

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 16TH 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. 698 OF 2025 (KLR-RES)

BETWEEN:

1. THE STATE OF KARNATAKA
BY ITS PRINCIPAL SECRETARY,
DEPARTMENT OF REVENUE,
M.S.BUILDING,
BENGALURU – 560 001.
2. THE TAHSILDAR,
DEVANAHALLI TALUK,
BENGALURU RURAL DISTRICT,
DEVANAHALLI – 562 110.

...APPELLANTS

(BY SRI.B.RAVINDRANATH, AGA)

AND:

1. SHRI.S C BURMAN,
S/O LATE M C BURMAN,
R/A NO. 501-A, ACMS RESIDENCE,
NO.10, SIR C V RAMAN,
HOSPITAL ROAD, MICHAEL PALYA,
INDIRANAGAR, BENGALURU – 560 038.
2. THE DEPUTY COMMISSIONER,
BENGALURU RURAL DISTRICT,
BENGALURU – 560 001.

...RESPONDENTS

(BY SRI.ASHOK HARANAHALLI, SENIOR ADVOCATE FOR
SRI.R. HEMANTH RAJ, ADVOCATE FOR R1;
R2 SERVED)

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by MALA K N
Location: HIGH
COURT OF
KARNATAKA

THIS WRIT APPEAL FILED U/S 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO A) SET ASIDE THE ORDER DATED 09.10.2023 PASSED IN WRIT PETITION No. 46616/2017 (KLR-RES) IN THE INTEREST OF JUSTICE AND EQUITY AND B) ISSUE ANY OTHER ORDER/ DIRECTIONS AS THIS HON'BLE COURT DEEMS FIT IN THE FACTS AND CIRCUMSTANCES OF THE CASE.

THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 25.08.2026 AND COMING ON FOR PRONOUNCEMENT THIS DAY, **HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN** MADE 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 H.SHANTHI BHUSHAN)

1. The chequered litigation history and genesis of the present appeal:

The controversy has its genesis in **W.P.No.35084/2012**, followed by **W.A.No.3727/2013** and **Review Petition No.1143/2014** arising therefrom. During the pendency of the said review petition, the Deputy Commissioner passed an order dated 13.07.2015 in **Revision Petition No.56/2014-15**, which was thereafter challenged by the petitioner in

W.P.No.46616/2017. The said writ petition came to be dismissed by the learned Single Judge vide order dated 9.10.2023, leading to the present appeal. The entire controversy, therefore, requires consideration in the backdrop of these successive proceedings, as the order passed in Revision Petition No.56/2014-15 during the pendency of Review Petition No.1143/2014 ultimately became the foundation for the subsequent litigation.

2. For the sake of convenience, the parties shall be referred to as per their status before the learned Single Judge.

3. The respondent, Sri S.C. Burman, claimed to be the owner of land bearing Sy.No.25/P1 situated at Kempathimanahally Village, Devanahalli Taluk, Bangalore Rural District, measuring 10 acres. According to the respondent, his mother had purchased the said property from one Channakeshavaiah under registered sale deed dated 14.05.1986 and upon her demise, he succeeded to the property. As the land required phodi and durasti, the

respondent submitted an application before the petitioner-Tahsildar on 15.06.2009 requesting that the necessary survey and phodi work be undertaken. Since no action was taken, he submitted a further representation dated 24.05.2012 seeking expeditious completion of the work. Aggrieved by the continued inaction on the part of the petitioner, the respondent approached this Court under Articles 226 and 227 of the Constitution in W.P.No.35084/2012 seeking a direction to implement the phodi work in respect of the said land.

4. Having regard to the nature of the relief sought, the learned Government Pleader was directed to obtain instructions as to the reasons for the delay. On instructions, it was submitted on behalf of the petitioner that necessary action would be taken expeditiously. It was also brought to the notice of the Court that the respondent was a senior citizen and had been pursuing the matter since the year 2009. In view of the representations submitted by the respondent, the submission made on behalf of the petitioner-State and the overall facts and

circumstances of the case, the Court found it appropriate to direct the petitioner-Tahsildar to carry out and complete the phodi and durasti work in respect of the land in question within two months from the date of receipt of a copy of the order. The writ petition was accordingly disposed of with the said direction.

5. The said order was challenged by the Tahsildar, Devanahalli Taluk, in W.A.No.3727/2013, questioning the order dated 13.09.2012 passed by the learned Single Judge in W.P.No.35084/2012, whereby the learned Single Judge had directed the petitioner to carry out and complete the phodi and durasti work in respect of the land in question within two months from the date of receipt of a copy of the order. During the course of hearing, the learned Additional Advocate General, on instructions from the officers present before the Court, submitted that the appeal may be dismissed as withdrawn, reserving liberty to the petitioner to seek review of the order of the learned Single Judge dated 13.09.2012, while keeping open all the contentions urged in the appeal. Recording the said

submission, the Division Bench dismissed the writ appeal as withdrawn, reserving liberty to the petitioner to file a review petition within one week from the date of receipt of a copy of the judgment, leaving all contentions urged in the appeal open. Consequently, I.A.No.2/2013 filed for stay was also disposed of as having become infructuous.

6. The Tahsildar, Devanahalli Taluk, has filed the present review petition under Order XLVII Rule 1 of the CPC seeking review of the order dated 13.09.2012 passed in W.P.No.35084/2012, whereby this Court had directed the authorities to complete the phodi and durasti work in respect of land bearing Sy.No.25/P1 of Kempathimanahally Village, measuring 10 acres. The review petitioner contended that the respondent's mother had derived title to the property through a sale deed executed by one N.S.Chennakeshavaiah, who claimed to have been granted the land by the Government, but according to the review petitioner, the alleged grant was not genuine and therefore, the respondent had no right to seek phodi and durasti of the land. It was further pointed

out that the review petitioner had earlier preferred a writ appeal against the order, which was dismissed as withdrawn with liberty to seek review. Though the review petition was filed with a delay of 715 days, the Court, having regard to the liberty granted by the Division Bench, treated the effective delay as 79 days and proceeded to consider the matter on merits.

7. During the course of hearing, the respondent placed before the Court the order dated 13.07.2015 passed by the Deputy Commissioner, Bengaluru District, in Revision Petition No.56/2014-15, concerning the validity of the revenue entries relating to the alleged grant in favour of N.S.Chennakeshavaiah. The Deputy Commissioner, after examining the material and orders of the competent authorities, categorically found that the land had in fact been validly granted in favour of N.S. Chennakeshavaiah in the year 1965 and that, pursuant to his subsequent sale of the property in 1986, mutation had been effected in favour of the respondent's mother and thereafter, on her demise, in favour of the respondent by inheritance. The

Deputy Commissioner also dropped the *suomotu* proceedings initiated under Section 136(3) of the Karnataka Land Revenue Act, 1964 in respect of the land.

8. In view of these subsequent findings of the competent revenue authority, the Court held that the very basis on which the review petition was sought—namely, that the grant in favour of N.S. Chennakeshavaiah was spurious and that the respondent had suppressed the true nature of the grant—was without substance. The Court therefore found no ground warranting review of the earlier order and dismissed the review petition.

9. During the pendency of the above review petition, the Deputy Commissioner, Bengaluru District, passed an order dated 13.07.2015 in Revision Petition No.56/2014-15, concerning the validity of the grant and the consequential revenue entries in respect of the subject property. The respondent produced a copy of the said order before this Court for its consideration in the review proceedings.

10. The said order dated 13.07.2015 was challenged by petitioner filing the writ petition in W.P.No.46616/2017, seeking a writ of certiorari to quash the order passed by the Deputy Commissioner in Revision Petition No.56/2014-15.

11. The petitioner-State contended that the impugned order dated 13.07.2015 passed by the Deputy Commissioner in Revision Petition No.56/2014-15, directing continuation of the revenue entries in favour of the respondent and dropping the proceedings under Section 136(3) of the Karnataka Land Revenue Act, was unsustainable. It was the specific case of the petitioner that the original grant records as well as the Saguvali Chit relating to the alleged grant of 10 acres in Sy.No.25 of Kempathimmanahalli Village were not available. On the contrary, the entries in the Darkhast Register at Sl.No.1337 indicated that the land was Gomal land and that the earlier application for grant had been rejected for want of sufficient Gomal land. Therefore, according to the petitioner, in the absence of the original grant records and

Saguvali Chit, the respondent could not claim an established right, title or interest in the land so as to seek Phodi/Durasti work.

12. It was further contended that the Deputy Commissioner had failed to follow the procedure prescribed under the Government Circular dated 17.09.2009 in cases where the original grant records were not available. The petitioner maintained that, when the entries in the Saguvali Chit Issue Register and Darkhast Register themselves appeared doubtful, the proceedings initiated under Section 136(3) could not have been simply dropped. The petitioner also explained the delay in approaching this Court by pointing out that the very issue was pending consideration in R.P.No.1143/2014 and that, immediately after disposal of the said review petition on 17.03.2017, steps were taken to challenge the order of the Deputy Commissioner. Thus, the delay was stated to be *bonafide* and attributable to the pendency of the connected proceedings before this Court.

13. The petitioner also raised the ground that the impugned order dated 13.07.2015 passed by the Deputy Commissioner is contrary to the Government Circular dated 17.09.2009, which prescribes the procedure to be followed in cases where the original grant records are not available. It is specifically contended that, during the pendency of R.P.No.1143/2014 before this Court, the Deputy Commissioner proceeded to pass the impugned order dated 13.07.2015 in Revision Petition No.56/2014-15 and dropped the proceedings initiated under Section 136(3) of the Karnataka Land Revenue Act. According to the petitioner, the Deputy Commissioner ought not to have proceeded to conclude the matter in such circumstances, particularly when the controversy relating to the very same land and the direction for Phodi/Durasti was pending consideration before this Court. The petitioner, therefore, contends that the impugned order, having been passed during the pendency of the review proceedings and contrary to the procedure prescribed in law, is liable to be interfered with.

14. It is further contended that the material available in the Darkhast Register *prima facie* indicated that the subject land was Gomal land and that the original grant records and Saguvali Chit were not available. In such circumstances, the respondent could not, according to the petitioner, claim an established right, title or interest over the land merely on the basis of copies of certain documents and seek Phodi/Durasti work. The respondent, therefore, contends that the Deputy Commissioner, without following the procedure contemplated under the Government Circular dated 17.09.2009 and without properly appreciating the entries in the Darkhast Register, was not justified in dropping the proceedings under Section 136(3) of the Act.

15. The learned Single Judge, after considering the rival contentions, examined the order of the Deputy Commissioner passed under Section 136(3) of the Karnataka Land Revenue Act. The Court noted that the proceedings had been initiated pursuant to the report of the Tahsildar and that the Deputy Commissioner, after

conducting an enquiry, had recorded findings in favour of the respondent and dropped the proceedings. It was held that such an order, passed by the competent authority after enquiry, could not ordinarily be challenged by another officer of the same Revenue Department in the absence of any allegation and proof of mala fides against the Deputy Commissioner.

16. The learned Single Judge further held that the exercise of *suomotu* revisional power under Section 136(3) was impermissible after an unreasonable lapse of time. The revenue entries in favour of the original grantee were traceable to the grant of the year 1965 and had thereafter continued through the sale in favour of the first respondent's mother in 1986 and the subsequent inheritance mutation in favour of the first respondent in 2002. The State was aware of the revenue entries at each of these stages and therefore, the attempt to unsettle such long-standing entries by initiating proceedings in 2014-15 was held to be clearly belated. In support of this conclusion, the Court relied upon the judgment of the

Hon'ble Apex Court in ***Joint Collector, Ranga Reddy District and Another -vs- D.Narsing Rao and Others***¹.

17. The learned Single Judge considered and distinguished the judgments relied upon by the petitioner-State. The Court observed that the judgment in ***W.S. Insulators of India Ltd. -vs- The Chief Secretary, Government of Karnataka, Bangalore & Others***², though dealing with the proposition that fraud vitiates all acts and that power under Section 136(3) can be exercised in such circumstances, did not consider the limitation on exercise of such power after an unreasonable lapse of time. The Court held that the subsequent judgment of the Supreme Court in ***D. Narsing Rao's case (supra)***, which specifically dealt with the requirement of exercising revisional power within a reasonable period, would govern the issue. The decisions of the Supreme Court in ***S.P. Chengalvaraya Naidu vs. Jagannath***³ and ***A.V. Papayya Sastry vs. Government of A.P.***⁴ relied

¹ (2015) 3 SCC 695

² (2009) 4 Kant LJ 310 (DB)

³ (1994) 1 SCC 1

⁴ (2007) 4 SCC 221

upon on the issue of 'fraud', were also distinguished as they concerned fraud practised upon the Court and did not apply to the facts of the present case.

18. On the question of the absence of the original grant records and Saguvali Chit, the Court found that the existence of the grant could not be doubted merely because the original records were unavailable. The Darkhast Register, the notice issued by the Tahsildar calling upon the grantee to pay the occupancy price, the Index of Lands, mutation records and RTC entries furnished sufficient contemporaneous material evidencing the grant. The Court also clarified that the scope of proceedings under Section 136(3) is confined to the correctness of revenue entries and does not extend to adjudicating the validity of the underlying grant itself. The authorities relied upon by the State concerning fraud were held to be distinguishable, particularly as the plea of fraud had neither been pleaded nor considered in the proceedings before the Deputy Commissioner.

19. Consequently, the learned Single Judge found that the impugned order of the Deputy Commissioner contained findings of fact based on the documents available on record and that there was neither perversity nor any jurisdictional error warranting interference under Articles 226 and 227 of the Constitution. The writ petition filed by the State was accordingly dismissed and the operative directions contained in the Deputy Commissioner's order dated 13.07.2015 in Revision Petition No.56/2014-15, including restoration and continuation of the revenue entries and taking up of Phodi/Durasti proceedings, were directed to be implemented.

20. Aggrieved by the order passed in the learned Single Judge, the petitioner/State thereafter have preferred this intra-court appeal, challenging the correctness and legality of the order passed by the learned Single Judge.

21. The petitioner has challenged the order of the learned Single Judge primarily on the ground that the Court failed to appreciate that the respondent had not produced any original grant order or Saguvali Chit to establish that the subject land had in fact been granted in favour of his vendor, N.S. Channakeshavaiah. It was contended that the entries in the Darkhast Register indicated rejection of the application on account of insufficiency of Gomal land and that the subsequent revenue entries could not, by themselves, establish title. The petitioner further contended that, in the absence of the original grant records, the procedure prescribed under the Government Circular dated 07.09.2009 required the matter to be placed before the Missing File Reconstruction Committee and that, until such exercise was undertaken, Phodi/Durasti could not have been ordered.

22. It was further urged that the learned Single Judge failed to appreciate the petitioner's specific case that the name of the alleged grantee had been entered in the revenue records on the basis of doubtful documents

and that mutation entries, having been made as a consequence of the sale and inheritance, could not confer or establish title. The petitioner contended that if the predecessor's title itself was founded on fraud, a subsequent purchaser could not derive any better right therefrom, and that a fraudulent transaction or order being a nullity could be questioned at any stage. On this basis, it was argued that the Deputy Commissioner was justified in initiating *suo motu* proceedings under Section 136(3) and ought not to have dropped the proceedings without directing reconstruction and verification of the missing grant records.

23. Learned Additional Government Advocate has furnished the original records before us. Upon perusal of the said records, it is found that no such order of granting the land to the respondent is forthcoming.

24. We have heard Sri.B.Ravindranath, learned AGA for the petitioners/State and Sri.Ashok Haranahalli, learned Senior Counsel on behalf of respondent No1.

25. In view of the rival submissions and the grounds urged in the writ appeal, what falls for our consideration is,

"Whether the learned Single Judge was justified in upholding the order dated 13.07.2015 passed by the Deputy Commissioner under Section 136(3) of the Karnataka Land Revenue Act, 1964, particularly when the petitioner contends that the original grant order and Saguvali Chit are not available and the entries in the Darkhast Register raise a doubt regarding the alleged grant?"

26. The case of the respondent is founded upon an alleged grant of the subject land in favour of N.S.Channakeshavaiah on 25.01.1965. However, the petitioner had specifically brought to the notice of the learned Single Judge that the original grant records and Saguvali Chit were not forthcoming. On the contrary, the Darkhast Register disclosed an application in the name of N.S.Chandrakeshavaiah, which had been rejected on the ground of insufficiency of Gomal land. Therefore, a serious dispute exists regarding the very source of the alleged vendor's title. This aspect assumed greater significance in

view of the recital in the subsequent sale deed that the vendor was 53 years of age as on 14.05.1986, which would mean he was about 21 years on the date of alleged grant. The learned Single Judge ought to have considered whether the respondent had satisfactorily established that the person, who allegedly received the grant was, in fact, the same person who subsequently conveyed the property and whether the alleged grant itself was supported by the original grant records.

27. It is the contention of the respondent that his mother purchased the property from the alleged grantee under a registered sale deed dated 14.05.1986 and that the respondent thereafter succeeded to the property. After the execution of the said sale deed, nothing prevented the respondent or his mother from approaching the competent revenue authorities at the earliest point of time for securing the necessary revenue entries, including Phodi and Durasti, by conducting a proper survey. Though the respondent claims that representations were being made from the year 2009. Even if some representation was

made, it was after 23 long years from the date of alleged sale deed. Further, the material on record does not satisfactorily disclose what prevented him from pursuing the matter effectively between 2009 and 2012, when he approached this Court for the first time. This unexplained delay assumes significance when the very foundation of the title was subsequently disputed by the State and serious discrepancies were noticed in the grant records.

28. After the sale, the revenue entries came to be mutated in the name of the purchaser and thereafter in the name of the respondent by way of inheritance. However, such mutation entries, by themselves, could not establish or confer title when the title of the person from whom the property was purchased was itself under dispute. The respondent, having relied upon the title of the alleged grantee, ought to have produced the original grant order, Saguvali Chit and other connected records before the competent authority when the genuineness of the grant was questioned. A purchaser cannot ordinarily acquire a better title than what his vendor possessed.

Therefore, when the very title of the alleged vendor was not established from the original grant records and was contradicted by the entries in the Darkhast Register, the subsequent sale deed and mutation entries could not, by themselves, validate the respondent's title over the land in question.

29. It was in these circumstances that proceedings under Section 136(3) of the Karnataka Land Revenue Act came to be initiated, pursuant to the report of the Tahsildar. The petitioner specifically contended that, in the absence of the original grant file and Saguvali Chit, the procedure contemplated under the Government Circular dated 07.09.2009 for reconstruction of missing grant records ought to have been followed before undertaking Phodi and Durasti. The Deputy Commissioner, however, dropped the proceedings by order dated 13.07.2015 and directed restoration/continuation of the revenue entries and Phodi/Durasti. The learned Single Judge, while upholding the said order, principally proceeded on the basis of the lapse of time and the existence of subsequent

revenue entries. In doing so, the learned Single Judge, in our considered view, failed to examine the cumulative effect of the doubtful/no grant, the absence of the original grant records, the discrepancy in the names appearing in the Darkhast Register, the unexplained conduct of the respondent and the fact that the subsequent revenue entries could not, by themselves, establish the validity of the root of the title.

30. This Court, speaking through one of us in a different combination, in ***State of Karnataka v. Sri. L.N. Govindaswamy***⁵ and in ***Sri. V. Sreenivasaiah v. State of Karnataka***⁶, has reiterated the settled principle that “fraud avoids all judicial acts, ecclesiastical or temporal.” In doing so, this Court has followed the law laid down by the Hon’ble Supreme Court in ***A.V.Papayya Sastry v. Government of Andhra Pradesh***⁷, wherein it has been held that fraud practised upon the Court strikes at the very foundation of the judicial process and vitiates the proceedings. An order or decree obtained by playing fraud upon the Court, therefore,

⁵ Writ Appeal No.1333 of 2025 (KLR-RES)

⁶ Writ Appeal No.791 of 2025 (LA-RES)

cannot be permitted to stand, for once fraud is established, the very foundation on which the order rests is destroyed and the resultant order loses its legal sanctity.

31. The mere passage of time or the continuation of revenue entries cannot, in the facts of the present case furnish a basis for directing Phodi and Durasti when the very foundation upon which those entries rest remains seriously disputed. The learned Single Judge ought to have considered that the protection of Government land and verification of the genuineness of the alleged grant are matters of substance and cannot be defeated merely on the strength of subsequent revenue mutations. The impugned order, therefore suffers from non-consideration of material circumstances and the grounds specifically urged by the petitioner.

32. For the aforesaid reasons, the order dated 09.10.2023 passed in W.P.No.46616/2017 is liable to be

⁷ (2007) 4 SCC 221 Writ Appeal No.791 of 2025 (LA-RES)

set aside and the writ petition filed by the petitioner deserves to be dismissed.

Accordingly, the appeal is allowed.

The order dated 09.10.2023 passed by the learned Single Judge in W.P.No.46616/2017 is hereby set aside.

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

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

KNM