

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 1ST DAY OF OCTOBER, 2026

PRESENT

THE HON'BLE MRS. JUSTICE ANU SIVARAMAN

AND

THE HON'BLE MR. JUSTICE VENKATESH NAIK T

WRIT APPEAL NO.803 OF 2023 (KLR-RR/SUR)

BETWEEN:

SMT. C. BHAVANI @ HAMSA
D/O LATE CHINNAPPA
AGED ABOUT 46 YEARS
R/AT No.177
LAKSHMI NIVAS
8TH MAIN
CQAL LAYOUT
SAHAKARNAGAR
BENGALURU-560 092

...APPELLANT

(BY SRI. SHIVAPRASAD SHANTANAGOUDAR, ADVOCATE)

AND:

- 1 . DEPUTY COMMISSIONER
BENGALURU URBAN DISTRICT
K.G. ROAD
BENGALURU-560 002
- 2 . SPECIAL TAHSILDAR
YELAHANKA TALUK
BENGALURU-560 063

Digitally
signed by
PAVITHRAN
Legal
High Court
of Karnataka

- 3 . SMT. RAJAMMA
W/O LATE CHINNAPPA
R/AT No.304
SONNAPPA ROAD
BYATARAYANAPURA
BENGALURU-560 092
- 4 . SRI. C. RAMESH
S/O LATE CHINNAPPA
AGED ABOUT 50 YEARS
R/AT. No.F14
FORTUNA ICON APARTMENTS
'F' BLOCK, SAHAKARNAGAR
BENGALURU-560 092

...RESPONDENTS

(BY SRI. KHAMROZ KHAN, AGA FOR R1 & R2;
SRI. J.C. KUMAR, ADVOCATE FOR R3;
SMT. NAYANA TARA B.G., ADVOCATE FOR R4)

THIS WRIT APPEAL IS FILED U/S 4 OF THE KARNATAKA
HIGH COURT ACT, 1961, PRAYING TO SET ASIDE THE ORDER
DATED 29.11.2022 PASSED BY THE LEARNED SINGLE JUDGE IN
WP No.20729/2022 AND THEREBY ALLOW THE WRIT PETITION
AS PRAYED FOR IN THE INTEREST OF JUSTICE AND EQUITY.

THIS WRIT APPEAL HAVING BEEN HEARD AND RESERVED
FOR JUDGMENT ON 04.08.2026 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 the Order of the learned Single Judge dated 29.11.2022 passed in W.P.No.20729/2022 (KLR-RR/SUR).

2. We have heard Shri. Shivaprasad Shantanagoudar, learned counsel appearing for the appellant, Shri. Khamroz Khan, learned Additional Government Advocate appearing for respondents No.1 and 2, Shri. J.C. Kumar, learned counsel appearing for respondent No.3 and Smt. Nayana Tara B.G, learned counsel appearing for respondent No.4.

3. The learned counsel appearing for the appellant submits that the appellant and respondent No.4 are the children of respondent No.3 - Smt. Rajamma. The appellant, along with respondents No.3 and 4, jointly owns and possesses the subject properties in Sy.No.19/6, 22/9, 57, 58/2, 58/3 and 87/6, Jakkur Village, Yelahanka Hobli, Yelahanka Taluk, along with three other sharers. The

appellant's name was entered in the revenue records as joint Khatedar and Anubhavadar.

4. The appellant filed O.S.No.2845/2018 before the Additional City Civil Judge, Bengaluru CCH-14 for partition and separate allotment of her legitimate share against respondents No.3 and 4 and three others. The Trial Court granted an interim order of status quo. Respondent No.4 filed W.P.No.16866/2013 (KLR-RES) seeking change of Khata based on a registered Will dated 25.06.1977. Respondent No.3, Shri. C. Venkatesh and Shri. C. Manjunath were parties to the said petition and the appellant herein was not made a party. Respondent No.4 along with Shri. C. Venkatesh and Shri. C. Manjunath, arrived at a settlement, on the basis of which the writ petition was disposed by Order dated 24.09.2020 with liberty to approach the competent authorities for change of Khata and that the amicable settlement would not bind the other Class-I legal heirs.

5. Pursuant to the 24.09.2020 Order, respondent No.4 submitted a representation to respondent No.1 for

effecting Khata jointly in his name along with respondents No.3 and 4. The appellant, on 31.08.2021, also submitted a representation to respondents No.1 and 2 stating that the 24.09.2020 order would not bind her, and requesting continuation of her name as joint Khatedar. Based on respondent No.4's request, respondent No.1-Deputy Commissioner issued direction dated 14.06.2022 to effect Khata as per the learned Single Judge's order dated 24.09.2020.

6. It is also submitted that respondent No.2-Tahsildar, without issuing notice to the appellant, by Mutation Order MR.No.T25/2021-22 dated 28.06.2022, removed the appellant's name from the revenue records. Thereafter, the appellant filed W.P.No.20729/2022 to quash the direction dated 14.06.2022 issued by respondent No.1 in respect of the subject properties and to direct respondents No.1 and 2 to restore the name of the appellant in the revenue records as khatedar. The appellant before the learned Single Judge contended that the settlement in W.P.No.16866/2013 would not bind other Class-I heirs and

that the mutation was passed without hearing her, in violation of natural justice. The learned AGA opposed the petition, contending that the direction was issued pursuant to the judgment dated 24.09.2020 in W.P.No.16866/2013, and relying on ***Shivdev Singh v. State of Punjab*** reported in ***AIR 1963 SC 365***, submitted that the appellant had to seek review of the said judgment and sought dismissal of the writ petition.

7. By Order dated 29.11.2022, the learned Single Judge disposed of the writ petition as not maintainable, since what was challenged was action taken pursuant to the direction of a Co-ordinate Bench, with liberty reserved to the appellant herein to seek review or take appropriate proceedings. The appellant was thereby held not entitled to the reliefs claimed. Pursuant to liberty reserved, the appellant filed R.P.No.226/2023 in W.P.No.16866/2013 seeking review of the order dated 24.09.2022. The learned Single Judge dismissed the Review Petition by Order dated 09.06.2023. Aggrieved by the Order in W.P.No.20729/2022, the appellant has filed the present writ appeal.

8. The learned counsel appearing for the appellant contends that the learned Single Judge erred in holding the writ petition as not maintainable. Though the appellant was intentionally not made a party in W.P.No.16866/2013, the learned Single Judge had clearly observed that the amicable settlement between the parties would not bind other Class-I heirs. This observation has been made with the sole intention of protecting parties who also had a valid claim and interest over the subject properties. It is further contended that the appellant brought to the knowledge of the respondent - authorities the order dated 24.06.2020 passed in W.P.No.16866/2013 and requested them to continue her name in the revenue records as joint Khatedar. However, the respondent - authorities, without taking into consideration the order dated 24.06.2020, passed a fresh Mutation Order bearing No.T25/2021-22 dated 28.06.2022 and removed the name of the appellant. It is further contended that Section 129 of the Karnataka Land Revenue Act and Rule 65 of the Karnataka Land Revenue Rules lay down the procedure for changing mutation. However, the

said order was passed without issuing any notice to the appellant, which is clearly violative of principles of natural justice.

9. The learned Single Judge failed to consider that the direction issued by respondent No.1 to respondent No.2 to effect Khata and the subsequent Mutation Order, clearly affected the appellant's right with respect to the subject properties since the appellant has been held to be the joint Khatedar. The appellant has been in possession of the subject properties along with respondents No.3 and 4 as joint owners. The appellant's name has been lawfully entered in the revenue records of the subject properties as a joint Khatedar.

10. The learned counsel appearing for respondent No.4 contends that the appellant has not challenged the order in W.P.No.16866/2013 or any ancillary orders and those have become final. Pursuant to the Order in W.P.No.16866/2013, the revenue authorities passed a fresh Mutation Order on 28.06.2022 mutating the names of respondents No.4 and 3. It is further contended that the

appellant had no right, title or interest in the subject properties and gave the 08.05.2020 representation only after filing O.S.No.2845/2018 before the City Civil Judge, Bangalore. Respondent No.3 on 16.06.2020, issued an endorsement to the Tahasildar stating that since mutation had already been effected in the names of respondent No.4 and 3, the appellant's representation could not be considered. The appellant preferred an appeal in RA(BNA) 133/2020-21 without impleading the persons in whose name revenue entries stood and the Assistant Commissioner, by order dated 12.03.2021, ordered entry of the appellant's name in the revenue records. The appellant has suppressed this representation and order and filed W.P.No.20729/2022 and the present appeal.

11. It is further contended that the order in RA(BNA) 133/2020-21 was passed without notifying interested persons, and respondent No.4 learnt of it only later. Respondent No.4 then filed R.P.No.300/2024 before the Deputy Commissioner, which is pending and the Assistant Commissioner's Order stands stayed. It is further contended

that two parallel proceedings on the same subject properties are pending, one before this Court and the other before the Deputy Commissioner, and the question of the appellant's name in the revenue entries is to be decided in those proceedings. Therefore, this appeal is untenable.

12. It is further contended that the subject lands are the self-acquired properties of one late Shri. J.S. Nanjundappa, maternal grandfather of respondent No.4 and respondent No.3 is his only daughter. By registered Will dated 25.06.1977, Shri. J.S. Nanjundappa bequeathed the properties jointly to respondents No.3 and 4, with the properties to devolve on respondent No.4 upon the demise of his mother.

13. It is further contended that respondent No.4 and his mother filed a joint mutation application before the Special Tahasildar, Bangalore North Taluk, based on the Will and the appellant and brothers of respondent No.4 filed objections denying execution of the Will. The Tahasildar, by order dated 30.06.2010, held the respondent No.3 alone as the sole successor and ordered mutation in her name alone.

On appeal by respondent No.4 in R.A.(BNA) 95/2010-11, the Assistant Commissioner, by order dated 27.11.2010, erroneously ordered mutation jointly in the names of respondent No.4, his mother and other brothers, ignoring the Will and mutation was effected vide M.R. No. 18/2010-11. Respondent No.4's Revision Petition No.389/2010-11 before the Deputy Commissioner was dismissed by order dated 23.11.2011, confirming the earlier orders. Respondent No.4 then filed W.P.No.16866/2013. During the pendency of W.P.No.16866/2013, the appellant filed O.S.No.2845/2018 before the City Civil Judge, Bangalore, contending the subject properties are joint family properties of the appellant along with Shri. J.S. Nanjundappa and respondent No.3, seeking partition. Respondent No.4 has filed a written statement opposing the claim and contending that he, along with respondent No.3 are the joint owners by virtue of the Will. The said suit is pending and the trial has commenced. It is further contended that the appellant has no semblance of right in the properties, cannot claim as a joint family member of Shri.J.S. Nanjundappa.

14. It is further contended that in W.P.No.16866/2013, revenue entries did not stand in the appellant's name by virtue of the earlier orders of the Tahasildar and Assistant Commissioner. She was not a party before those authorities and hence was not arrayed as party in the writ petition. During the pendency of the case, respondent No.3 filed an affidavit before this Court seeking that revenue entries be effected jointly in the names of respondent No.4 and herself. The other brothers of respondent No.4, Shri. C. Venkatesh and Shri. C. Manjunath, who were parties, submitted no objection to effecting Katha in the names of respondent No.4 and 3 per the registered Will dated 25.06.1977. Therefore, it is contended that the writ appeal filed by the appellant is liable to be dismissed.

15. We have considered the contentions advanced. The question that arises for our consideration is whether the learned Single Judge was justified in dismissing W.P.No.20729/2022 on the ground that what was impugned therein was action taken pursuant to a direction of this Court

in W.P.No.16866/2013, and relegated the appellant to review the order dated 24.09.2020 in W.P.No.16866/2013.

16. We notice that W.P.No.16866/2013 filed by respondent No.4 and W.P.No.20729/2022 filed by the appellant challenging different orders passed nearly two years apart, arise from two distinct causes of action. W.P.No.16866/2013 was filed challenging the order dated 23.11.2011 of the Deputy Commissioner, confirming the earlier orders of the Special Tahasildar dated 30.06.2010 and the Assistant Commissioner dated 27.11.2010. Respondent No.4 had contended that the mutation ought to have been effected only in the names of himself and his mother - respondent No.3 under the registered Will dated 25.06.1977. The dispute in that writ petition was about the correct manner of giving effect to the Will. The writ petition was disposed of on 24.09.2020 on the basis of an amicable settlement between the parties.

17. W.P.No.20729/2022, was filed nearly two years later by the appellant. She was aggrieved by two different orders- the direction dated 14.06.2022 of respondent No.1 -

Deputy Commissioner, and the Mutation Order dated 28.06.2022 of respondent No.2-Tahasildar. It was contended that the appellant's name stood entered in the Record of Rights in Columns No.9 and 11 in respect of the subject lands as on the date of the mutation proceedings, and that the Tahasildar had removed her name without any notice. The dispute in that writ petition was on the question whether her subsisting entry in the RTC could be deleted without notice. Therefore, we notice that the writ petitions arise from different causes of action and challenge different orders.

18. The learned Single Judge in the impugned Order places reliance on the case of ***Shivdev Singh v. State of Punjab*** reported in ***AIR 1963 SC 1909***, while directing the appellant to seek review of the decision in W.P.No.16866/2013. We notice that in ***Shivdev Singh's*** case (supra), the Constitution Bench held that a High Court, exercising jurisdiction under Article 226 of the Constitution of India, has the inherent power of review, and that non-parties whose interests are affected by an earlier order

under Article 226 of the Constitution of India may invoke that review jurisdiction.

18. We are of the opinion that the decision in ***Shivdev Singh***'s case (supra) is distinguishable because the interests of the appellant were not affected by the Order of this Court dated 24.09.2020 in W.P.No.16866/2013. The learned Single Judge therein had directed the change of Khatha based on the amicable settlement between the parties therein. It is also pertinent to note that the appellant was not made to party to the proceedings in W.P.No.16866/2013. However, the learned Single Judge had clearly held that the rights of other Class-I legal heirs would not be affected by the mutation effected on the basis of the orders.

19. As on the date of the mutation proceedings culminating in the Mutation Order dated 28.06.2022, the name of the appellant stood entered in the Record of Rights in respect of the subject lands and stood specifically recorded in Columns 9 and 11 of the RTC extracts. The RTC extracts have been produced along with the writ petition as

Annexures A, A1 to A5. The appellant's name continued to remain in the Record of Rights as no order had been passed deleting her name before 28.06.2022. Her name had been entered pursuant to the order dated 12.03.2021 passed by the Assistant Commissioner, which was still in force and had neither been set aside nor stayed when the impugned mutation was made.

20. This position is further affirmed in Review Petition No.226/2023 filed by the appellant. The learned Single Judge by an Order dated 12.06.2023 held that if a fresh order is passed by the Authorities relating to change of katha after disposal of the writ petition, a fresh cause of action would arise and the aggrieved party has to question the order effecting change of katha and dismissed the review petition.

21. The appellant has contended that her name was deleted from the Record of Rights by the impugned Mutation Order without any notice being issued to her, in breach of the statutory requirement of Section 129(2) of the Karnataka Land Revenue Act, 1964, ("Act" for short) read

with Rule 65 of the Karnataka Land Revenue Rules, 1966, ("Rules" for short) and in violation of the principles of natural justice. Section 129(2) Karnataka Land Revenue Act provides for the service of notice in the event of a change in the Register of Mutation. The relevant Section reads as follows:-

129. Registration of Mutations and Register of Disputes Cases.-

(1) x x x x x

(2) *Whenever a Prescribed Officer makes an entry in the Register of Mutations, he shall at the same time post up a complete copy of the entry in a conspicuous place in the chavadi and shall give written intimation to all persons appearing from the Record of Rights or Register of Mutations to be interested in the mutation, and to any other person whom he has reason to believe to be interested therein."*

22. Rule 65 of the Rules, deals with the issuance of notices to the persons affected by mutations. Rule 65 reads as follows:-

"65- Issue of Notices to the persons affected by mutations- *On exhibition of Form 12 under sub-rule (3) of Rule 64 and entering of details in mutation register, copies of Form 21 received from taluk office shall be caused to be served on all persons by the Village Accountant as required by sub-section (2) of Section 129. The original notices shall*

indicate the nature of service in each case and shall be filed with the concerned records."

23. Therefore, Section 129(2) of the Act read with Rule 65 of the Rules, casts an obligation on the prescribed officer to give written intimation, in Form No. 21, to two categories of persons — first, those whose names appear from the Record of Rights or Register of Mutations to be interested in the mutation; and second, any other person whom the officer has reason to believe to be interested. In the instant case, the appellant's name had, admittedly, been entered in the Record of Rights in respect of the subject lands and stood recorded in Columns 9 and 11 of the RTC extracts as on the date of the mutation proceedings, she was a person appearing in the Record of Rights to be interested in the mutation. Therefore, respondent No.2 - Tahasildar was under a statutory obligation to serve her with written intimation in Form No. 21 before proceeding to pass the impugned Mutation Order.

24. In the above view of the matter, we are of the opinion that the learned Single Judge erred in dismissing the

impugned writ petition as non-maintainable and in directing the appellant to seek review of the order dated 24.09.2020 in W.P.No.16866/2013.

25. In the result:-

- (i) The Writ Appeal is ***allowed***.
- (ii) The Order of the learned Single Judge dated 29.11.2022 passed in W.P.No.20729/2022 (KLR-RR/SUR), is hereby set aside.
- (iii) Writ Petition is remanded to the learned Single Judge for a consideration afresh with notice to the parties.

All pending interlocutory applications shall stand *disposed of*.

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

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

cp*