



CNR: KAHC010329132016

NC: 2026:KHC:54825
WP No. 37129 of 2016

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 01ST DAY OF OCTOBER, 2026

BEFORE

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

WRIT PETITION NO.37129 OF 2016 (LR)

BETWEEN:

1. BYRAPPA
SINCE DECEASED, REP. BY LRS.
- 1(a). SRI. Y.B. SRIKANTAPPA
S/O BYRAPPA
AGED ABOUT 70 YEARS
R/AT NO. 40, 6TH 'A' CROSS
KHB COLONY, GANDHINAGAR
YELAHANKA,
BENGALURU – 560 064.
- 1(b). Y.B. KRISHNAMURTHY
SINCE DECEASED, REP. BY LRS.
- 1(b)(a). SMT. NALINA
W/O LATE KRISHNAMURTHY Y.B.
AGED ABOUT 54 YEARS
- 1(b)(b). SRI. AMARNATH Y.K.
S/O LATE KRISHNAMURTHY Y.B.
AGED ABOUT 33 YEARS.
- 1(b)(c). SMT. PAVANA Y.K.
D/O LATE KRISHNAMURTHY Y.B.
AGED ABOUT 31 YEARS.

PETITIONERS NO.1(a) &
1(b)(a) TO 1(b)(c) ARE
R/AT 309/286, KOGILU CROSS
MARUTHI NAGAR MAIN ROAD



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YELAHANKA,
BENGALURU-560 064.

- 1(c). SRI. Y.B. ANJINAPPA
S/O BYRAPPA
AGED ABOUT 59 YEARS
R/AT NO.16/4, KOGILU ROAD
MARUTHINAGAR, YELAHANKA
BENGALURU – 560 064.
2. SHRI. MUNIRAJU
S/O LATE RAMAIAH,
AGED ABOUT 53 YEARS,
R/AT NO.997, HOSABEEDHI,
INSPECTOR RAMAIAH ROAD,
YELAHANKA,
BENGALURU-560064.
3. SHRI. CHOWDAPPA
S/O LATE MOTAPPA,
AGED ABOUT 78 YEARS,
R/AT NO.1, NEAR SBM BANK,
MARUTHI NAGAR,
KOGILU CROSS,
BENGALURU-560064

...PETITIONERS

(BY SRI. H. KANTHARAJ, SENIOR COUNSEL FOR
SRI. C V ANNAIAH, ADVOCATE &
SRI. G.S. NARAYANASWAMY, ADVOCATE)

AND:

1. THE SPECIAL LAND ACQUISITION OFFICER
BENGALURU URBAN DISTRICT AND AUTHORISED
OFFICER FOR THE DISPOSAL OF FORM-7-A
APPLICATION,
BENGALURU NORTH,
BENGALURU-9.



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2. SHRI. B.M.CHANDRAPPA @ CHANDRA B.M.
S/O LATE MUNIYAPPA
AGED ABOUT 67 YEARS,
R/AT NO.1063
HOSABEEDHI CROSS ROAD,
YALAHANKA,
BENGALURU-560064.
3. GIRIJAMMA
SINCE DECEASED, REP. BY LRS.
- 3(a). M.V. MUNIRAJU
S/O M. VENKATESH
AGED ABOUT 39 YEARS
R/AT NO.107, 2ND 'A' MAIN
YELAHANKA NEW TOWN,
BENGALURU 560 106.

...RESPONDENTS

(BY SMT. SHARADA H.V., AGA FOR R1
SMT. S. SUSHEELA, SENIOR COUNSEL FOR
SRI. T.R. RAMESH, ADVOCATE FOR R2;
SRI. LOKESH K.M. ADVOCATE FOR R3(a))

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE COMMON ORDER PASSED BY THE HON'BLE KARNATAKA APPELLATE TRIBUNAL, ON 23.12.2015 IN APPEAL NOS.82/07, 208/07, 209/07 & 444/07 VIDE ANNEXURE-A AND CONFIRM THE ORDER OF THE RESPONDENT NO.1 DATED 18.12.2006 VIDE ANNEX-B AND CONSEQUENTLY ALLOW THE PETITION.



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THIS WRIT PETITION HAVING BEEN RESERVED FOR ORDERS, COMING ON FOR PRONOUNCEMENT THIS DAY, **E.S. INDIRESH J.**, MADE THE FOLLOWING:

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

CAV ORDER

1. In this writ petition the petitioners are assailing the order dated 23.12.2015, (Annexure- A) in Appeal Nos.82/07, 208/07, 209/07 and 444/07 passed by Karnataka Appellate Tribunal and to confirm the order dated 18.12.2006 (Annexure- B) passed in LRF 7(A) 9, 25, 12/1999-2000 by the respondent No.1 and to grant occupancy rights in respect of subject land.

2. Facts in nutshell for the adjudication of the writ petition are that, Byrappa, (original petitioner No.1) has filed Form No.7A on 10.12.1998 seeking occupancy rights in respect of the land bearing Sy.No. 55/1, of Yalahanka village to an extent of 01 acre 04 guntas stating that he was in cultivation of the same



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for more than five decades and accordingly, same was registered as LRF 7(A) 9, 25, 12/1999-2000 before the respondent No.1. It is further stated in the writ petition that, the respondent No.1 allowed the application on 18.12.2006 (Annexure-B), and granted occupancy rights in respect of the land in question. Thereafter the RTC Extracts, as per Annexure- D series were transferred into the name of the deceased Byrappa, and the tax receipts are produced at Annexure-E series. Feeling aggrieved by the order of the competent authority, the respondent No.2 herein has filed Appeal Nos.82/2007, 208/2007 and 209 of 2007 and respondent No.3 has filed Appeal No. 444 of 2007 against the petitioners before the Karnataka Appellate Tribunal. It is also stated in the writ petition that, the petitioner No.1 has filed suit in OS No. 4776 of 1995 against the respondent No.2, in respect of land bearing Sy.No. 55/1. It is further contended that,



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the Karnataka Appellate Tribunal without considering the factual aspects on record has allowed all the Appeals by order dated 23.12.2015 (Annexure- A) and feeling aggrieved by the same, the petitioners have presented this writ petition.

3. Heard Sri. H. Kantharaj, learned Senior Counsel appearing on behalf of Sri. C.V.Annaiiah, learned counsel and Sri. G.S. Narayanaswamy, learned counsel appearing for the petitioners; Smt. Sharada H.V. learned Additional Government Advocate appearing for the respondent-State; Smt. S. Susheela, learned Senior Counsel appearing on behalf of Sri. T. R Ramesh, learned counsel for respondent No.2 and Sri. Lokesh K.M., learned counsel appearing for respondent No.3(a).

4. Sri. H. Kantharaj, learned Senior Counsel appearing for the petitioners contended that, the



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respondent No.1, after appreciating the material on record has rightly granted occupancy rights in favour of the predecessors of the petitioners, however, the same has been wrongly interfered with by the Karnataka Appellate Tribunal and therefore, sought for interference of this Court, on the ground that the petitioners were in cultivation of the land for more than six decades and also the RTC Extracts, upto 1993-94 shows the name of Byrappa (original petitioner No.1) who is the applicant, and therefore, sought for interference of this Court. It is also contended by the learned Senior Counsel for the petitioners that the Tribunal has taken the report of the village accountant, subsequent to the filing of the application in Form No.7A, by the petitioners and the mahazar dated 29.08.2000 and therefore, submitted that the Tribunal, has passed impugned order based on the fabricated documents produced by the



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respondent No.2, and therefore, sought for interference of this Court. It is further contended by the learned senior counsel appearing for the petitioners that the name shown in the revenue records as "Byrappa" as the applicant seeking occupancy of the land in question and the said "Byrappa" was not the brother of the grand father of the respondent No.2 and therefore, sought for interference of this Court. It is also contended by the learned Senior Counsel appearing for the petitioners that, no material has been produced by the private respondents that the grand father of the respondent No.2 had a brother by name Byrappa and therefore, sought for interference of this Court.

5. It is further contended by the learned Senior counsel appearing for the petitioners that, the result of the suit in OS No.4776 of 1995 filed by the



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petitioners against the respondent No.2 in respect of subject land is irrelevant as it is the duty of the respondent-authorities to consider whether the original petitioner was in possession of the land in question on the relevant date and therefore, submitted that the finding recorded by the Karnataka Appellate Tribunal requires to be interfered with in this writ petition. Further learned Senior Counsel for the petitioners referred to the cross-examination of respondent No.2, and contended that, as the respondent No.2 deposed that he was not in possession of the land in question as well as his grand father, was accepting geni from the original petitioner herein and therefore, sought for interference of this Court.

6. In order to buttress his arguments, learned Senior Counsel for the petitioners relied upon the



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judgment of the Division Bench of this Court in the case of ***Hosabayya Nagappa Naik and others vs. State of Karnataka and others*** reported in **2002 (3) KAR. L.J. 53(DB)** and in the case of ***Smt. Nagamma and Another vs. State of Karnataka and Others*** reported in **ILR 2001 KAR 4935** and argued that the impugned order passed by the Tribunal requires to be set aside.

7. Per contra, Smt. S. Susheela, learned Senior Counsel appearing for the respondent No.2, contended that, the petitioners have failed to prove their possession in respect of subject land and further argued that, the petitioners have not filed application in Form No.7A, and alleged that Byrappa, who is the predecessors of the petitioners is different from the Byrappa, who was the brother of the grand father of the respondent No.2, and therefore, learned Senior



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Counsel appearing for respondent No.2 sought for dismissal of the writ petition. In this regard, learned Senior Counsel for respondent No.2 referred to the proceedings in OS No.176 of 1976 and the written statement filed by the petitioners in OS No.123 of 1975 and contended that, the petitioners are erroneously claiming right over the property in question.

8. It is further submitted by the learned Senior Counsel for respondent No.2 that, the Civil Court, by judgment and decree dated 31.05.1979, in OS No.123 of 1975, filed by the father of the respondent No.2, which came to be decreed and the same has reached finality in RSA No.874 of 1984 (Annexure- R2). It is further contended by the learned Senior Counsel by referring to OS No.176 of 1976 filed by the petitioner No.1-Byrappa that the same came to be dismissed



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and same has reached finality in RSA No. 91/1985 dated 08.04.1985 (Annexure- R3) and therefore, submitted that the petitioners have no legal right in respect of subject land. It is the contention of the learned Senior Counsel for the respondent No.2 that, the petitioners have not proved the tenancy, in terms of the declaration of law made by this Court in the case of ***Lokayya Poojary and Another vs. State of Karnataka and others*** reported in ***ILR 2012 KAR 4345*** and accordingly, sought for dismissal of the writ petition.

9. Smt. Sharada H.V., learned Additional Government Advocate appearing for the respondent-State sought to justify the impugned order passed by the Karnataka Appellate Tribunal and argued that petitioners have failed to prove the ingredients required to be prove under Section 77A of the



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Karnataka Land Reforms Act, 1961 (for short, the 'Act, 1961') and accordingly sought for dismissal of the petition.

10. In the light of the arguments advanced by the learned counsel appearing for the parties, it is the case of the petitioners that, petitioners are claiming right over the land in question based on filing of Form No.7A before the competent authority. In this regard, it is relevant to consider the ingredients to be satisfied to seek occupancy rights under Section 77A of the Act, 1961. In this regard, the Full Bench of this Court in **Lokayya Poojary** (supra) at paragraphs 13 to 19 held as follows:

" 13. Chapter IV deals with Ceiling on Land Holdings. Sections 63 and 64 provides for such ceiling. The land which is in excess of ceiling laid down in Sections 63 and 64 shall be surrendered to the State Government and a separate procedure is prescribed for adjudicating the excess of ceiling land and such



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excess land vest with the Government free from all encumbrances. Section 67 provides for surrender of lands in certain cases and such surrendered land also vest with the Government. Similarly, the lands which are acquired contrary to the provisions contained in Chapter V, namely 79-A, 79-B and 80 also vest in the Government. Section 77 of the Act deals with disposal of surplus land. It provides for grant of such surplus land in favour of dispossessed tenants who are not registered as occupants, displaced tenants having no land, landless agricultural labourers, landless persons and released bonded labourers. The said provision specifically did not provide for grant of lands to tenants who were in occupation of the land prior to 01.03.1974 vested with the Government, because they did not make an application for grant of land. Insofar as grant of the vested land to certain persons is concerned, it is the provisions of the Land Grant Rules, 1969 which are to be applied. In this background, in the year 1997, the Legislature felt that some of the tenants who continued to cultivate the land, which was vested with the Government and for various reasons could not file the applications, if they had to stand in the queue probably they might not get the said land granted. It is in those cases, as they had missed the bus and as they were actually cultivating the land prior to vesting and continued to



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cultivate the land from the date of vesting till 1997, a provision was thought of for grant of such land. It is to meet such a situation, Section 77-A has been introduced by the Karnataka Legislature by Act No. 23 of 1998. It is in the nature of a preferential treatment for grant of tenanted lands, which are vested with the Government, in favour of the tenant subject to his satisfying the conditions stipulated therein.

14. It is clear from the language used while describing Section 77-A that the Legislature described it as 'grant of land in certain cases' and not in all cases. The heading of the Section makes it clear that it is not a case of grant of occupancy rights or registering them as occupants of land. On the contrary, it is a case of grant of land. The said provision applies to lands which are vested in the State Government under Section 44. In other words, it is a land which is a tenanted land which is vested with the Government under Section 44, in respect of which the tenant who was entitled to grant of occupancy rights under Section 45, has not made an application within the time prescribed and therefore he has lost his right for registering him as occupant of the said land. When such a tenant, if he is continued in actual possession and cultivation of such land, on the date of commencement of the Karnataka



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Land Reforms Amendment Act, the authority under the said provisions may grant the land to such person, subject to the conditions stipulated therein being fulfilled.

15. By virtue of the powers conferred by Section 137 of the Act, the Government of Karnataka has made the Karnataka Land Reforms Rules, 1974, (for short, hereinafter referred to as the 'Rules'). Rule 17 of said Rules prescribes the procedure to be followed by the Tribunal. It in turn provides for the procedure as specified for a summary enquiry under Section 34 of the Karnataka Land Revenue Act, 1964. Therefore, the procedure to be followed by the Land Reforms Tribunal is prescribed. Section 77-A also provides for holding an enquiry before such grant. The enquiry to be held under Section 77-A is not an enquiry under Rule 17 of the Rules. The intention of the Legislature is very clear when the Government introduced Rule 26-C by way of Notification dated 31.10.1998 which came into effect from 02.11.1998. The authority to grant land under Section 77-A is the Deputy Commissioner or the other Officer authorised by the State Government in this behalf. In other words, the power to grant land under Section 77-A is not conferred on the Tribunal. The application under Section 45 is to be filed in Form No. 7, while an



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application under Section 77-A is to be filed in Form No. 7-A.

16. Interestingly, as in the case of Rule 17, for conducting enquiry, the procedure prescribed under Section 34 of the Karnataka Land Revenue Act, 1964, is not made applicable to enquiry under Section 77-A of the Act. In an enquiry under Section 77-A read with Section 26-C, the question of the authority going into the question whether the land in question is a tenanted land or not, would not arise, which question, the Tribunal constituted under the Act alone is competent to go into under Section 48 of the Act. No such power or jurisdiction has been conferred under Section 77-A on the Deputy Commissioner or the Assistant Commissioner. The enquiry contemplated under Section 77-A is to be confined only to the following:

(1) Whether the person who has made an application under Section 77-A was in actual possession and cultivation of any land before the first day of March, 1974;

(2) Being entitled to be registered as occupants of such land under Section 45 or 49, has failed to apply for registration of occupancy rights in respect of such land under sub-Section (1) of Section 48-A within the period specified therein.



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In other words, if such an application had been filed, which claim is adjudicated upon by the Tribunal and if it is negatived, then such a person is not entitled to file an application under Section 77-A;

(3) Whether such a person is continued to be in actual possession and cultivation of such land on the date of commencement of the Karnataka Land Reforms Amendment Act, 1977.

17. Proviso makes it clear that the land so granted together with the land already held by such person shall not exceed 2 Hectares of D' class of land or its equivalent thereto. In other words, if the applicant held land in excess of 2 Hectares of 'D' Class of land or its equivalent thereto, he was not entitled to grant of land under Section 77-A of the Act, even if he was a tenant of the land in question prior to 01.03.1974 and continued to be in possession of the land and cultivating the land till the introduction of Section 77-A of the Act. Though such land vested with the Government as on 01.03.1974, he was not entitled to grant of land.

18. If we keep the above principle and the Legislative intent in mind, what emerges is while amending the Act and introducing Section 77-A, the Legislature was very clear in its mind that by the said



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amendment, they were not intending to have one more forum for registration of occupancy rights under Section 45 of the Act. These two provisions were intended to cover two independent fields. Similarly, if a person has availed the benefit of Section 45-A and lost the battle, Section 77-A was not meant to give him one more opportunity, a second innings. The power to grant occupancy rights under Section 45 was vested with a quasi-judicial authority like a Tribunal. On the day the amendment introducing Section 77-A came into force, the Tribunals were in existence and functioning. The intention of the Legislature was not to give them jurisdiction to decide the claims under Section 77-A. A separate machinery is now contemplated under Section 77-A. The enquiry that was contemplated under Section 45 is totally different from the enquiry under Section 77-A, as is clear from the fact that corresponding to Section 77-A Rule 26(c) was enacted and the claim under Section 77-A had to be adjudicated in terms of the procedure prescribed under Section 26(c). A reading of Section 77-A makes it very clear this provision has a limited application. It applies to only certain cases. It is necessary to bear in mind the context in which Section 77-A is introduced. This provision finds a place in Chapter IV, whereunder as per Section 77 a



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provision is made for disposal of surplus lands on such land being vested with the Government and also other lands which are vested in the State. Therefore, in a proceeding under Section 77-A, the enquiry that was contemplated under Section 48-A is excluded. This is a provision that enables a person who is in occupation of a land, of which he was a tenant and continues to be in possession as a tenant to apply for grant of such land, if he had failed to make an application for grant of occupancy rights within the time stipulated. Such a person is given an opportunity to make an application for grant of land provided he continues to cultivate the land and he was not holding land in excess of 2 Hectares of land. Therefore, in the said proceedings the question whether the said land is a tenanted land or not, cannot be gone into, as is clear from the language used in Section 77-A. The entire enquiry contemplated under Section 77-A is in respect of a land, which is vested in the State Government under Section 44, as on 01.03.1974. It should be an undisputed fact. If the said fact is disputed, then Section 77-A has no application. The jurisdiction under Section 77-A is attracted only in respect of undisputed tenanted lands. Vesting of the land as on 01.03.1974 with the Government, which fact is not in



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dispute, is a condition precedent for application of Section 77-A.

19. If a tenant makes an application, the question that arises for consideration is how he proves that it is a vested land. The vesting of the land is by operation of law. No order of vesting need be passed. There cannot be an order declaring the vesting of the land. Therefore, production of order of vesting is not the requirement of law and it is not possible and it cannot be insisted upon. However, it is for the applicant who comes to the Court to establish, that the land in question is a vested land. While establishing such fact, it is necessary that he should rely on undisputed documents and such undisputed documents may be in the nature of some official record showing vesting of the land in favour of the State Government. The Government record referred to in the judgment is not an order of vesting. It is a record in proof of vesting. It may vary from case to case and depends upon the stand taken in each case. But, unless there is some official record evidencing the vesting of the land, the authorities under Section 77-A would get no jurisdiction to hold an enquiry and grant land under Section 77-A to the applicant. The official record referred to therein may be in the form of Land Revenue receipts, record of rights, index of land, mutation orders, consequent mutation entries



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or any other record which is maintained by a public officer as opposed to private documents. It is in this context, the Learned Judges in the aforesaid judgments have stated that the land should have been vested in the State Government as on the appointed date. The said event should have already taken place. The evidence is required to be placed by the applicant to show that this is an event that has already taken place. In that context the observations to the effect that "obviously it should find a place in some official record as vesting of the land is in favour of the State Government" are made. This amendment came into force in 1997 roughly 18 years after the last date prescribed for filing applications under Section 45. For 18 long years after the vesting of the land if the tenant has continued in possession, there must be some evidence by way of a public record to show his possession, cultivation and enjoyment as recognised by the Government, because after the vesting he has to deal with the Government and not with the erstwhile owner. How the Government as well as the applicant have dealt with this property during these 18 years assumes importance. In this context the observations made in the said judgments cannot be read as new conditions prescribed by the Judges in Section 77-A by the process of judicial interpretation



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as sought to be urged by the Counsel for the petitioner. The Judges do not legislate. They only interpret the provisions. Therefore, the argument that under the guise of interpretation, the Judges have re-written the Section is not well founded. It is a case of misreading the judgment. Under these circumstances, the interpretation placed by the Division Benches is proper and legal. We do not find any need to clarify what has been already said.

Accordingly, the reference is answered. The matters shall be placed before the Learned Single Judge for decision in the light of the answer given herein above."

11. Perusal of the aforementioned judgment would indicate that the enquiry that was contemplated under Section 45 of the Act, 1961, is different from the enquiry to be conducted under Section 77A of the Act, 1961 as Section 77A of the Act, 1961 makes it clear as to the limited consideration of the application in certain cases. In a proceedings under Section 77A of the Act, 1961, the enquiry that was contemplated under Section 48-A is different under Section 77A of



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the Act, 1961, which enables the applicant who is in occupation of the land, claiming as a tenant, shall be in continuous possession as a tenant, to apply for grant of such land as the said applicant failed to make an application before the competent authority within the stipulated time under Section 48-A of the Act, 1961 and as such, such an applicant has been given an opportunity to make an application for grant of land, subject to the eligibility criteria to be fulfilled under the Act, 1961. The aforesaid aspect was considered by the Division Bench of this Court in W.A.No.1220 of 2025 in the case of ***Timmaiah since (D) by his LRs vs. Sri. K. Narayana Gowda, and another*** decided on 20.01.2026. In that view of the matter, I am of the opinion that, the judgment referred to by the learned Senior Counsel appearing for the petitioners cannot be accepted in view of the declaration of law made by Full Bench of this Court in ***Lokayya Poojary*** (supra) case.



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12. It is also pertinent to mention here that Byrappa, who is the original petitioner No.1 herein, has filed OS No.4776 of 1995, before the Civil Court, Bengaluru, seeking relief of declaration with consequential relief of permanent injunction alleging that, he has perfected his title by way of adverse possession. The stand taken before the Civil Court that he was in possession of the land in question for a long time adverse to the interest of the landlord and as such, plea would defeat the criteria to be a tenant under the Act, 1961, however, the said suit came to be dismissed by the Civil Court by judgment and decree dated 23.12.2006 (Annexure- R5). In that view of the matter, when the petitioners are claiming the right over the property based on the principles of adverse possession not by a tenancy under the landlord-respondent No.3, and therefore, as the said suit came to be dismissed and reached finality and in that view of the matter, the



contention raised by the learned Senior Counsel for the petitioners cannot be accepted.

13. In that view of the matter, the respondent No.1, has committed an error in granting occupancy rights in favour of the petitioners without appreciating the factual aspects on record in the light of the judgment of this Court in the case of **Lokayya Poojary** (supra), so also, the satisfaction of the ingredients under Section 77A of the Act, 1961, however, the same was rightly considered by the Karnataka Appellate Tribunal and interfered with the same in accordance with law as per the impugned order at Annexure-A and therefore taking into consideration the reasons assigned by the Karnataka Appellate Tribunal in the impugned order dated 23.12.2015 at Annexure-A, I am of the opinion that, there is no perversity in the order passed by Karnataka Appellate Tribunal.



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14. Accordingly, order dated 23.12.2015 passed by the Karnataka Appellate Tribunal (Annexure-A) is hereby confirmed and the order dated 18.12.2016 at Annexure-B passed by respondent No.1 is hereby set aside.

15. In the result, the writ petition stands ***dismissed.***

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

SB
List No.: 1 Sl No.: 65