

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 5TH DAY OF JUNE, 2026

BEFORE

THE HON'BLE MR. JUSTICE R. DEVDAS

WRIT PETITION NO.45286 OF 1995 (LR)

BETWEEN

SRI. VENKATARAMANA TEMPLE
KARKALA
DAKSHINA KANNADA
REP. BY ITS HEREDITARY TRUSTEE
K.VITTAL PAI
AGED 45 YEARS
RESIDING NEAR SVT TEMPLE MAIN ROAD
KARKALA, DAKSHINA KANNADA.

...PETITIONER

(BY SRI.K.CHANDRANATH ARIGA., ADVOCATE)

AND

Digitally signed
by JUANITA
THEJESWINI
Location: HIGH
COURT OF
KARNATAKA

1. SUBRAYA HEGDE
S/O MANJUNATHA HEGDEE
BORUKATTE IN MIYUR VILLAGE
KARKALA TALUK
DAKSHINA KANNADA.
2. GOPALA HEGDE
S/O MANJUNATHA HEGDE
BORUKATTE IN MIYUR VILLAGE
KARKALA TALUK
DAKSHINA KANNADA.
- 2A. SMT. RUKMA HEGDE
W/O GOPAL HEGDE
AGED ABOUT 82 YEARS
- 2B. DR. MOHINI ACHAR
D/O GOPAL HEGDE
AGED ABOUT 66 YEARS

2C. SMT. CHITHRA N.SHENOY
D/O GOPAL HEGDE
AGED ABOUT 64 YEARS

2D. SATISH HEGDE
S/O GOPAL HEGDE
AGED ABOUT 62 YEARS

2E. JAGADISH HEGDE
S/O GOPAL HEGDE
AGED ABOUT 60 YEARS

2F. DR. VINOD HEGDE
S/O GOPAL HEGDE
AGED ABOUT 58 YEARS

2A TO 2F ARE R/A: MAHAMYA
TELLER ROAD
KARKALA VILLAGE
KARKALA TALUK
UDUPI DISTRICT.

3. THE LAND TRIBUNAL
KARKALA TALUK
KARKALA
REP. BY ITS CHAIRMAN
LAND TRIBUNAL
KARKALA TALUK
KARKALA, DAKSHINA KANNADA.

4. THE STATE OF KARNATAKA
REP BY ITS SECRETARY
DEPARTMENT OF REVENUE
VIDHANA SOUDHA
BANGALORE-560001.

.....RESPONDENTS

(BY SRI.RAMACHANDRA R NAIK., ADVOCATE FOR R1
SRI.K.C.SHANTAKUMAR, ADVOCATE FOR R2
(R2A TO R2D & R2F)
SRI.G.B.MANJUNATHA., ADVOCATE FOR R2(E)
SRI. SESHU V., HCGP FOR R3 & R4)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE DIRECTION OR ORDER QUASHING THE ORDER DATED 16.10.1981 PASSED BY THE R3 IN TRL 1307/80-81 PRODUCED HEREIN AND MARKED AS ANNEX-A AND ETC.

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED ON 24.03.2026 AND COMING ON FOR PRONOUNCEMENT OF ORDERS, THIS DAY, THIS COURT MADE THE FOLLOWING:

CORAM: HON'BLE MR JUSTICE R DEVDAS

CAV ORDER

(PER: HON'BLE MR. JUSTICE R. DEVDAS)

Though this writ petition was earlier heard and allowed by order dated 20.03.2006, nevertheless, the said order was recalled by order dated 24.02.2020, on the ground that the order dated 20.03.2006 was passed against a dead person, viz., respondent No.2. The petitioner questioned the order dated 20.03.2006 before the Division Bench and the appeal was dismissed. Thereafter, the petitioner approached the Hon'ble Supreme Court in SLP (Civil) No.25260/ 2023. The Hon'ble Supreme Court held that the parties should be allowed to contest the matter on merits, instead of non-suiting them only on the ground of delay. Accordingly, while confirming the order dated 24.02.2020

and the order passed by the Hon'ble Division Bench, the matter is remitted back to this Court for reconsideration of the writ petition afresh, without going into the question of delay. All other contentions are left open to be urged before this Court.

2. Learned Counsel for the petitioner-temple and owner of the petition schedule properties submitted that applications along with Form No.7 were filed by Sri.Gopala Hegde and his brother Sri.Subraya Hegde seeking occupancy rights against the petitioner-temple. The subject matter of the instant writ petition is Sy.No.151/1A measuring 88 cents; Sy.No.151/11A2 measuring 01 cent and Sy.No.151/2A measuring 2 Acres 23 cents. It is the contention of the petitioner-temple that the petition schedule properties were not mentioned in the applications filed by both the brothers. In the impugned order, the Land Tribunal has clearly stated that Sri.Gopala Hegde made a statement before the Tribunal on 21.08.1981 that he is in occupation and cultivation of the lands claimed by him, on behalf of his family members and therefore, he pleaded

before the Tribunal that occupancy rights may be conferred on his brother Sri.Subraya Hegde. Accordingly, the Tribunal proceeded to pass the impugned order. However, learned Counsel for the petitioner submitted that since the three items of the petition schedule properties were never part of the application filed by the two brothers, the Tribunal could not have conferred occupancy rights in respect of the three items of the petition schedule properties. It is submitted that admittedly no application for amendment is filed and at no point of time, before the impugned order could be passed by the Tribunal, it was brought to the notice of the petitioner-temple that the contesting respondents are also claiming occupancy rights in respect of the petition schedule properties. In that view of the matter, it is submitted that the decisions relied upon by the learned Counsel for the contesting respondents, will have no bearing on the facts and circumstances of the case. Learned Counsel would therefore submit that the Tribunal has erred in conferring occupancy rights in favour of the contesting respondents, insofar as the three items of the petition schedule properties are concerned.

3. Per contra, learned Counsel for the contesting respondents submits that there are catena of decisions of this Court and of the Hon'ble Supreme Court where it is consistently held that mere non-mentioning of the survey numbers should not be held against the tenants, who are mostly illiterates. It has been held that non-filing of application for amendment of the survey numbers or non-inclusion of survey numbers also cannot be held against the tenants. The decisions are as follows:

(1) **W.P.No.20080/1991 between Padmaraja Athikari Vs. The Land Tribunal, Karkal and others, dated 15.07.1993** – The Tribunal has got jurisdiction to verify and ascertain the correctness of the survey numbers, because the possibility of mentioning wrong survey numbers cannot be ruled out, since Form No.7 are filed by villagers who may be illiterates and ignorants. The Tribunal can confer occupancy rights even though the survey number is not mentioned in Form No.7, if the Tribunal finds in the enquiry that the applicant is a tenant in occupation of those lands.

(2) **Appi Belchadthi and Others Vs. Sheshi Belchadthi, ILR 1982 Kar 1466–**

(3) **A. Susheela Vs. The 1st Land Tribunal, Puttur and Others 2005 SCC OnLine Kar. 628** – If the tenant happens to be illiterate and a rustic villager who got filed a Form No.7 and a particular survey number or item property is not mentioned, it is the duty of the Tribunal to find out whether the applicant is in possession, enjoyment and cultivation of the said lands. If the report of the Surveyor and the Tahsildar who have inspected the spot, disclose the said factum, non-filing of an application seeking amendment should not be held against the applicant.

(4) **Honnamma and Others Vs. Nanjundaiah (D) by L.Rs and Ors. (AIR 2008 SC 2076)** – Mere mis-description of property in Form No.7 would not be hit by the embargo placed by Act with regard to filing application before cut off date – Amendment application to rectify mis-description cannot be rejected on the ground of limitation.

4. Learned Counsel for the contesting respondents would therefore submit that there is no infirmity that can be found in the impugned order passed by the Tribunal. Moreover, it is also clear from the impugned order that one of the representatives of the petitioner-temple appeared before the Tribunal and made a statement that the applicants were not in possession in Sy.No.151/1C measuring 13 cents and 151/1E measuring 03 cents and therefore, occupancy rights should not be granted in the said survey numbers. A clear statement was made by the said representative of the petitioner-temple that occupancy rights can be conferred to the applicants in respect of the other survey numbers. Accordingly, the Tribunal rejected the application of the applicants insofar as Sy.No.151/1C and 151/1E are concerned. Learned counsel would therefore submit that there is no substance in the contentions raised by the petitioner-Temple.

5. At this juncture, learned Counsel for the petitioner-Temple submitted that it is clear from the impugned order that the statement of the representative of the petitioner-

Temple was recorded much before the impugned order was passed. It is clear that the representative of the petitioner-Temple objected to grant of occupancy rights in respect of Sy.Nos.151/1C and 151/1E and he stated no objection in respect of the other properties claimed by the applicants. Therefore, it is also clear that before the Tribunal could consider grant of occupancy rights in respect of the petition schedule properties, which were not mentioned in Form No.7, it was not put to the representative of the petitioner-Temple. The petitioner-Temple was not apprised of such a claim made by the applicants, which were not found in Form No.7. It is also clear from the impugned order that the Tribunal proceeded on the basis of the spot inspection made by the Tribunal and the statement given by Sri Gopala Hegde before the Taluka Surveyor, in respect of the three items of petition schedule property. A statement was recorded by the Taluka Surveyor that in Form No.7 filed by the two brothers, Sy.Nos.151/1 and 151/2A were wrongly shown as Sy.Nos.251/1 and 251/2A. This aspect of the matter was never put to the petitioner-Temple before the impugned order was passed by the Tribunal. The learned

Counsel for the petitioner-Temple sought to place reliance on ***Basappa Vs. The Land Tribunal, Bagalkote Taluk, and Others 1977 SCC OnLine KAR 230/ AIR 1978 KAR 44***, where it was held that when a person never made an application before the Tribunal the right under Section 48-A claimed by him cannot be conferred on him. Where the person who would otherwise be entitled to claim occupancy rights under Section 45 read with Section 48-A, had made no application in the manner provided, to the Land Tribunal, such person loses the right to claim occupancy rights.

6. Heard learned Counsel Sri K.Chandranath Ariga, for the petitioner-Temple, Sri Ramachandra R. Naik for respondent No.1, Sri K.C.Shantha Kumar for respondent No.2(a) to (d) and (f), learned Counsel Sri G.B.Manjunath for respondent No.2(e), learned AGA for the respondent-State, the Land Tribunal and the revenue authorities and perused the petition papers.

7. During the course of these proceedings, it is brought to the notice of this Court that the three items of petition schedule properties, which were not mentioned in

Form No.7 filed by both the brothers, are in the immediate vicinity of the Temple and they are situated in the heart of Karkala Town. It is contended by the petitioner-Temple that the petitioner-Temple was always in occupation and enjoyment of the properties in question. It was only in the year 1995, just before the filing of the writ petition, when the contesting respondents sought to interfere in the petition schedule properties, the petitioner came to know of the inclusion of the three items of properties in the impugned order. That is in fact the reason why there was a delay in filing the writ petition, although the orders were passed by the Tribunal on 16.10.1981. The petition schedule properties are valuable pieces of property and therefore, the rights over the properties in question cannot be given up by the petitioner-Temple. On the other hand, the petitioner-Temple has voluntarily given up its claims in respect of all other properties mentioned in Form No.7 except Sy.Nos.151/1C and 151/1E.

8. This Court has also noticed the facts recorded in the impugned order that one of the representatives of the

petitioner-Temple appeared before the Tribunal earlier and raised objection insofar as Sy.Nos.151/1C and 151/1E are concerned and it is recorded by the Tribunal that the petitioner-Temple has no objection in respect of the other items of properties mentioned in Form No.7. It is therefore clear that the decision of the Tribunal to confer occupancy rights in respect of the three items of the petition schedule property were never made known to the petitioner-Temple.

9. Viewed from this angle, this Court is of the considered opinion that irrespective of whether the applicants before the Tribunal sought for amendment of the application and inclusion of the three items of the petition schedule property or not, the basic requirement of adhering to the principles of natural justice is mandatorily to be followed by the Tribunal. Such course of action not being taken by the applicants before the Tribunal and by the Land Tribunal itself, the contention of the petitioner-Temple is sustainable. There is nothing on record to show that after the statement of Sri Gopala Hegde recorded by the Taluka Surveyor, regarding wrong mentioning of the survey

numbers, the same was put to the petitioner-Temple. On the other hand, it is clear from the material available on record, that the representative of the petitioner-Temple raised an objection in respect of two items of properties mentioned in the application and he stated that the petitioner-Temple will have no objection for grant of occupancy rights in respect of the other items of the properties mentioned in the application. The petitioner-Temple has been fair before the Land Tribunal. On the other hand, the Land Tribunal has failed to follow the principles of natural justice in not apprising the petitioner-Temple of the claim of the applicants to treat Sy.Nos.251/1 and 251/2A as Sy.Nos.151/1 and 151/2A. It is elsewhere said that the aggrieved must be appraised and it is the constitutional creed flowing from the postulates of Article 14 of the Constitution of India. This aspect of the matter, coupled with the fact that the properties in question are in the immediate vicinity of the petitioner-Temple and they are situated in the heart of Karkala Town, it should be concluded that there is substance in the contention of the

petitioner-Temple. The petitioner-Temple has never given up its claim in respect of the petition schedule properties.

10. For the reasons stated above, the writ petition is **allowed**. The impugned order at Annexure 'A' dated 16.10.1981 in proceedings bearing No.TRL 1307/1980-81, passed by the third respondent-Land Tribunal, Karkala Taluk, is hereby quashed, insofar as the three items of the petition schedule properties are concerned, viz., Sy.No.151/1A measuring 88 cents; Sy.No.151/11A2 measuring 01 cent and Sy.No.151/2A measuring 2 Acres 23 cents.

Ordered accordingly.

Pending I.A.s, if any stand disposed of.

**Sd/-
(R DEVDAS)
JUDGE**

DL/JT
CT: JL