

HC-KAR



CNR: KAHC010370702026

NC: 2026:KHC:48703-DB
WA No. 1531 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 8TH DAY OF SEPTEMBER, 2026

PRESENT

THE HON'BLE MR. JUSTICE JAYANT BANERJI

AND

THE HON'BLE MS. JUSTICE TARA VITASTA GANJU

WRIT APPEAL NO.1531 OF 2026 (KLR-RES)

BETWEEN:

1. THE STATE OF KARNATAKA,
DEPARTMENT OF REVENUE,
VIDHANA SOUDHA,
BANGALORE - 560001,
REPRESENTED BY ITS SECRETARY.
2. THE ASSISTANT COMMISSIONER,
D.K. DISTRICT,
MANGALORE - 575001.
3. THE TASHILDAR,
MANGALORE TALUK,
MANGALORE - 575001.
4. THE DEPUTY COMMISSIONER,
D.K. MANGALURU,
MANGALURU - 575001.

...APPELLANTS

(BY SRI. MITHUN GERAHALLI., AAG A/W
SMT. SUKANYA BALIGA.B., AGA)

AND:

SRI. VENKATARAMANA DEVARA TEMPLE,
HAVING ITS OFFICE AT CAR STREET,
MANGALURU - 575 001.
REPRESENTED BY ITS MANAGING TRUSTEES

Digitally signed by
SUMATHY
KANNAN
Location: HIGH
COURT OF
KARNATAKA

HC-KAR



CNR: KAHC010370702026

NC: 2026:KHC:48703-DB
WA No. 1531 of 2026

AND TRUSTEES,

1. A.BALAKRISHNA SHENOY,
S/O DAMODAR SHENOY,
AGED ABOUT 64 YEARS,
MANAGING TRUSTEE OF
SRI. VENKATRAMANA TEMPLE.
2. M. KIRAN PAI,
S/O RAGHUNATH PAI,
AGED ABOUT 48 YEARS,
TRUSTEE OF SRI. VENKATRAMANATEMPLE.
3. M.SATHISH PRABHU,
S/O GOPALAKRISHNA PRABHU,
AGED ABOUT 60 YEARS,
TRUSTEE OF SRI.VENKATRAMANATEMPLE.
4. K.GANESH KAMATH,
S/O LATE K. VITTAL KAMATH,
AGED ABOUT 55 YEARS,
TRUSTEE OF SRI. VENKATRAMANA TEMPLE.
5. M.JAGANNATH KAMATH,
S/O M. MADHAV KAMATH,
AGED ABOUT 66 YEARS,
TRUSTEE OF SRI.VENKATRAMANATEMPLE.

...RESPONDENTS

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT, PRAYING TO ALLOW THE WRIT APPEAL AND SET-ASIDE THE ORDER DATED 16.09.2025 PASSED BY THE LEARNED SINGLE JUDGE OF THIS HON'BLE COURT IN WRIT PETITION NO.2111/2025 (KLR-RES). CONSEQUENTLY, HOLD THAT THE ORDER BEARING CDIS/SA.KA.BU.THI/66/2024/E-413966 DATED 07.01.2025 PASSED BY THE APPELLANT NO.2 - ASSISTANT COMMISSIONER, MANGALURU SUB-DIVISION, MANGALURU IS IN ACCORDANCE WITH LAW AND DOES NOT CALL FOR INTERFERENCE AND GRANT SUCH OTHER ORDER OR ORDERS

HC-KAR



CNR: KAHC010370702026

**NC: 2026:KHC:48703-DB
WA No. 1531 of 2026**

AS DEEMS FIT UNDER THE FACTS AND CIRCUMSTANCES OF THE CASE, IN THE INTEREST OF JUSTICE AND EQUITY.

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

CORAM: HON'BLE MR. JUSTICE JAYANT BANERJI
&
HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE JAYANT BANERJI)

Heard the learned Additional Advocate General assisted by the learned AGA for the appellants.

2. An application I.A.No.1/2026 is filed seeking condonation of delay of 200 days in filing the appeal. It is supported by an affidavit of Shri T. Ramesh Babu, Tahsildar, Mangaluru Taluk. In the affidavit, it is stated that the certified copy of the order of the writ court was delivered on 30.10.2025, whereafter it was put up for legal opinion on 21.11.2025. Legal opinion was provided on 05.12.2025, opining that it is a fit case to file a writ appeal against the order dated 16.09.2025 in

HC-KAR



CNR: KAHC010370702026

**NC: 2026:KHC:48703-DB
WA No. 1531 of 2026**

W.P.No.2111/2025. It is stated that thereafter, several communications and correspondences had taken place between the appellants to get the Government order and accordingly, the office of the appellants wrote a letter to the Government on 18.12.2025 requesting to issue the Government Order enabling the appellants to prefer a writ appeal. The Government order dated 17.02.2026 was issued appointing the deponent as Litigation Conducting Officer to prefer a writ appeal.

3. It is also stated that the self-enumeration process for the year 2026 census across the Karnataka State commenced from 01.04.2026 to 15.04.2026. It is stated that since from the first week of February 2026, he had attended several meetings held and conducted by the Deputy Commissioner for the purpose of self-enumeration and he was busy with official and administrative work. Enumerators were appointed for census work from 16.04.2026 to 15.05.2026, whose activities were supervised by him. Since he was engaged in census duties



continuously, he could not come over to Bengaluru to swear the affidavit and file the writ appeal. It is stated that the delay is *bona fide* and that he has a good case on merits.

4. The contention of the learned counsel for the appellants is that the affidavit reflects substantial administrative reasons for the delay and the delay is not inordinate, it being only 200 days and therefore, the delay be condoned.

5. It is further stated that the appellants have a strong case on merits, inasmuch as the suit was filed seeking injunction and the possession of the plaintiffs has been decided. It is stated that in a suit for injunction, possession / title cannot be claimed. It is stated that the RTC entry is 'B' Kharaband the Record of Rights categorically classifies the property as 'porambaku'. It is stated that such an entry in the Record of Rights or the Mutation Register, carries a statutory presumption of court



(sic) until the contrary is proved or a lawful substitution is made. No other submission is advanced as far as the merits is concerned.

6. We have examined the matter. As far as the delay is concerned, the Supreme Court in the case of **OFFICE OF POSTMASTER GENERAL AND OTHERS Vs. LIVING MEDIA INDIA LIMITED¹**, has strongly deprecated the claims made by Government Departments for condoning the delay, attributing the delay to administrative reasons. In paragraph No.13 thereof, it has been stated as follows:

"13. In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bona fide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for the government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few."

¹Civil Appeal No.2474-2475/2012



7. In this view of the matter, given the aforesaid judgment of the Supreme Court, the appellants have not made out any case for condonation of delay.

8. Even otherwise, if the merits of the matter, as sought to be agitated by the learned counsel for the appellants, are to be considered, it is evident from a perusal of the order of the learned Single Judge that the petitioners / Temple claimed title over the petition schedule properties on the strength of the judgment and decree passed in O.S.No.860/1993 and 1101/1993, which had been affirmed by this Court in R.S.A.No.1253/2015. The grievance of the petitioners / Temple was that in spite of a competent Civil Court having declared the petitioners / Temple as the absolute owners followed by the mandamus issued by this Court in W.P.No.14050/2024, the respondent No.2 therein / Assistant Commissioner had rejected its application on the ground that the property is classified as Government land.



9. It is stated that the Trial Court order has not returned a finding as to the ownership of the plaintiffs.

10. We note that the learned Single Judge in its impugned order dated 16.09.2025 in W.P.No.2111/2025, had referred to the issues that were framed in O.S.No.1101/1993, which read as follows:

"1. Whether the plaintiff proves that it is the owner and is in actual present possession of the suit schedule property on the date of the suit as alleged in the plaint?"

2. Whether the plaintiff proves any interference as alleged in para 6 of the plaint?"

3. What decree or order?"

11. Issue Nos.1 and 2 were answered in the affirmative and the suit filed by the petitioners / Temple seeking permanent injunction and declaratory relief came to be decreed by the judgment and decree dated 30.06.2000. The operative part of the decree was quoted by the learned Single Judge as follows:

"ORDER

The suit filed by the plaintiff against the defendant in decreed.

HC-KAR



CNR: KAHC010370702026

**NC: 2026:KHC:48703-DB
WA No. 1531 of 2026**

The defendant are permanently restrained from interfering with or disturbing the possession of the suit schedule property and committing trespass into the suit schedule property.

No order on to costs.

The original of the Judgment shall be kept in O.S.No.860/93 and the copy shall be kept in O.S.1101/93."

12. The learned Single Judge noted that it was evident on a reading of Issue No.1 framed in O.S.No.1101/1993 that the defendants had questioned the title of the petitioners who were the plaintiffs and the Trial Court was incidentally called upon to examine the title of the petitioners. The finding of the trial court on the Issue No.1 was quoted by the learned Single Judge as follows:

"12. The learned counsel for the plaintiff relied on the decision reported in 2000(2) K.L.J. page 27, Item No.32 Head Note 'B'

"A written statement must contain a specific denial of every allegations of the fact made therein. Allegation of fact not specifically denied is deemed to be admitted."

The said decision is applicable to the present case on hand. Hence, on perusal of Ex. P1 to Ex. P11, the contention of the Defendant Corporation in a fallacious contention. Further by perusal of Ex. P15 and Ex. P16, tanks are shown being situated in S.No. 145 and S.No. 146. Further, the Ex.P31 32, 34, 35, 36, 37, 38 and 39

HC-KAR



CNR: KAHC010370702026

NC: 2026:KHC:48703-DB
WA No. 1531 of 2026

which are correspondence between the Defendant Corporation and the Plaintiff Temple disclose that the tanks belongs to possessed by the plaintiff Temple. From all these documents, it is crystal clear that the Tanks are in possession of the Plaintiff Temple. Ex. P17 in the sketch which also shows the S.Nos. 141, 144, 148, 147/1, 147/2, 147/3 is owned and pronounced by the Plaintiff Temple and it is surrounded by T.S.No. 145 and 146."

13. The Trial Court had held that the plaintiffs / petitioners possessed a valid and enforceable title. The Court had declared the plaintiff No.1 as the absolute owner of the property, thereby resolving the ownership dispute conclusively in their favour. The operative portion of the judgment in R.S.A.No.1253/2015 whereby the decree rendered by the Trial Court in O.S.No.1101/1993 endorsed a finding regarding ownership and title, read as follows:

"ORDER

Appeal is allowed.

The judgment and decree dated 27.03.2015, passed by the III Additional Senior Civil Judge, Mangalore in R.A.No.114/2000 is set aside.

The judgment and decree passed by the trial Court in O.S.No.1101/1993 is restored.

No order as to the costs."



14. The learned Single Judge held that in view of the aforesaid, no ambiguity was left regarding the title over the disputed property. The learned Single Judge noted that once the Civil Court has conclusively adjudicated ownership and possession, such findings have attained finality and are binding on all authorities including the State.

15. It was held that the finding recorded by the Assistant Commissioner declaring the petition properties as "State properties", was perverse, capricious and legally untenable.

16. The learned Judge recorded that it is an impermissible attempt to over-ride and nullify the decree of the Civil Court. Despite having suffered adverse decrees in O.S.Nos.860/1993 and 1101/1993 and an unsuccessful Second Appeal in R.S.A.No.1253/2015, the State continues to contest the petitioners' right. Accordingly, the following order was passed:



"ORDER

(i) The writ petition stands allowed.

(ii) The impugned order dated 07.01.2025 passed by respondent No.2/Assistant Commissioner, Mangaluru Sub-Division, Mangaluru, Dakshina Kannada, produced at Annexure-AG, is hereby quashed and set aside.

(iii) Respondent No.2 is directed to forthwith carry out mutation by entering the name of the petitioners-Temple in the Record of Rights (RTC) in both the ownership and cultivator's columns pertaining to the petition schedule property.

(iv) The aforesaid exercise shall be completed within a period of four weeks from the date of receipt of a certified copy of this order.

(v) In the event of failure on the part of respondent No.2/Assistant Commissioner to implement the directions issued by this Court, it is open to the petitioners to initiate appropriate contempt proceedings in accordance with law."

17. It is noted from the record of this appeal that a common judgment and decree was passed in O.S.Nos.860/1993 and 1101/1993. It is pertinent to mention here that the R.A.No.114/2000 was filed to set aside the judgment and decree passed in O.S.No.1101/1993. The R.S.A. was filed to challenge the decree passed by the appellate court in R.A.No.114/2000. In O.S.No.860/1993, the State Government as well as the

HC-KAR



CNR: KAHC010370702026

**NC: 2026:KHC:48703-DB
WA No. 1531 of 2026**

Corporation of the City of Mangalore were the defendants. The State Government has not challenged the decree in O.S.No.860/1993 and thus it has attained finality. In view of the findings returned by the learned Single Judge, also on merit, we find no substance in the submissions advanced on behalf of the appellants.

18. It is also admitted to the appellants that the order passed in R.S.A.No.1253/2015 has attained finality. This appeal is misconceived and is, therefore, dismissed.

19. All pending applications stand disposed of.

**Sd/-
(JAYANT BANERJI)
JUDGE**

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

KS
List No.: 1 Sl No.: 18.1