tenanted.

POINTS FOR CONSIDERATION:

23. Having heard the submissions on behalf of both the parties, the only question that arises for our consideration is whether the judgment and order dated 18.01.2016 passed by the learned Single Judge in W.P. No.11611/2003 warrants interference?

ANALYSIS AND CONCLUSION:

24. Late Sri. Kempaiah purchased the subject land through a registered sale deed dated 22.06.1958. The claim of late Smt. Muddamma for registration of occupancy rights was founded upon her alleged tenancy in respect of the subject land. The material on record, however, does not establish that she continued as a tenant under late Sri. Kempaiah after he purchased of the land. The registered sale deed dated 22.06.1958 records late Smt. Muddamma's possession over the land, but it does not record that late Sri. Kempaiah had inducted her as his tenant. On the contrary, the deed itself proceeds on the basis that possession was yet to be obtained

from her and late Sri. Kempaiah initiated proceedings for recovery of possession and rent which demonstrates that he did not accept her as his tenant. This aspect assumes significance in the light of late Smt. Muddamma's own stand wherein she did not claim that she had been inducted as a tenant by late Sri. Kempaiah. She disputed his title and asserted her rights through the family of the original owner. Her claim, therefore, could not be sustained merely on the basis of her continued possession. The statutory protection under the KLR Act as provided under Section 45 is available to a person who satisfies the two requirements namely, (i) the person claiming registration was a tenant of the land before the date of vesting and (ii) he has been cultivating personally. Mere physical possession cannot, by itself, confer the status of a tenant.

25. It is true that a deemed tenancy under Section 4 does not necessarily depend upon a formal induction by the owner. The Supreme Court in the case of **HONNAMMA** (*supra*) has held that the absence of direct authority from the owner by itself does not defeat a claim under Section 4. The question, however, remains whether the claimant was **lawfully**

cultivating the land belonging to another within the meaning of the Act.

26. In the present case, the difficulty in the claim of late Smt. Muddamma is not merely the absence of a formal lease. Her own stand regarding the title of late Sri. Kempaiah, the absence of any record showing acceptance by him as his tenant and the circumstances in which she continued in possession do not establish the necessary legal foundation for treating her as a tenant under him. This Court in the case of **BHIMAPPA CHANNAPPA KAPALI vs BHIMAPPA SATYAPPA KAMAGOUDA [ILR 2002 Kar 3055]** held that lawful cultivation under Section 4 of KLR Act must have a legal foundation and that mere possession or cultivation, by itself, is insufficient.

27. There is also another fact which cannot be overlooked. Late Smt. Muddamma had admittedly purchased 16 guntas in the very survey number under the registered sale deed dated 13.10.1969. Having asserted an independent title over a portion of the same survey number, it was incumbent upon her to clearly identify the portion which she claimed as a tenant and distinguish it from the 16 guntas purchased by her. The

Form No.7 does not furnish sufficient particulars or boundaries by which the alleged tenanted portion can be distinguished from the 16 guntas purchased by Muddamma. Consequently, the Land Tribunal could not have proceeded to grant occupancy rights over the larger extent without first determining the precise extent over which a statutory claim of tenancy was made out. The requirement of proper identification assumes significance where occupancy rights are claimed over only a portion of a survey number. In the case of **M.S. NARAYANAGOUDA vs GIRIJAMMA [1976 (2) Kar LJ 254]**, this Court recognized the importance of identifying the precise extent claimed by the applicant. It was held the Tribunal cannot grant occupancy rights over an extent which is not capable of being clearly identified and distinguished from other portions of the same survey number.

28. Therefore, the Tribunal was required to first determine the precise extent over which late Smt. Muddamma could establish a lawful tenancy. In the absence of such identification, the grant of occupancy rights over the larger extent could not be sustained. The learned Single Judge, therefore, was justified in examining both the nature of late Smt. Muddamma's claim of

tenancy and the failure to identify the extent for which occupancy rights were sought. The Tribunal could not grant occupancy rights merely on the basis of possession without determining the legal character of such possession.

29. We accordingly find that the reasons assigned by the learned Single Judge do not suffer from any error warranting interference in an intra-court appeal. The appeal is accordingly dismissed.

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

**Sd/-
(H.SHANTHI BHUSHAN)
JUDGE**

RKA
CT:SN