



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 8TH DAY OF JULY, 2026

PRESENT

THE HON'BLE MR. JUSTICE D K SINGH

AND

THE HON'BLE MR. JUSTICE T.M.NADAF

WRIT APPEAL NO. 416 OF 2025 (KLR-RES)

BETWEEN:

1. STATE OF KARNATAKA,
REP BY ITS SECRETARY,
REVENUE DEPARTMENT,
M.S. BUILDING,
DR. AMBEDKAR ROAD,
BENGALURU - 560 001.
2. THE DEPUTY COMMISSIONER,
D.K., MANGALURU - 575 001.
3. THE TAHSILDAR,
BANTWAL TALUK,
BANTWAL, D.K.- 574 219.

...APPELLANTS

(BY SRI. M.N. SUDEV HEGDE., ADVOCATE)

AND:

SRI. O.GOPALAKRISHNA BHAT,
S/O LATE O. RAMA BHAT,
AGED ABOUT 62 YEARS,
RESIDING AT ODIYOOR
HOUSE AND POST,
KAROPADY VILLAGE,
BANTWAL TALUK D.K. - 574 211.

...RESPONDENT

(BY SRI. SHIVARAMA BHAT O., ADVOCATE)



THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT, 1961, PRAYING TO CALL FOR RECORDS AND SET-ASIDE THE ORDER PASSED BY THE LEARNED SINGLE JUDGE DATED:31.08.2021 IN WP NO.10482/2019 (KLR-RES) AND ETC.,

THIS APPEAL, COMING ON FOR PRELIMINARY HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE D K SINGH
and
HON'BLE MR. JUSTICE T.M.NADAF

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE T.M.NADAF)

The State and its instrumentalities are before us in this intra-Court appeal calling in question the order dated 31.08.2021 passed by the Writ Court in W.P.No.10482/2019.

2. The Writ Court vide impugned order, set-aside the order dated 18.12.2018 passed by the Deputy Commissioner at Annexure-A, further directed the Deputy Commissioner to consider the application filed by the petitioner in accordance with law and also in terms of the



decision of the Division Bench of this Court in W.A.No.5242/2004, in a time bound manner.

3. The parties are referred to as per their ranking before the Writ Court.

4. Facts in brief leading to file the present appeal are as under:

4.1 It is an admitted fact that the land in Sy.Nos.344/2B, 353/1B, 45/1B1 and 46/1A, in all measuring to an extent of 04 Acres 78 Guntas, for the purpose of cashew cultivation granted under lease for a period of 30 years, by the then Tahsildar, Puttur Taluk in favour of one O.Rama Bhat - father of the petitioner on 22.03.1958.

4.2 There was a stipulation in the Lease Deed that, after completion of 30 years of lease, the lessee has two options, either he can seek for continuation of lease for another term or he can exercise his option of



seeking ownership of the land by paying market value existing as on the date, application is filed.

4.3 In the present case, one such application has been filed by the father of the petitioner with the Deputy Commissioner¹, D.K District, Mangalore. The DC, by means of order dated 31.03.1995 passed an order fixing the market value at the rate of Rs.20,000/- per Acre and directed the father of the petitioner to make good the amount for the purpose of execution of proper deed recognizing and granting ownership of the land in his favour. Aggrieved by the said order, the father of the petitioner approached the Karnataka Appellate Tribunal, Bengaluru² in Appeal No.174/1995.

4.4 The KAT vide order dated 29.02.1996, allowed the appeal and set-aside the order passed by the DC and remanded the matter to hold fresh inquiry and fix the

¹ 'the DC', for short

² 'the KAT', for short



market value. Upon remand, the DC, passed an order afresh on 13.07.1998 fixing the market value at Rs.20,000/- per Acre. The said order was the subject matter in the appeal before the KAT in Appeal No.424/1998. The KAT vide order dated 05.04.1999, once again remanded the matter to the DC to pass fresh orders.

4.5 Aggrieved by the order passed by the KAT, the State was in petition before the Writ Court in W.P.No.10065/2001 and other connected matters. The Writ Court vide order dated 08.11.2004, allowed the Writ Petitions, set-aside the order passed by the KAT and remanded the matter to the DC. The said order was subject matter in W.A.No.5103/2004 and other connected matters. The coordinate Bench of this Court vide order dated 26.10.2007, disposed the Writ Appeals, and remanded the matter to the DC to quantify the market value of the land in question and collect price of the land from the owners and issue



Grant Certificate. For brevity, the operative portion of the order passed by the coordinate Bench of this Court in W.A.No.5103/2004 and connected matters is extracted below:

"8. In view of the above fair submissions on behalf of the appellants, these Writ Appeals are allowed. The impugned order is set-aside. The Deputy Commissioner shall quantify the market value of the land in question and collect the price of the land in question from the owners and shall also issue grant certificate in their favour as expeditiously as possible, but no costs are awarded."

4.6 After remand, this time the petitioner made representations to the DC on 25.11.2008 and 22.10.2012. Since there was a delay in considering the representations, the petitioner approached the Writ Court, in W.P.No.14028/2013, which came to be disposed of, directing the DC and the Tahsildar to consider the representations and pass appropriate orders, in a time bound manner.



4.7 The petitioner again made a request to the DC to consider the directions issued by the Writ Court. Ultimately, the DC vide order dated 18.12.2018, passed an order rejecting the representations of the petitioner stating that the grant for the purpose of cashew cultivation is pending before the Government for decision, however liberty was reserved to file fresh application for grant of permanent lease, as the draft rules are yet to be finalized. This order was the subject matter of the present Writ Petition in W.P.No.10482/2019, seeking to quash the order passed by the DC and a direction to consider the application in accordance with the law.

4.8 The Writ Court after considering the rival submissions, was of the opinion that, though the Draft Rules were framed and published in the Karnataka Gazette on 27.09.2012, but the same are not yet finalized and considering the same, the Writ Court observed that the State cannot keep any



application pending on the basis of any proposed rule which will come into force in future.

4.9 Further observed that the application/ representation would have to be considered on the basis of the law applicable on the date on which the said application or representation was made and not on the future date and relying on the judgment of the Supreme Court in ***T.VIJAYALAKSHMI AND OTHERS VS. TOWN PLANNING MEMBER & ANOTHER***³, held that the State Authorities cannot withhold the application on the basis of a future coming into force of certain law which were not present as on the date of the application. In these circumstances, the Writ Court has held that it was not permissible for the DC in the teeth of the orders passed by the Writ Court and Division Bench of this Court and also a mandamus having been issued by the Writ Court, to reject the application on the basis of the proposed

³ (2006) 8 SCC 502



Draft Rules which has been notified on 27.09.2012. More so when the mandamus was issued on 16.03.2017, this aspect of Draft Rules has not been brought to the notice of the Writ Court on that day. In view thereof, the Writ Court set-aside the order passed by the DC rejecting the application as not being sustainable and contrary to the decision of this Court and directed the DC to consider the application filed by the petitioner in accordance with the law applicable as on the date on which the application was filed, so also in terms of the decision of the Division Bench of this Court in W.A.No.5242/2004 and other connected matters, in a time bound manner. It is this order passed by the Writ Court is called in question in this appeal.

5. Heard, Sri.M.N.Sudev Hegde, learned Additional Government Advocate appearing for the State and Sri.Shivarama Bhat.O, learned counsel appearing for the petitioner/ respondent.



6. Sri.M.N.Sudev Hegde, with all vehemence submits that the market value to be considered under the provisions of law i.e., sub-rule (4) of Rule 43-H of the Karnataka Land Revenue (Amendment) Rules, 1960⁴. The market value of such land cannot be on the basis of 300 times of the revenue as per the contention of the petitioner. It is the market value which has already been fixed way back in the year 1995 at the rate of Rs.20,000/- on the application. He further submits that since the market value fixed in 1995 was not paid and is under challenge for all these years, in view of escalation in the land cost, the petitioner is required to pay market value as on today. In order to buttress his argument, he placed reliance on the Judgment of this Court in case of **STATE OF KARNATAKA AND OTHERS VS. SURAKSHA KANTHARAJ**⁵, wherein this Court having considered the rival submissions and referring to Rule 43-H and sub-rule (4) of the Rules of 1960, held that the market value has to

⁴ 'the Rules of 1960', for short

⁵ W.A.No.2111/2025, disposed of on 10.04.2026



be determined as of the date when the occupancy certificate is granted and not the initial period, as such, the market value fixed as on that date by the DC at the rate of Rs.1,40,000/- has been confirmed and directed the petitioner therein to pay the amount assessed by the DC, in a time bound manner. The reasons assigned in the said Judgment runs from Paragraph No.4 to 11, which reads as under:

"4. In the year 2014, a lease deed was executed, lease cultivation certificate was issued to the petitioner for a period of 5 years, commencing from the agricultural year 2013-14 to the end of June of agricultural year 2018-19. The said lease cultivation certificate specifically provides that upon completion of the lease period if the petitioner would not obtain the land for permanent cultivation regardless to the conditions mentioned in the agreement i.e., the lease cultivation agreement, he would handover the land back to the Government, with further rider that during the lease period the petitioner would not transfer, alienate or encumber the land in any manner whatsoever.

5. The conditions of grant dated 08.01.2014 are separately mentioned in the grant itself. The condition No.8 reads as under:



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"8. As per the order of the Hon'ble Deputy Commissioner dated 08.01.2014, after obtaining the temporary cultivation (Saguvali) chit for this land and fulfilling the prescribed conditions within the stipulated period a proposal shall be submitted in accordance with the rules for conversion into permanent grant by levying the prevailing market value. Accordingly, after fulfilling the conditions of the temporary saguvali chit, the grantee shall submit an application as per rules and obtain the permanent saguvali chit."

6. The petitioner never challenged these terms and conditions in any proceedings and after accepting them, has been cultivating the land for coffee plantation. Once the petitioner has accepted the terms and conditions under which he was granted cultivation rights over the Government land for a period of 5 years, he cannot turn around and challenge the very same conditions of the grant under which the petitioner was conferred the right of cultivate for a period of 5 years. The another aspect of the matter is that Rule 43-H of the Karnataka Land Revenue (Amendment) Rules, 1960 provides for grant of land for cultivation of plantation crops and sub-rule (4) provides the price to be paid for obtaining the occupancy rights in respect of such grants. For ready reference, Rule 43-H and sub-rule (4) of the Karnataka Land Revenue (Amendment) Rules, 1960, are extracted hereunder:

"43-H. Grant of land for cultivation of plantation crops-

(1) Notwithstanding anything contained in the preceding rules of this chapter grant of lands for cultivation of coffee, tea, rubber, cardamom, pepper and cashewnut may be made to any person;



Provided that while making any such grant preference shall be given to applicants belonging to Scheduled Castes and Tribes and to other poor and landless persons and insufficient holders:

Provided further that grant of lands for coffee cultivation shall be on a lease basis in the first instance subject to confirmation after the grantee obtains a license from the Indian Coffee Board for planting coffee on the area so leased within a period of five years from the date of such lease.

(2) xxx

(3) xxx

(4) **Occupancy Price-** *The occupancy price payable in respect of grant of land under this rule shall be the market value of such land.*

7. Sub-rule (4) of Rule 43-H specifically provides that the occupancy price paid with respect to grant of land under Rule 43-H shall be the market value of such land. Therefore, the market value has to be determined as of the date when the occupancy certificate is granted and not the initial period. Since the petitioner was entitled to occupancy certificate after expiry of 5 years from the date of issuance of the lease cultivation certificate dated 08.01.2014, the Deputy Commissioner rightly fixed the market price prevailing in January-2019 i.e., Rs.1,40,000/-. This order of the Deputy Commissioner regarding the terms and conditions of the lease certificate has been challenged before the Karnataka Appellate Tribunal and the Karnataka Appellate Tribunal remanded the matter to the Deputy Commissioner. The Deputy Commissioner on reconsideration again fixed the same price i.e., Rs.1,40,000/- per acre.



8. *Learned Single Judge has not taken consideration of Rule 43-H of the Karnataka Land Revenue (Amendment) Rules, 1960, as extracted hereinabove.*

9. *We, therefore, set aside the impugned judgment and order passed by the learned Single Judge, as the judgment and order passed by the learned Single Judge is without taking note of the provisions of Rule 43-H of the Karnataka Land Revenue (Amendment) Rules, 1960 as extracted hereinabove.*

10. *Once the petitioner has accepted the terms and conditions of the lease dated 08.01.2014 (Annexure-E) which specifically provides for a permanent grant by levying the prevailing market value, in tune with sub-rule (4) of Rule 43-H of the Mysore Land Revenue Code, we find that the impugned judgment and order passed by the learned Single Judge is unsustainable. As noted above, the petitioner has never challenged the terms and conditions of the lease certificate dated 08.01.2014 having taken the benefit of the lease he is not entitled to contend against its terms and conditions. We, therefore, allow the writ appeal and set aside the impugned judgment and order passed by the learned Single Judge.*

11. *The petitioner shall pay the value assessed by the Deputy Commissioner within a period of two months, failing which, the Government shall resume the land."*



7. In contrast, Sri.Shivarama Bhat.O, learned counsel appearing for the petitioner/ respondent with all vehemence submits that the market value to be fixed is 300 times of the revenue as per the order passed by the Division Bench in W.A.No.5242/2004 and other connected matters and not the market value as on the date of application. He further submits that it is 300 times of the revenue of the land which is to be considered as per the submission which has been submitted in the writ appeal supra. The State having suffered the order earlier, now cannot be permitted to take contentions contrary to the order passed by the Division Bench of this Court to contend that the market value required to be paid and relied on the judgment of the coordinate Bench of this Court in the case of **STATE OF KARNATAKA AND ANOTHER VS. MR.ISAK (DEAD) BY LRS⁶**, and sought to dismiss the appeal.

⁶ W.A.No.1270/2019, disposed of on 12.07.2021



8. We having considered the rival submissions, perused the entire Writ Appeal paper.

9. We are not convinced with the argument of Sri.M.N.Sudev Hegde, that the petitioner is required to pay the market value as on today. The reason being, as rightly considered by the Writ court, the amount which is to be reckoned is as per the market value which is prevailing on the date of application in terms of sub-rule (4) of Rule 43-H of the Rules of 1960. All these years the matter in one or the other way is pending before several authorities and before this Court in Writ Petitions and Writ Appeals and ultimately ended in rejecting the representations of the petitioner, by the DC, which was the subject matter in present writ petition under this appeal.

10. We are also not in a position to comprehend the argument of Sri.Shivarama Bhat.O, that the coordinate Bench of this Court in the earlier Writ Appeal directed the DC to consider the market value as 300 times of the



revenue of the land. What has been recorded in the order is the submission in respect of 300 times of revenue of the land made by the appellant therein. However, in the operative portion which we have already extracted, there is no such order, which suggest that the market value to be considered is 300 times of the land revenue payable on the land. The land revenue has been fixed for the purpose of grant of land in terms of earlier lease created, must be in terms of sub-rule 4 of Rules 43-H which prescribes that occupancy price payable in respect of grant of land under this Rule shall be the market value of such land.

11. As Rule 43-H is also applicable to the land in dispute, as the land was granted on lease for cashew nut cultivation, and since the matter has remained pending for consideration since 1995 - the year in which the DC fixed the market value at the rate of Rs.20,000/- per Acre and in one way or another the amount has not been paid these years. We therefore, deem it appropriate to direct the petitioner to pay interest @ 18% per annum on the



amount payable on the market value fixed at the rate of Rs.20,000/- per Acre, in the 1995 to put a quietus to the carry down litigation.

12. Admittedly, the land in dispute is 04 Acres 78 Guntas. In that view of the matter, the market value which is payable, approximately comes to Rs.1,00,000/- and the interest @ 18% per annum would come to Rs.5,40,000/-. In altogether, along with the amount of market value as well as interest, it comes to Rs.6,40,000/- . However, this amount is fixed on an approximate guess work. Since the petitioner is in cultivation of the land ever since the lease deed dated 22.03.1958 and continuing the same and developed the land, therefore, we are of the considered opinion that if the petitioner is directed to pay a sum of Rs.6,00,000/- as market value to the entire extent of 04 Acres 78 Guntas of land spread in Sy.Nos.344/2B, 353/1B, 45/1B1 and 46/1A, the same would meet the ends of justice. Accordingly, we dispose of the Writ Appeal with the following observations:



ORDER

- (i) The Writ Appeal is ***disposed of***.
- (ii) The petitioner shall pay the market value of entire 04 Acres 78 guntas of land spread in Sy.Nos.344/2B, 353/1B, 45/1B1 and 46/1A, fixed at Rs.6,00,000/- (Rupees Six Lakhs only) within a period of 2 months from today.
- (iii) If the amount is paid, the Deputy Commissioner of the concerned District shall execute proper conveyance deed/ issue Grant Certificate conveying the entire property permanently in favour of the petitioner and granting right of ownership of the land without causing any further delay, within one month from the date of deposit of the amount by the petitioner.
- (iv) If the amount is not paid within the time prescribed above, the concession now granted will not be available to the petitioner



and the State Government can take action in
that regard in accordance with the law.

- (v) No order as to costs.
- (vi) In view of disposal of Writ Appeal, pending
interlocutory applications, if any, stand
disposed of.

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

**Sd/-
(T.M.NADAF)
JUDGE**

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