



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 2ND DAY OF JULY, 2026

BEFORE

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

WRIT PETITION NO.8329 OF 2023 (KLR-RES)

BETWEEN:

SRI. Y D SOMAIAH
S/O DEVAIAH
AGED ABOUT 69 YEARS,
R/AT MONNANGERI VILLAGE,
MADIKERI TALUK
KODAGU DISTRICT - 571201.

...PETITIONER

(BY SRI. C.R. GOPALASWAMY, SENIOR COUNSEL FOR
SRI. BHARGAV G., ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
REPRESENTED BY ITS
SECRETARY,
DEPARTMENT OF REVENUE,
M S BUILDING ,
AMBEDKAR VEEDHI
BENGALURU - 560001.
2. THE DEPUTY COMMISSIONER
MADIKERI,
KODAGU DISTRICT - 571201.
3. THE ASSISTANT COMMISSIONER
DIVISION MADIKERI
KODAGU - 571201.

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



4. THE TAHSILDAR
MADIKERI TALUK,
KODAGU DISTRICT - 571201.
5. THE COMMITTEE FOR REGULARIZATION OF
UNAUTHORIZED CULTIVATION
MADIKERI TALUK
MADIKERI - 571201.
6. SMT. UMA BALAGAVI
W/O SRI. T.B. BALAGAVI
R/AT NO.120, MIG, KHB COLONY
BASAVESHWARANAGAR
BENGALURU - 560 003.

...RESPONDENTS

(BY SMT. B.P. RADHA, AGA FOR R1 TO R5;
SRI. SIDDARTH SUMAN, ADVOCATE FOR R6)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226
AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO
QUASH THE ORDER DATED 31.07.2012 PASSED BY THE
RESPONDENT NO.5 IN PROCEEDING ISSUED BY TAHSILDAR
MADIKERI TALUK MADIKERI VIDE ANNEXURE-A; QUASH THE
ORDER DATED 26.12.2017 PASSED BY THE RESPONDENT
NO.3 THE ASSISTANT COMMISSIONER IN APPEAL VIDE
ANNEXURE-B; AND ETC.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING
IN 'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS
UNDER:



CORAM: HON'BLE MR. JUSTICE E.S.INDIRESH

ORAL ORDER

1. In this Writ Petition, petitioner is assailing the order dated 31.07.2012 (Annexure-A) passed by respondent No.5, order dated 26.12.2017 (Annexure-B) passed by respondent No.3 and the order dated 21.10.2020 (Annexure-C) passed by respondent No.2, inter alia, sought for a direction to respondent No.5 - Committee for regularisation of unauthorised cultivation of the land in question in respect of which the petitioner has made an application in terms of the order dated 21.01.2008 passed by this Court in W.P.No.14021/2006 (Annexure-G) to the Writ Petition.

2. The relevant facts for adjudication of this Writ Petition are that the petitioner has made an application in form-53, seeking regularisation of unauthorised cultivation of land bearing Sy.No.52/1A of Monnangeri Village, Madikeri Taluk, Kodagu District, to an extent of 4 acres 50 cents as per the application dated 09.01.1999 produced at Annexure-D. It is the case of the petitioner, that the petitioner is in cultivation of the land in



question for more than 40 years and as such, filed an application seeking regularisation of unauthorised cultivation. In the meanwhile, Government has taken 9 acres of land in Sy.No.13 of Kalakeri Nidugane Village, Madikeri Taluk, Kodagu District from one B.S. Kaveriyappa, S/o late B.N.Somaiah for the purpose of establishing Jawaharlal Navodaya Vidyalaya and as such, there is an arrangement that the Government will arrange an alternative land to the said donors of the land in question. It is also forthcoming in the writ petition that as the Government has not taken any decision to grant the alternative land to the said B.S. Kaveriyappa, as such, B.S. Kaveriyappa filed W.P.No.6139/1997 before this Court, seeking writ of mandamus directing respondents to allot the alternative land as promised. However, the said Writ Petition came to be dismissed on 16.07.1999 as per Annexure- E. Feeling aggrieved by the same, said B.S. Kaveriyappa had filed W.A.No.7361/1999 before this Court and the Division Bench of this Court, as per order dated 22.02.2020 (Annexure-F), set aside the order passed by the learned Single Judge in the Writ Petition. It is also forthcoming from the Writ petition papers, that the petitioner had filed W.P.No.14021/2006 seeking direction from



the respondent - authority to consider Form-50 filed by the petitioner herein and this Court, vide order dated 21.01.2008(Annexure-G), allowed the Writ Petition and directed the respondent No.5 - Committee to prepare a survey sketch and demarcate the land and thereafter allot the land in question in favour of the petitioner. In the meanwhile, after remand made by this Court, the respondent - Committee has conducted the proceedings as per Annexure-A and the decision has been taken and as such, rejected the application in Form - 50 filed by the petitioner herein and feeling aggrieved by the same, the petitioner has presented this Writ Petition.

3. Heard Sri. C.R. Gopalaswamy, learned Senior Counsel appearing for Sri. Bhargav G., learned counsel for the petitioner and Smt. B.P. Radha, learned Additional Government Advocate appearing for the respondent Nos.1 to 5, and Sri. Siddharth Suman, learned counsel appearing for the respondent No.6.

4. Sri. C.R. Gopalaswamy, learned Senior Counsel, invited the attention of the Court to the findings recorded by respondent No.5 - Committee as per Annexure-A and submitted that no survey sketch has been prepared, nor spot



inspection has been made in terms of the order passed by this Court in W.P.No.14021/2006 (Annexure-G) and ultimately the respondent No.5 - Committee has rejected the application made by the petitioner without affording opportunity of hearing to the petitioner and accordingly, sought for interference of this Court. It is also submitted by the learned Senior Counsel that, respondent No.6 is in no way concerned with the land claimed by the petitioner in Sy.No.52/1A of Monnangeri Village, Madikeri Taluk, Kodagu District, however, respondent No.6 is claiming right over the property in question and therefore, submitted that the claim made by respondent No.6 cannot be accepted in this Writ Petition and accordingly, sought for interference of this Court.

5. Per contra, Sri. Siddharth Suman, learned counsel appearing for respondent No.6, submitted that the land belonging to respondent No.6 has been converted as per the O. M. dated 01.09.2018 (Annexure-R4) and also submitted that the land bearing Sy.No.52/1A claimed by the petitioner herein is overlapping with the land claimed by respondent No.6 and therefore, submitted that the right of respondent No.6 has to



be considered as to the confirmation of right in favour of the petitioner is concerned and accordingly, sought for interference of this Court. It is also contended by learned counsel for respondent No.6 by referring to the schedule mentioned in the proceeding in O.S.No.71/2025 on the file of Senior Civil Judge and CJM at Madikeri, Kodagu and also in O.S.No.28/1997 on the file of Prl. Civil Judge (Jr.Dvn.) at Madikeri, wherein the suit filed by the petitioner herein came to be dismissed by Judgment and Decree dated 04.09.2004 and accordingly submitted that the Writ Petition deserves to be dismissed.

6. Smt. B.P. Radha, learned Additional Government Advocate appearing for respondent Nos.1 to 5 sought to justify the impugned orders.

7. In the light of the submissions made by the learned counsel appearing for the parties, on careful consideration of the application made by the petitioner herein in Form-50 would indicate that the petitioner has sought for an extent of 4 acres 50 cents in Sy.No.52/1A and an extent of 3 acres 50 cents and an extent of 4 acres 50 cents in Survey No.52. What is claimed by the respondent No.6 is in respect of Survey No.



52/24(52/2A). In this regard, it is relevant to extract the para numbers 4 to 6 in the Order dated 21.01.2008 in W.P.No.14021/2006 (Annexure-G):

4. After notice, the 5th respondent has entered appearance and has filed his statement of objections inter alia contending that pursuant to Annexure 'R1' as directed by this Court in the writ appeal, an extent of 7 acres in Sy.No.52/24(52/2A) has been allotted to them and they have been put in possession. It is also submitted that the petitioners herein had filed a suit in O.S.No.28/1997 seeking injunction as against the 5th respondent in respect of 10 acres of land claiming that they are in possession. But however, the said suit was dismissed holding that they were not in possession. Hence, he would contend that the grant, which is made in his favour is altogether different ie., in Sy.No.52/24(52/2A) and has got nothing to do with the land, which the petitioners claim that they are unauthorised occupants.

5. Mr.G.Chandrashekaraiah, learned Additional Government Advocate appearing for the State submits



that in so far as the non-consideration of the application of the petitioners for regularisation is concerned, they would do it immediately. In so far as the grant, which is made in favour of respondent No.5 is concerned, he would submit that it is an altogether different land and does not relate to the petitioners' claim for regularisation.

6. Apparently, a perusal of the applications Annexures 'A' and 'B' would disclose that the petitioners claim that they are in unauthorised occupation to an extent of 3 acres 50 cents and an extent of 4 acres 50 cents both in Sy.No.52/1A. The land, which has been allotted in favour of respondent No.5 is Sy.No.52/24 (52/2A) as directed by this Court. It is also submitted by the learned counsel appearing for the parties that the entire extent of Sy.No.52/1A measures 85 acres 90 cents.

8. On careful consideration of the aforementioned aspects and also the relevant documents filed by the petitioner at Annexure-N would indicate that there is no spot inspection conducted by respondent No.5 - Committee. In that view of



the matter, I am of the view that, the respondent No.5-Committee has not followed the directions issued by this Court in W.P.No.14021/2006 disposed of on 21.01.2008 and as such, the action of respondent - authority is deprecated.

9. In so far as the arguments advanced by the learned counsel for respondent No.6 as to dismissal of the suit filed by the petitioner and the reasons recorded in O.S.No.28/1997 are concerned, the same cannot be construed as relevant for the purpose of adjudication of this Writ Petition as the entire claim made by the petitioner in this Writ Petition is with regard to regularisation of unauthorised occupation of the land in question by the petitioner. In that view of the matter, I find force in the submissions made by the learned Senior Counsel appearing for the petitioner.

10. Further, it is made clear that since the claim made by respondent No.5 is not with regard to the land claimed by the petitioner in Form-50 and same has been clarified by this Court in W.P.No.14021/2006 (Annexure-G), I am of the opinion that the claim made by respondent No.5 in respect of the land claimed by the petitioner herein, cannot be accepted.



11. In the result, I pass the following:

ORDER

(I) The Writ Petition is allowed.

(ii) The order dated 31.07.2012 (Annexure-A) passed by respondent No.5, order dated 26.12.2017 (Annexure-B) passed by respondent No.3 and the order dated 21.10.2020 (Annexure-C) passed by respondent No.2, are hereby quashed and a direction is issued to respondent No.5 - Committee to consider the application made by the petitioner in terms of the Order of this Court in W.P.No.14021/2006 disposed of on 21.01.2008, at the earliest.

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

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List No.: 1 Sl No.: 47