



IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 21ST DAY OF APRIL, 2026
PRESENT
THE HON'BLE MRS. JUSTICE ANU SIVARAMAN
AND
THE HON'BLE MS. JUSTICE TARA VITASTA GANJU
WRIT APPEAL NO.701 OF 2022 (LR)

BETWEEN:

1. MR. SREENIDHI P. GAIKWAD
AGED ABOUT 42 YEARS
SON OF LATE B. PANDURANGA RAO GAIKWARD
2. SMT. SHRUTHI P. GAIKWAD
AGED ABOUT 32 YEARS
DAUGHTER OF LATE B. PANDURANGA RAO
GAIKWARD

BOTH ARE RESIDING AT NO.14
SREENIDHI 11TH 'A' CROSS,
S. P. EXTENSION
MALLESHWARAM
BANGALORE-560 003.
LEGAL HEIRS OF DECEASED
RESPONDENT NO.3 SMT. RAJESHWARI BAI

...APPELLANTS

(BY SRI. M. B. CHANDRA CHOODA, ADVOCATE)

Digitally
signed by
RAKSHA
Location:
High Court
of Karnataka



AND:

1. STATE OF KARNATAKA
REPRESENTED BY ITS SECRETARY
TO THE GOVERNMENT
DEPARTMENT OF REVENUE
M. S. BUILDING
AMBEDKAR VEEDHI
BANGALORE-560 001.
2. THE ASSISTANT COMMISSIONER
RAMANAGARAM SUB-DIVISION
RAMANAGARAM-562 159
BANGALORE RURAL DISTRICT.

SRI KENCHIAIAH
AGED MAJOR
SON OF KENCHAMUTHAIAH
SINCE DECEASED BY HIS LRS
3. SMT. DODDAMMA
AGED ABOUT 64 YEARS
WIFE OF LATE KENCHIAIAH
4. SRI SRINIVAS
AGED ABOUT 42 YEARS
SON OF LATE KENCHIAIAH



5. SRI RAJU

AGED ABOUT 40 YEARS

SON OF LATE KENCHIAIAH

RESPONDENT NO.3 TO 5 ARE

RESIDING AT YELACHAWADI VILLAGE

MARALAWADI HOBLI,

KANAKAPURA TQ.

BANGALORE RURAL DISTRICT.

6. SMT. CHANDRAMMA

AGED ABOUT 51 YEARS

DAUGHTER OF LATE KENCHIAIAH

WIFE OF KARIAPPA

RESIDING AT HALSOOR

KANAKAPURA TALUK

RAMANAGARAM DISTRICT.

7. SMT. JAYASHREE

AGED ABOUT 46 YEARS

DAUGHTER OF LATE KENCHIAIAH

WIFE OF GUNDAYYA



RESIDING AT GUPALI
BYMANGALA HOBLI
RAMANAGARAM TALUK
AND DISTRICT-562 159.

...RESPONDENTS

(BY SMT. PRAMODHINI KISHAN, AGA FOR R1 & R2;
R3 TO R6 - SERVED;
SERVICE TO R7 H/S VOD 17.12.2025)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE
KARNATAKA HIGH COURT ACT, PRAYING TO SET ASIDE THE
ORDER DATED 27.06.2022 IN WP No.7774/2007 AND
CONSEQUENTLY CONFIRM THE ORDER PASSED BY THE KAT
DATED 11.07.2006 IN APPEAL No.109/2005 AND PASS SUCH
OTHER AND FURTHER ORDERS AS THIS COURT DEEMS FIT TO
GRANT UNDER THE CIRCUMSTANCES OF THE CASE.

THIS APPEAL, COMING ON FOR PRELIMINARY HEARING,
THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MRS. JUSTICE ANU SIVARAMAN
and
HON'BLE MS. JUSTICE TARA VITASTA GANJU



ORAL JUDGMENT

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

This appeal is preferred against the judgment of the learned Single Judge dated 27.06.2022, passed in W.P.No.7774/2007 (LR).

2. Heard the learned counsel appearing for the appellants as well as the learned Government Advocate appearing for the respondent- State.

3. The learned counsel appearing for the appellants submits that the mother of the appellants was the land owner in respect of 2 acres of property in Sy. No.278 of Yelachawadi Village, Maralawadi Hobli, Kanakapura Taluk. It is submitted that by an order dated 19.10.2004, the Assistant Commissioner, accepted an application filed in Form No.7A under Section 77A of the Karnataka Land Reforms Act, 1961 (for short 'the Act') by a person claiming to be a tenant in respect of the property in question. The appellants took up the matter before the



Karnataka Appellate Tribunal (for short 'KAT). The KAT came to the conclusion that in order to establish that the land could be granted under Section 77A of the Act, there must be an order of the Government stating that the land had stood vested with the State Government and since there was no such order, it could not have been held that the land was tenanted. The said order was challenged before this Court and by the impugned judgment dated 27.06.2022, the learned Single Judge referred the matter to KAT for reconsideration, with a direction to consider whether the tenant was in possession of the land in question from 1973-74 till the date of the amendment introducing Section 77A of the Act and whether the land owners/appellants had got possession of the land in question in the interregnum.

4. Learned counsel appearing for the appellants submits that it is only in respect of the lands which stood vested with the State Government that Section 77A of the Act would have any application. It is contended by the



learned counsel for the appellants, relying on the judgment of the full Bench of this Court in ***Lokayya Poojary and Anr. Vs. State of Karnataka & Ors.,*** reported in ***ILR 2012 KAR 4345*** that in the instant case, since the name of the predecessor-in-interest of the appellants was shown as the owner in the RTC's from 1960 onwards, there was no question of vesting of the land with the State Government and therefore, there is no need for any reconsideration and the order of the KAT ought to have been accepted.

5. The learned Government Advocate, on the other hand, contends that it is clear from the facts, as recorded, that the name of the tenant has been entered as a cultivator in the RTC's from 1970-71 up to 1974-75. It is further submitted that in the coloum pertaining to the mode of cultivation, it is shown as "vaara" and it is indicated that Kenchamuthaiah was the tenant cultivating the land in question at least from 1970-71 up to 1974-75. It is contented that the full Bench has clearly held that



there is no requirement of any order of vesting of the land with the Government and the vesting is by operation of law. Relying on Section 44 of the Act, it is submitted that all lands which are held by or in possession of the tenants as on 01.03.1974 stands automatically vested with the Government by operation of law and in such cases, Section 77A would also be applicable. It is contended that the question whether the tenant continued in possession of the property as a cultivator from 01.03.1974 upto the date of the 1997 amendment to the Karnataka Land Revenue Act, is what is required to be considered.

6. Having considered the contentions advanced, we notice that the full Bench of this Court has specifically considered the operation of Section 77A of the Act in *Lokayya Poojary's* case as under;

"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 amendment, they were not intending to have one more forum for registration of occupancy rights



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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 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



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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 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 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 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."



7. We further notice that it is specifically recorded by the learned Single Judge, on the basis of the materials placed on record that the name of the tenant has been entered as a cultivator for the years from 1970-71 upto 1974-75 in the RTC's. In view of the fact that the property was tenanted property as on 01.03.1974, there is a vesting as provided under Section 44 of the Act in the State Government. Therefore, the further question as to whether the tenant continued in possession till the amendment requires a consideration.

8. In the above view of the matter, we are of the opinion that the remand of the matter to the KAT to consider whether the tenant continued in possession from 01.03.1974 till the date of the 1997 amendment to the Karnataka Land Revenue Act requires no interference by this Court. The appeal therefore fails, same is accordingly ***dismissed***, leaving open all the contentions of the parties.



9. At the request of the learned counsel for the appellants, time limit of eight months from date of receipt of certified copy of this judgment is fixed for consideration of the matter by the KAT and for passing of final orders.

Pending application(s), if any stands disposed of.

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

**Sd/-
(TARA VITASTA GANJU)
JUDGE**

PN
List No.: 1 Sl No.: 13