

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 20TH DAY OF AUGUST, 2026

PRESENT

THE HON'BLE MRS. JUSTICE ANU SIVARAMAN

AND

THE HON'BLE MR. JUSTICE VENKATESH NAIK T

WRIT APPEAL NO.1044 OF 2021 (GM, FOR)

BETWEEN:

- 1 . SMT. THULASAMMA
W/O LATE B. GOVINDARAJU
AGED ABOUT 73 YEARS
R/A UKKUNDA VILLAGE, INDAVARA POST
CHIKKAMAGALUR TALUK AND DISTRICT-577 101
- 2 . SHANKAR KUMAR
S/O LATE B. GOVINDARAJU
AGED ABOUT 40 YEARS
R/A UKKUNDA VILLAGE, INDAVARA POST
CHIKKAMAGALUR TALUK AND DISTRICT-577 101

...APPELLANTS

(BY SRI. K. V. NARASIMHAN, ADV.)

AND:

- 1 . THE STATE OF KARNATAKA
BY ITS PRINCIPAL SECRETARY
FOREST DEPARTMENT
M. S. BUILDING
BANGALORE - 560 001
- 2 . THE DEPUTY CONSERVATIVE OF FOREST
CHIKKAMAGALUR SUB DIVISION
CHIKKAMAGALUR - 577 101

Digitally
signed by
PAVITHRA N
Location
High Court
of Karnataka

3 . THE ASSISTANT CONSERVATORS OF FOREST
CHIKKAMAGALUR SUB DIVISION
CHIKKAMAGALUR - 577 101

4 . RANGE FOREST OFFICER
CHIKKAMAGALUR RANGE
CHIKKAMAGALUR - 577 101

...RESPONDENTS

(BY SRI. VIKAS ROJIPURA, AGA FOR R1 TO R4)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE
KARNATAKA HIGH COURT ACT, PRAYING TO ALLOW THIS APPEAL
AND SET ASIDE THE IMPUGNED ORDER DATED PASSED BY THE
LEARNED SINGLE JUDGE IN W.P. No.46569/2013(GM-FOR)
DATED 04.04.2019.

THIS WRIT APPEAL HAVING BEEN HEARD AND RESERVED
FOR JUDGMENT ON 22.07.2026 AND COMING ON FOR
PRONOUNCEMENT OF JUDGMENT THIS DAY, **ANU SIVARAMAN**
J., PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MRS. JUSTICE ANU SIVARAMAN
and
HON'BLE MR. JUSTICE VENKATESH NAIK T

CAV JUDGMENT**(PER: HON'BLE MRS. JUSTICE ANU SIVARAMAN)**

This writ appeal is filed challenging an Order of the learned Single Judge dated 04.04.2019 passed in Writ Petitions No.46569-570/2013 (GM-FOR).

2. We have heard Shri. K.V.Narasimhan learned counsel appearing for the appellants and Shri. Vikas Rojipura, learned Additional Government Advocate appearing for respondents No.1 to 4.

3. The learned counsel appearing for the appellants submitted that the appellants are the widow and son of late Shri. B. Govindaraju. It is contended that the appellants are the absolute owners and are in possession of 2 acres in Sy.No.35/P2, and 3 acres 35 guntas in old Sy.No.35/new Sy.No.119, situated in Hukkunda Village, Kasaba Hobli, Chikkamagalur Taluk. The said lands were purchased by Shri. Govindaraju under registered Sale Deeds dated 18.03.1977 and 08.06.1973, respectively.

4. Shri. Govindaraju died in the year 1997, and accordingly khata was mutated in the names of appellant No.1 and her sons in the revenue records. The total extent of Sy.No.35 of Hukkunda Village is 46 acres 28 guntas, of which 40 acres stands reserved as State forest and the balance is Hiduvali land. The Village Accountant of Indavara Circle issued a Hiduvali certificate, and the Tahasildar, Chikkamagalur Taluk issued a certificate in Form-B, Rule 4 read with Section 14 of the Coffee Act, 1942, in favour of the appellants' family.

5. In the year 1998, the respondent issued a notice to the appellants under Section 64(A) of the Karnataka Forest Act, 1963 alleging unauthorized occupation of 14 acres of land in Sy.No.35 of Hukkunda Village and in Sy.No.30 and 32 of Indavara Village as the said area had been declared as Indavara Reserved Forest. In their reply, the appellants mentioned that they are the owners of 6 acres of land in Sy.No.35/P2 of Hukkunda Village as Hiduvali land purchased by Shri. Govindaraju, and regarding the remaining 8 acres they admitted to cultivation for the past

40 years as revenue land, in respect of which TT had been collected by the revenue authorities and an application for regularization under Section 94(A) of the Karnataka Land Revenue Act, 1964 had been filed. The Competent Authority passed an Order of Eviction dated 06.07.1998. Aggrieved by the said Order, the appellants preferred an appeal before the Appellate Authority. The Appellate Authority by order dated 26.12.2002, confirmed the order dated 06.07.1998.

6. By Final Notice dated 28.09.2013 respondent No.2 declared the appellants unauthorized occupants of 14 acres 4 guntas in Sy.No.35 of Hukkunda Village and 30 acres 16 guntas in Sy.No.30 and 32 of Indavara Village, and directed them to harvest their crops and vacate possession on or before 15.10.2013, failing which eviction would follow. Aggrieved by the Orders dated 06.07.1998 and 26.12.2002, the appellants filed Writ Petitions No.46569-570/2013 (GM-FOR) before this Court. The learned Single Judge, by the impugned order dismissed the writ petition. It was held that by Notification dated 06.11.1936, the lands in question were declared to be forest land, and thereafter no

acquisition of right in respect of forest land is permissible under Section 6 of the Karnataka Forest Act. The learned Single Judge observed that the appellants had, neither before the authorities nor in the writ petition, disclosed as to how their vendor had acquired title to the land in question. It was further noted that a survey had been conducted prior to initiation of proceedings under the Karnataka Forest Act, and that the appellants had made no prayer for a joint survey before the authorities. The learned Single Judge held that the authorities had found the appellants to be in unauthorized occupation of forest land, and that such finding of fact, being based on appreciation of the materials on record, could not be said to be perverse or based on no evidence. Aggrieved by the same, the appellants have preferred the present Writ Appeal.

7. The learned counsel appearing for the appellants contends that the learned Single Judge has not taken into consideration the index of land records and the record of rights which show that the land in question is Hinduvali land, belonging to the appellants' family. The said land does not

come within the area of the Indavara reserve forest and therefore, the orders passed by the respondents for eviction is arbitrary. It is further contended that the learned Single Judge failed to take note of the fact that the appellants have clearly mentioned how the appellants' vendors have acquired the title.

8. The learned Additional Government Advocate appearing for the respondents submitted that one Shri. Marimuthu was granted 4 acres on 15.06.1962 and one Shri. G.A. Abdullah was granted 2 acres on 10.06.1963, who thereafter sold the said properties, and the same were eventually purchased by Shri. B. Govindaraju through registered Sale Deeds dated 18.03.1977 and 08.06.1973. It is further contended that the old Sy.No.35 of Hukkunda Village stands notified as part of the Indavara Reserved Forest by Notification dated 27.01.1937 issued under Section 17 of the Mysore Forest Regulation, 1900, and that in view of Section 6 of the Karnataka Forest Act, no right, title or interest could pass on to the appellants or their predecessors-in-interest in respect of the lands in question.

It is further contended that neither before the authorities under the Karnataka Forest Act nor in the writ petition had the appellants disclosed the manner in which their vendors acquired title to the lands in question.

9. It is further contended that the Maharaja of Mysore notified and declared that old Sy.No.35 is included in the Indavara Reserved Forest by Notification dated 27.01.1937 issued under Section 17 of the Mysore Forest Regulation, 1900, and that the Revenue Authorities cannot grant forest land to anyone therefore, all transactions in respect of the disputed lands are null and void *ab initio*. It is further contended that the Apex Court in ***State of Karnataka v. I.S. Nirvane Gowda*** reported in **(2007) 15 SCC 744**, held that when the disputed lands are part of the reserve forest, the entries in the revenue records are inconsequential and the Saguvali Chits would not confer any title. It is further contended that as per Statement 'B' of the said 1937 Notification, there is no claim admitted and registered in respect of the 6 acres 28 guntas of land in Sy.No.35 of Hukkunda Village, and that as per Statement 'C'

of the said Notification, 40 acres in Sy.No.35 is taken for forest and the remaining 6 acres 28 guntas is the area remaining for the village. It is contended that in the absence of any entry in Statement 'B' corresponding to the entry in Statement 'C' with respect to the said 6 acres 28 guntas, there was no basis for the Revenue Authorities to identify the location of the said extent within Sy.No.35 for the purpose of issuing the Saguvali Chits.

10. It is further submitted that pursuant to the order dated 19.03.2025 passed by this Court, on the application filed by the appellants for a joint survey, the Department of Revenue and the Department of Forest conducted a joint survey of the disputed lands in Hukkunda Village, and a Joint Survey Sketch was prepared and furnished to this Court by Memo dated 10.10.2025, in which the Revenue Department has stated that the said 6 acres 28 guntas was available for grant based on Statement 'C' of the 1937 Notification, whereas the Forest Department has differed and stated that the entire extent of 46 acres 28 guntas in

Sy.No.35 is forest land based on the boundaries described in the Schedule of the said Notification.

11. The learned AGA also places reliance on the case of a Coordinate Bench of this Court in ***Karnataka State Road Transport Corporation v. Mallaiah*** dated **30.07.2024** passed in ***RFA No.1653/2011***, wherein it has been held that it is a settled position since the days of the Privy Council that as between numbers denoting area and the boundaries, the latter shall prevail over the former, should there be discordance.

12. We have considered the contentions advanced. We notice that Regulations No.17 and 19 of the Mysore Forest Regulations, 1900 read as follows:-

"17. When the following events have occurred, viz.-

- (a) the period fixed under section 5 for preferring claims has elapsed, and all claims (if any) made within such period have been disposed of by the Forest Settlement Officer; and*
- (b) if such claims have been made, the period fixed by section 15 for appealing from the orders passed on such claims has elapsed, and all appeals (if any) presented with-in such*

period have been disposed of by the appellate authority; and

- (c) *all proceedings prescribed by sections 10 and 13 have been taken and all lands or buildings (if any) to be included in the proposed State Forest, which the Forest Settlement Officer has under section 10 elected to acquire under the Mysore Land Acquisition Regulation, 1894, have become vested in Government under section 16 of that Regulation;*

The Government may publish a notification in the official Gazette specifying the limits of the forest which it is intended to constitute a State Forest and declaring the same to be a State Forest from a date fixed by such notification, subject to the exercise of rights (if any) specified at foot of the said notification.

From the date so fixed such forest shall be deemed to be a "State Forest."

18. *x x x x x*
19. *The Government may, within five years from the publication of any notification under section 17, revise any arrangement made under section 13, and may for this purpose, rescind or modify any order made under section 13 or 16, and direct that any one of the proceedings specified in section 13 be taken in lieu of any other of such proceedings, or that the rights admitted under section 11 be commuted under section 14."*

13. Having considered the contentions advanced, we notice that it is now an admitted fact that the extent of land notified as forest in Sy.No.35 of Hukkunda Village is 40 acres. It is also not in dispute that the total extent of land in Sy.No.35 is 46 acres and 28 guntas. If that be so, the contention of the appellants that the balance land of 6 acres and 28 guntas had been granted to Shri. Marimuthu and Shri. G.A. Abdullah, the predecessors in interest of the appellants, can only be accepted to be true. The learned AGA had made attempts to rely on the boundaries provided in the Notification dated 27.01.1937 and Statement 'C' appended thereto, to contend that the entire extent of land in Sy.No.35 stands notified as Forest Land.

14. It is an admitted fact that the area of forest land notified in Sy.No.35 of Hukkunda Village is 40 acres. It is also an admitted fact that the 'C' Statement at page No.11 of the Notification consisting of "Statements of lands taken for the Indavara and Mattavara, proposed State Forest, in the Kadur District", states that 40 Acres in Sy.No.35 of

Hukkunda Village, is taken for forest and the remaining 6 Acres and 28 Guntas is the "Area remaining for the village."

15. We find that the extent of land notified in the year 1937 was admittedly only 40 acres. No attempt whatsoever was made at any point in time to revise this notification by correcting the extent. The Revenue Department of the Government therefore, reckoned the rest of the land in Sy.No.35 as Revenue Land and has granted the same.

16. In this respect, the learned Additional Government Advocate placed reliance on the decision of a Coordinate Bench of this Court in ***Karnataka State Road Transport Corporation v. Mallaiah*** Order dated 30.07.2024 passed in ***RFA No.1653/2011***, wherein it was held that as between numbers denoting the area and the boundaries, the latter shall prevail over the former, should there be discordance. We are of the opinion that the said principle cannot be applied to the facts of the instant case. We notice that ***Mallaiah's*** case (supra) was a Regular First Appeal arising out of a suit for declaration of title, tried on

documentary and oral evidence, in which the survey numbers of the suit lands were not enumerated in the Notification and the identity of the lands had accordingly to be ascertained by reference to the boundaries described in the Forest Map. However, in the instant case, the proceedings arise out of a summary order of eviction under Section 64A of the Karnataka Forest Act and not a suit in which the identity of the lands has been tried on evidence. Further, the 1937 Notification in Statement 'C', expressly specifies old Sy.No.35 of Hukkunda Village and records that 40 acres was taken for the Indavara Reserved Forest and the balance of 6 acres 28 guntas is "*Area remaining for the village.*" There is no question of survey numbers being omitted from the Notification or of the identity of the lands being uncertain. Further, if the contention that as between the extent set out in Statement 'C' and the boundaries described in the Schedule, the boundaries must prevail is accepted, then the entry in Statement 'C' appended to the 1937 Notification, carving out 6 acres 28 guntas as "*Area remaining for the village,*" would be rendered meaningless.

We are unable to accept the said submission. Statement 'C' and the Schedule are parts of one and the same Notification and must be read harmoniously.

17. It is also pertinent to note that the contentions now raised with regard to the discordance between boundaries and extent in the notification was never raised at any point in time earlier in these proceedings. Admittedly, the Statement annexed to the 1937 Notification also records that there is 6 acres and 28 guntas of Kharab Lands less assignments for Gomal after 40 acres are notified as forest land in Sy.No.35 of Hukkunda Village.

18. The Additional Government Advocate also placed reliance on the decision of the Apex Court in ***I.S. Nirvane Gowda's*** case (supra), to contend that entries in the revenue records and Saguvali Chits do not confer title and the Revenue Authorities were not competent to deal with the property which was a part of the reserved forest. We notice that the principle laid down in ***I.S. Nirvane Gowda's*** case (supra), applies where the disputed lands form part of the reserved forest. However, in the instant case, a plain

reading of the 1937 Notification shows that 6 acres 28 guntas of Hiduvali land in Sy.No.35 of Hukkunda Village does not form part of the Notified forest. Therefore, ***I.S. Nirvane Gowda's*** case (supra) is distinguishable. Further, in light of the materials on record, including the Joint Survey Sketch furnished by Memo dated 10.10.2025 and the chain of title traced through the Saguvali Chits and the sale deeds in favour of late Shri B. Govindaraju, the finding of the learned Single Judge that the appellants had failed to disclose the manner in which their vendors acquired title in respect of the said extent cannot be sustained.

19. In the facts and circumstances of the instant case, we are of the opinion that the impugned Eviction Orders and the Final Notice dated 28.09.2013, insofar as they cover the 6 acres 28 guntas of Hiduvali land in Sy.No.35 of Hukkunda Village claimed by the appellants is liable to be set aside. We also clarify that the impugned orders and the Final Notice dated 28.09.2013 shall stand insofar as they relate to the balance extent in Sy.No.35 of Hukkunda Village and the entirety of Sy.No.30 and 32 of

Indavara Village, and the eviction of the appellants from the said extent shall proceed in accordance with law.

20. In the result, we pass the following:-

- (i) The appeal is **allowed**.
- (ii) The Order of the learned Single Judge dated 04.04.2019 passed in Writ Petitions No.46569-570/2013 (GM-FOR) are set aside.
- (iii) The Eviction Orders dated 06.07.1998 and 26.12.2002 and the Final Notice dated 28.09.2013 which are under challenge in the Writ Petition insofar as 6 acres 28 guntas of land in Sy.No.35 of Hukkunda Village are set aside.
- (iv) However, in respect of the balance extent included in the forest land notified in Sy.No.35 of Hukkunda Village and the entirety of Sy.No.30 and 32 of Indavara

Village, the impugned orders and the notice shall stand affirmed and upheld.

All pending Interlocutory Applications shall stand *disposed of*.

**Sd/-
(ANU SIVARAMAN)
JUDGE**

**Sd/-
(VENKATESH NAIK T)
JUDGE**

cp*