



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19TH DAY OF JUNE, 2026

BEFORE

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

WRIT PETITION NO.25855 OF 2025 (LR)

BETWEEN:

1. SMT. TULASAMMA
D/O LATE DASAPPA,
W/O VENKATARAJAPPA G.H.,
AGED ABOUT 78 YEARS,
R/AT NO.39/46, PASCHIM COUNTY,
MYDARAHALLI,
BENGALURU - 560 090.
2. SMT. SHARADAMBA G.V.
D/O VENKATARAJAPPA G.H.
AGED ABOUT 61 YEARS,
R/AT NO.315, K.M. SONNAPPA LAYOUT,
1ST CROSS, NEAR ANMOL,
VENKATESHA NILAYA,
KEREGUDDADAHALLI,
GUDDAHALLI, CHIKKABANAWARA,
BENGALURU - 560 090.
3. SRI. G.V. SRINIVASA
S/O VENKATARAJAPPA G.H.,
AGED ABOUT 59 YEARS,
R/AT NO.25, KSM NILAYAM,
APC LAYOUT, 4TH CROSS,
LAKE SHORE GARDEN
2ND CROSS, THINDLU MAIN ROAD,
BENGALURU NORTH,
VIDYARANYAPURA POST,
BENGALURU - 560 097.
4. SRI. VENKATESHA G.V.
S/O VENKATARAJAPPA G.H..

Digitally signed by
CHAYA S A
Location: HIGH
COURT OF
KARNATAKA



AGED ABOUT 57 YEARS,
R/AT NO.803/16, SHREE KRISHNA DHAMA,
S.S. HOSPITAL ROAD,
NEAR SAI BABA TEMPLE,
BHOOMIKA NAGARA,
NITTUVALLI POST,
DAVANAGERE - 577 004.

5. SRI. VITTAL KUMAR G.V.
S/O VENKATARAJAPPA G.H.,
AGED ABOUT 47 YEARS,
R/AT NO.47, 1ST MAIN,
2ND CROSS, SONNAPPA LAYOUT,
KEREGUDDADAHALLI,
CHIKKABANAWARA,
BENGALURU - 560 090.

...PETITIONERS

(BY SRI. ASHOK HARANAHALLI, SENIOR COUNSEL FOR
SRI. NARASIMHARAJU, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
REP. BY ITS CHIEF SECRETARY,
VIDHANA SOUDHA,
DR. B.R. AMBEDKAR VEEDHI,
BENGALURU - 560 001.
2. THE LAND TRIBUNAL
REP. BY ITS CHAIRMAN,
BENGALURU SOUTH TALUK,
K.G.ROAD, KANDAYA BHAVAN,
BENGALURU - 560 009.
3. SRI. VIJAY KUMAR
S/O LATE APPAYYANNA,
AGED ABOUT 71 YEARS,
R/AT NO.1110, 1ST MAIN ROAD,
UPANAGAR, KENGERI,
BENGALURU SOUTH,
BENGALURU - 560 060.



4. SMT. ANASUYA
D/O LATE APPAYYANNA,
AGED ABOUT 68 YEARS,
R/AT NO.1110, 1ST MAIN ROAD,
UPANAGAR, KENGERI,
BENGALURU SOUTH,
BENGALURU - 560 060.
5. SMT. SOWBHAGYA
D/O LATE APPAYYANNA,
AGED ABOUT 67 YEARS,
R/AT NANDINI LAYOUT,
BENGALURU - 560 040.
6. SRI. MANJUNATH
S/O LATE APPAYYANNA,
AGED ABOUT 65 YEARS,
R/AT NO.1110, 1ST MAIN ROAD,
UPANAGAR, KENGERI,
BENGALURU SOUTH,
BENGALURU - 560 060.
7. SRI. RAMESH,
S/O LATE APPAYYANNA,
AGED ABOUT 64 YEARS,
R/AT NO.1110, 1ST MAIN ROAD,
UPANAGAR, KENGERI,
BENGALURU SOUTH,
BENGALURU - 560 060.
8. SRI. DAYANANDA
S/O LATE APPAYYANNA,
AGED ABOUT 59 YEARS,
R/AT NO.1110, 1ST MAIN ROAD,
UPANAGAR, KENGERI,
BENGALURU SOUTH,
BENGALURU - 560 060.
9. SRI. K. KRISHNAPPA
S/O LATE KEMPANNA,



AGED ABOUT 77 YEARS,
R/AT NO.3, THIPPUR,
K. GOLLAHALLI POST,
KENGARI HOBLI, NEAR BUS STOP,
KUMBALAGODU,
BENGALURU - 560 060.

10. SMT. VENKATAMMA
D/O LATE KEMPANNA,
W/O GOPALAPPA,
AGED ABOUT 66 YEARS,
R/AT NO.48, VINAYAKA NAGAR,
NEAR ROBIN THEATRE,
KENGARI UPANAGAR,
BENGALURU SOUTH, KENGARI,
BENGALURU - 560 060.
11. SMT. RATHNA K.
D/O LATE KEMPANNA,
W/O R.T. MARAPPA,
AGED ABOUT 64 YEARS,
R/AT NO.285, 2ND MAIN, 4TH CROSS,
NGEF LAYOUT, MALLATHAHALLI,
BENGALURU - 560 056.
12. SMT. SAROJAMMA
D/O LATE MUNIGOPALAPPA,
W/O B.M. RAMAKRISHNA,
AGED ABOUT 72 YEARS,
R/AT NO.14, DODDAGUBBI,
BENGALURU - 562 149.
13. SMT. LAKSHMI
D/O LATE PILLAPPA,
W/O LOKESH K.M.,
AGED ABOUT 39 YEARS,
R/AT NO.11, KAMAYANAPALYA,
KENGARI,
BENGALURU SOUTH,
KUMBALAGODU GOLLAHALLI,
BENGALURU - 560 060.



14. SRI. MANU KUMAR
S/O LATE PILLAPPA,
AGED ABOUT 30 YEARS,
R/AT NO.51, 3RD CROSS,
CHIKKABETTAHALLI,
BENGALURU NORTH,
BENGALURU - 560 097.
15. SRI. NAVEEN KUMAR
S/O LATE PILLAPPA,
AGED ABOUT 29 YEARS,
R/AT NO.51, 3RD CROSS,
CHIKKABETTAHALLI,
BENGALURU NORTH,
BENGALURU - 560 097.
16. SMT. MUNILAKSHMAMMA
D/O LATE GOPALAPPA,
W/O GANGADHARA,
AGED ABOUT 60 YEARS,
R/AT NO.206, DODDAGUBBI,
BIDARAHALLIL HOBLI,
DR. SHIVARAM KARANTH NAGAR,
BENGALURU NORTH,
BENGALURU - 560 077.
17. SMT. NAGAMMA
S/O LATE GOPALAPPA,
W/O NARAYANASWAMY,
AGED ABOUT 58 YEARS,
R/AT T. AGRAHARA,
THAMMARAYASANDRA AGRAHARA,
BENDIGANAHALLI POST,
BENGALURU RURAL,
HOSKOTE - 560 129.
18. SRI. MUNIRAJU G.
S/O M. GOPALAPPA,
AGED ABOUT 56 YEARS,
R/AT NO.82, CHIKKA GUBBI ROAD,



NEAR SOMESHWARA TEMPLE,
DODDA GUBBI,
BENGALURU - 562 149.

19. SMT. NALINA
D/O LATE ANJINAPPA,
W/O N. MUTHAIAH,
AGED ABOUT 61 YEARS,
R/AT JATHAVARA HOSAHALLI,
JATHAVARA POST,
CHIKKABALLAPURA TALUK,
CHIKKABALLAPURA - 562 101.
20. SRI. MUNIRATHNA
S/O LATE ANJINAPPA,
AGED ABOUT 59 YEARS,
R/AT NO.15, BANDE MUTT ROAD LINE,
BANDEMUTT, K.S. TOWN,
KENGARI UPANAGAR,
BENGALURU - 560 060.
21. SRI. LAKSHMANA
S/O LATE ANJINAPPA,
AGED ABOUT 56 YEARS,
R/AT NO.260, KOMMAGHATTA ROAD,
VIVEKANANDA NAGARA, K.S. TOWN,
BENGALURU - 560 060.
22. SMT. NAGAVENI,
D/O LATE ANJINAPPA,
W/O MUNIRAJU,
AGED ABOUT 53 YEARS,
R/AT NO.260, KOMMAGHATTA ROAD,
VIVEKANANDA NAGARA, K.S. TOWN,
BENGALURU - 560 060.
23. SMT. MANJULA A.
D/O LATE ANJINAPPA,
W/O VIJAY KUMAR N.,
AGED ABOUT 43 YEARS,
R/AT NO.260, KOMMAGHATTA ROAD,



VIVEKANANDA NAGARA, K.S. TOWN,
BENGALURU - 560 060.

24. SRI. SOMASHEKARA,
S/O LATE ANJINAPPA,
AGED ABOUT 43 YEARS,
R/AT NO.260, KOMMAGHATTA ROAD,
VIVEKANANDA NAGARA, K.S. TOWN,
BENGALURU - 560 060.

...RESPONDENTS

(BY SRI. B.J. ESWARAPPA, AGA FOR R1 AND R2;
SRI. M.S. VISWANATHA, ADVOCATE FOR R3;
SRI. Y.R. SADASIVA REDDY, SENIOR COUNSEL FOR
SRI. K. BHANUPRASAD, ADVOCATE FOR R4 TO R8;
SRI. R. SUBRAMANYA, ADVOCATE FOR
SRI. K.R. RAMESH, ADVOCATE FOR R9 TO R24)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE ORDER PASSED BY THE LAND TRIBUNAL IN LRF NO.909/1974-75 DATED 10TH MARCH, 1975 VIDE ANNEXURE-A; DIRECT THE RESPONDENT NO.2 TO EFFECT THE REVENUE ENTRIES IN RESPECT OF THE PROPERTY BEARING SURVEY NO.5/1B MEASURING TO AN EXTENT OF 0-22 GUNTAS AND SURVEY NO.213/2A MEASURING TO AN EXTENT OF 1 ACRE 0-06 GUNTAS AND ALSO SURVEY NO.213/2D MEASURING TO AN EXTENT OF 3 ACRES 0-16 GUNTAS ALL ARE SITUATED AT KENGERI VILLAGE, KENGERI HOBLI, BENGALURU SOUTH TALUK IN THE NAME OF PETITIONERS JOINTLY; AND ETC.

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 JUDGMENT

In this writ petition, petitioners are challenging the order dated 10th March, 1975 (Annexure-A) passed by the respondent



No.2-Land Tribunal, Bengaluru South Taluk, Bengaluru in LRF No.909/1974-95; *inter alia* sought for direction to the respondent No.2 to effect revenue entries in the name of the petitioners in respect of the schedule property.

2. The relevant facts for adjudication of this writ petition are that the grandfather of the petitioners and respondents 3 to 24 *viz.*, Dasappa is the owner in possession of the schedule property bearing Survey No.5/1B measuring 22 guntas, Survey No.213/2A measuring 1 acre 6 guntas and Survey No.213/2D measuring 3 acre 16 guntas situate at Kengeri Village, Bengaluru South Taluk having acquired the same under the registered Partition Deed dated 16th December, 1948 (Annexure-B). Thereafter, the revenue entries were made in terms of the Partition Deed. It is stated that the aforesaid Dasappa had six daughters *viz.*, Lakshamma, Sanjeevamma, Narayanamma, Anjinamma, Lakshminarayanamma and Tulasamma and the genealogical tree in this regard is produced at Annexure-D. After the death of Dasappa, the legal heirs are in possession and enjoyment of the schedule property. It is also stated that, one of the



daughters of Dasappa viz., Sanjeevamma filed Original Suit No.125 of 1973, seeking relief of partition in respect of all the joint family properties and the competent Civil Court, by its judgment and decree dated 12th July, 1976 (Annexure-E), decreed the suit holding that the plaintiff-Sanjeevamma was entitled for *one-seventh* share in item Nos.1 to 10 of the suit schedule property and further directed the defendant No.1- Hanumakka to put the plaintiff-Sanhjeevamma in possession of *one-seventh* share of the schedule property.

3. It is further averred in the petition that, pursuant to the judgment and decree passed in Original Suit No.125 of 1973, Final Decree proceedings in F.D.P.No.29 of 1983 has been filed as to declare that the said Hanummakka and her six daughters are entitled for *one-seventh* share in the suit schedule property and accordingly, competent Civil Court in F.D.P.No.29 of 1983, allotted respective shares to the parties concerned. During the pendency of aforementioned Final Decree Proceedings, one Appayyanna (*father of the respondents 3 to 8*), being a son-in-law of deceased Dasappa and Hanumakka, filed Form No.7A before the respondent No.2,



seeking occupancy right in respect of the schedule property belonged to the joint family of Dasappa and his daughters which is produced at Annexure-G. The said applicant-Appayyanna was a Government School Teacher and not an Agriculturist. It is also stated that, in said proceedings before the Land Tribunal, the said Appayyanna has made his mother-in-law *viz.*, Hanumakka alone as a respondent leaving her daughters as parties to the proceedings, though they are proper and necessary parties. It is also stated that the schedule properties are some of the suit schedule properties in Original Suit No.125 of 1973 and therefore, it is the case of the petitioners that the said Appayyanna has no legal right to file application, seeking occupancy right.

4. It is further stated in the writ petition that the petitioners were not made as parties before the Land Tribunal and the petitioners were not aware about the impugned order passed by the respondent No.2-Land Tribunal and therefore, the impugned order dated 10th March, 1975 (Annexure-A) passed by the respondent No.2-Land Tribunal is non-est in law. Hence, petitioners presented this writ petition.



5. Heard Sri. Ashok Haranahalli, learned Senior Counsel on behalf of Sri. Narasimharaju, appearing for the petitioners; Sri. B.J. Eswarappa, learned Additional Government Advocate appearing for respondents 1 and 2; Sri. M.S. Viswanatha, learned counsel appearing for the respondent No.3; Sri. Y.R. Sadasiva Reddy, learned Senior Counsel on behalf of Sri. K. Bhanuprasad, appearing for respondents 4 to 8; and Sri. R. Subramanaya, learned counsel on behalf of Sri. K.R. Ramesh, appearing for respondents 9 to 24.

6. Sri. Ashok Haranahalli, learned Senior Counsel appearing for petitioners contended that, the schedule property is the joint family property of Hanumakka and her six daughters. Learned Senior Counsel refers to the judgment and decree passed in Original Suit No.125 of 1973 and argued that the said Hanummkka and her six daughters are entitled for *one-seventh* share in the suit schedule property. Learned Senior Counsel further argued that, Appayyanna being a son-in-law of Hanumakka and was working as a Government Teacher and as such, the conferment of occupancy right in favour of the said Appayyanna is contrary to law. It is also



argued that, Dasappa died on 25th February, 1961 and immediately thereafter, the succession opened in the family of Hanumakka and her six daughters and therefore, without arraying all the daughters in the proceedings before the respondent No.2-Land Tribunal, Appayyanna had obtained the order from the respondent No.2-Land Tribunal fraudulently, which is *per se* illegal and contrary to law.

7. Learned Senior Counsel Sri. Ashok Haranahalli, appearing for petitioners further argued that, no notice has been issued to the parties interested in the proceedings before the respondent No.2-Land Tribunal and no enquiry has been conducted and as such, the entire proceedings is void in nature. Learned Senior Counsel while referring to Application in Form No.7A filed by the said Appayyanna, argued that the said Appayyanna himself in the application had clearly stated that schedule property is the ancestral property of Hanumakka and therefore, Hanumakka and all her six daughters were entitled for *one-seventh* share each in the schedule property in terms of judgment and decree passed in Original Suit No.125 of 1973.



Accordingly, learned Senior Counsel sought for setting aside the impugned order passed by the respondent No.2-Land Tribunal.

8. Insofar as the delay in approaching this Court, Sri. Ashok Haranahalli, learned Senior Counsel appearing for petitioners argued that the petitioners and their mother were not parties not only before the respondent No.2-Land Tribunal but also in the Civil proceedings referred to above. Therefore, the entire action by the respondent No.2-Land Tribunal requires interference by this Court. Referring to Rule 17 of the Karnataka Land Reforms Rules, 1974 (for short, hereinafter referred to as Rules-1974), learned Senior Counsel appearing for petitioners contended that the impugned order passed by the respondent No.2-Land Tribunal, without following the procedure contemplated under the Karnataka Land Reforms Act and Rules and ignoring the fact that the applicant-Appayyanna was working as a Teacher in the Government School during the year 1973-74, is non-est and as such, the said applicant cannot be considered as a 'Tenant' under Section 2(34) of the Karnataka Land Reforms Act, 1961 (for short, hereinafter referred to as '1961-Act').



9. In order to buttress his arguments, learned Senior Counsel Sri. Ashok Haranahalli, appearing for petitioners referred to the judgment of Hon'ble Supreme Court in the case of **CHANDRO DEVI AND OTHERS vs. UNION OF INDIA AND OTHERS** reported in (2017) 9 SCC 469, in the case of T. **VIJENDRADAS AND ANOTHER vs. M. SUBRAMANIAN AND OTHERS** reported in (2007) 8 SCC 751 AND in the case of **K.D. SHARMA vs. STEEL AUTHORITY OF INDIA LIMITED AND OTHERS** reported in (2008) 12 SCC 481 and argued that, as the said Appayyanna had obtained the impugned order of respondent No.2-Land Tribunal fraudulently, the impugned order is required to be set-aside by this Court.

10. Nextly, it is argued by learned Senior Counsel appearing for the petitioners that, if the application in Form No.7A is filed by a close family member against the landlord and that apart, as in the present case, the land is inheritable by Hanumakka and all her six daughters equally, it is a deliberate deception on the part of the said Appayyanna being a son-in-law of Hanumakka and Government School Teacher. Therefore, learned Senior Counsel sought for setting-aside the



impugned order passed by respondent No.2-Land Tribunal. In this regard, learned Senior Counsel appearing for petitioners places reliance on the judgment of this Court, passed in Writ Petition No.6398 of 2018 and connected petitions disposed of on 16th December, 2025 and argued that the conduct of the parties has to be considered and as such, sought for setting-aside the impugned order.

11. Per contra, Sri. R. Subramanaya, learned Counsel appearing for respondents 9 to 24 supports the contention of petitioners and by referring to Section 48-A of the 1961-Act argued that, it is the duty of the Land Tribunal to conduct an enquiry as required under Section 48-A of the 1961-Act. It is also argued by learned counsel appearing for respondents 9 to 24 that the contention of grandmother-Hanumakka had adopted her grandson, which is strange in the circumstances of the case and that apart, the applicant-Appayyanna being a Government School Teacher ought not to have filed an application as he was not personally cultivating the schedule property.



12. Sri. Y.R. Sadasiva Reddy learned Senior Counsel appearing for respondents 4 to 8 contended that the writ petition is filed belatedly, after four decades and therefore, the same deserves to be dismissed on the ground of delay and laches.

13. Learned Senior Counsel Sri. Y.R. Sadasiva Reddy, appearing for the respondents 4 to 8 also argued that, there is no impediment under law to confer occupancy right in favour of the Government Servant, if such Government servant cultivating the land personally. In this regard, learned Senior Counsel referred to the judgment of this Court in the case of **POOVAPPA BANGERA AND OTHERS vs. THE LAND TRIBUNAL, BELTHANGADY AND OTHERS** reported in *ILR 2004 KAR 4786* and in the case of **KALAGONDADHA BASAVANNAPPA AND OTHERS vs. STATE OF KARNATAKA AND OTHERS** reported in *(2016) 1 AKR 583* and contended that there is no impediment for a son-in-law to cultivate the land as a Tenant under the mother-in-law, who was the landlord. Learned Senior Counsel further contended that, even a School Teacher is capable of cultivating the land as tenant



and as such, the landlord cannot raise such a contention to defeat the claim of the tenant.

14. Learned Senior Counsel appearing for respondents 4 to 8, by referring to the judgment of this Court in the case of **VEENA N SHETTY AND OTHERS vs. THE STATE OF KARNATAKA AND OTHERS** made in *Writ Petition No.6087 of 2012* decided on *18th July, 2022* argued that, it is not uncommon in mofussil area for teachers and other employees to cultivate the land. Accordingly, sought for dismissal of the petition.

15. Sri. B.J. Eswarappa, learned Additional Government Advocate appearing for respondents 1 to 2 sought to justify the impugned order passed by the Land Tribunal granting occupancy right in favour of Appayyanna.

16. In the light of the submission made by the learned counsel appearing for the parties, I have carefully examined the writ papers and the records made available by the parties. It is not in dispute that the schedule property belonged to one Dasappa (*grandfather of petitioners and respondents 3 to 24*) as per the registered Partition Deed dated 16th December, 1948



(Annexure-B). The said Dasappa died on 25th February, 1961 leaving behind his wife Hanumakka and six daughters and the genealogical tree is produced at Annexure-D. It is to be noted that, the said Appayyanna (*son-in-law of Hanumakka and husband of Hanumakka's daughter Narayanamma*) had filed application in Form No.7A, seeking occupancy right in respect of the schedule property stating that, he is cultivating the schedule property personally since from the year 1962-63. It is also not in dispute that the said Appayyanna was working as School Teacher at Government Kannada Model Girls Primary School, Nagarthapete, Bengaluru from December-1965 to June/July-1980 as per Annexure-J. It is also to be noted that, in the proceedings before the respondent No.2-Land Tribunal as per Annexure-A, name of the landlord has been shown as Smt. Hanumakka W/o late Dasappa however, none of the daughters of Hanumakka and Dasappa were made as parties in the said proceedings. It is also to be noted that the applicant-Appayyanna being a Government School Teacher and also the son-in-law of Hanummakka ought to have made all the daughters of Hanamakka and late Dasappa as parties to the proceedings as he had a knowledge of the suits filed by the



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daughters, seeking partition in the schedule property. It is also pertinent to mention herein that, while considering the Form No.7 or 7A, it is the duty of the Land Tribunal to conduct enquiry and to pass a reasoned order as mandated under Section 48-A of the 1961-Act (See *ILR 1985 KAR 3898*). It is also to be noted that, Rule 17 of the Rules-1974 provides for the procedure to be followed by the Land Tribunal while considering the application filed under Form No.7 or 7A. Rule 17(9) of the Rules-1974 mandates that the Land Tribunal must pass reasoned order by considering the material on record and it is imperative to record evidence by conducting an enquiry. On perusal of the impugned order passed by the respondent No.2-Land Tribunal, it is not forthcoming that the daughters of Hanumakka and late Dasappa were arraigned as parties in the impugned proceedings and therefore, it is the foundational error committed by the respondent No.2-Land Tribunal, without arraying all the landlords in the proceedings. It is well established principle that, without arraigning a landlord to the proceedings under the provisions of 1961-Act, the Land Tribunal has no jurisdiction to pass appropriate orders. In that view of the matter, the respondent No.2-Land Tribunal has



committed a jurisdictional error while passing the impugned order and therefore, impugned order passed by the land Tribunal requires to be set-aside. At this juncture, it is relevant to cite the judgment of Hon'ble Supreme Court in the case of **RAMACHANDRA KRISHNA BHATTA (DEAD) BY LRS vs. STATE OF KARNATAKA AND ANOTHER** reported in (2008) 11 SCC 25, wherein, at paragraphs 6 and 15, it is held as under;

"6. During the pendency of the second appeal, the Karnataka Land Reforms Act, 1961 (hereinafter referred to as 'the Act') was amended and it was, inter alia, provided that all agricultural lands held by or in possession of tenants shall vest in the Government free from all encumbrances. Section 45 confers a right on the tenants to apply for grant of occupancy rights. Section 48-A provides for filing or application by a tenant to the Tribunal, holding of enquiry, etc. Section 133 provides that a Tribunal constituted under the Act alone shall have jurisdiction to decide the question of tenancy and Section 132 bars the jurisdiction of civil courts to decide any question required to be decided by the Tribunal.

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15. The appellate authority has rightly pointed out that as per Section 48-A of the Act, it is incumbent upon the part of the Land Tribunal to give public and personal



notices before passing an order in an application filed under Section 48. It is not in dispute that the Land Tribunal has not heard the representative of Shri Gopalkrishna Devaru Temple. A reading of sub-section (2) of Section 48-A makes it clear that on receipt of application, the Tribunal has to issue public notice in the village in which the land is situated calling upon the landlord and all other persons having interest in the land to appear before it on the date specified in the notice. It is also incumbent on the part of the Tribunal to issue individual notices to the persons mentioned in the application and also to such others as may appear to it to be interested in the land. Sub-section (3) prescribes the form of the application, form of the notices and the manner of publishing or serving the notices. Sub-section (4) says that where no objection is filed, the Tribunal may, after verification, pass an order to either grant or reject the application. As per sub-section (5) where an objection is filed disputing the validity of the applicant's claim or setting up a rival claim, it is incumbent on the part of the Tribunal to conduct enquiry and thereafter determine the person entitled to be registered as occupant and pass orders accordingly. The factual finding of the appellate authority shows that the Land Tribunal failed to cause either public notice in the village or to the deity of Gopalkrishna Devaru Temple. In view of the same, it is clear that the Land Tribunal has not fulfilled the requirement which is mandatory and the appellate authority rightly interfered with the order of the Land Tribunal and set aside the same."



17. On perusal of From No.7A filed by Appayyanna at Annexure-G, it is mentioned that the schedule property comprises of ancestral and self acquired property of the landlord (*Dasappa, Hanumakka and their daughters*). Though the learned Senior Counsel appearing for respondents 4 to 8 contended that there is a delay of five decades in challenging the impugned order passed by the respondent No.2-Land Tribunal, however, on perusal of record would indicate that the said Appayyanna has not arraigned all the landlords of the schedule property in the proceedings before the Land Tribunal despite knowing fully that the schedule property is joint family property of Hanumakka. Further the said Appayyanna being a son-in-law of Hanumakka and a Government School Teacher ought not have deceived the daughters of Hanumakka including his wife. Therefore, it is *per se* attract an element of fraud as it is well within the knowledge of Appayyanna that the said Dasappa died on 25th February, 1961 leaving behind his wife Hanumakka and six daughters. Therefore, the applicant-Appayyanna being a son-in-law of Hanumakka ought to have arraigned all the daughters of late Dasappa and Hanummaka as landlords before the respondent No.2-Land Tribunal to claim



occupancy right in respect of the schedule property. The operative portion of the judgment and decree passed by the First Appellate Court in Regular Appeal No.27 of 1976 filed by said Hanumakka against her daughters, challenging the judgment and decree passed in Original Suit No.125 of 1973 dated 12th July, 1976, reads as under:

"ORDER

The judgment and decree of the learned Civil Judge, in respect of suit items 4, 5 and the compensation relating to items 6 to 10 are confirmed. The judgment and decree of the learned Civil Judge, that the plaintiff is entitled to 1/7th share of suit items 1 to 3 are also confirmed. But, before directing division by mates and bounds, of suit items 1 to 3, the lower court shall refer the question relating to the tenancy of Appayyanna, in respect of those properties to the Tribunal under the provisions of the Karnataka Land Reforms Act, and if the alleged tenancy is upheld by the Tribunal, the plaintiff shall recover her share in the compensation that would be awarded by the Government in respect of those items. If the tenancy is not upheld by the Tribunal, the plaintiff will be entitled to actual physical possession of her share in suit items 1 to 3. A preliminary decree shall be drawn up in these terms. In the circumstances of the case, I direct the parties to here their own costs. Subject to these modifications, the appeal is dismissed."



18. Perusal of the finding recorded by the First Appellate Court in Regular Appeal No.27 of 1976 on Point-(iii) would indicate that, if the claim made by the said Appayyanna is accepted by the Land Tribunal, under such circumstances, the appellant-Hanumakka entitled for recovering share in the compensation, which includes the share of her daughters also. Further there are two suits filed by the children of Hanumakka claiming share in the schedule property namely Original Suit Nos.8442 of 2002 and 1442 of 2020 in respect of the schedule property. In that view of the matter, taking into consideration the fact that, all the children of Hanumakka were not parties before the respondent No.2-Land Tribunal, who succeed to the estate of late Dasappa, I find force in the submission made by learned Senior Counsel appearing for petitioners.

19. Yet another ground for interfering with the impugned order is that the Tribunal has not conducted an enquiry as required under Section 48-A of the 1961-Act. Section 48-A of the 1961-Act provides for issuance of notice to the land owner including the persons who are interested in the land. In that view of the matter, since the petitioners were the



interested parties, so also, all the children of late Dasappa were interested in the schedule property and as such, there is a gross violation in not following the procedure contemplated under Section 48-A of the 1961-Act by the respondent No.2-Land Tribunal. On this ground alone, I am of the view that the writ petition deserves to be allowed.

20. Learned Senior Counsel appearing for petitioners argued on the ground of the fraud being played by the said Appayyanna and the said aspect is clearly apparent on the face of the record as per the observation made above. Fraud vitiates all further actions and orders obtained by the parties indulging in fraud and they should not be allowed to enjoy the fruits of the invalidated proceedings. The said aspect has to be considered only through an enquiry which is to be conducted by the Land Tribunal.

21. Though the learned Senior Counsel Sri. Y.R. Sadasiva Reddy, appearing for respondents 4 to 8 argued that there is no impediment for conferring occupancy right in favour of said Appayyanna, being a Government School Teacher, by referring to the judgments referred to above, however, the said



aspect has to be considered only by hearing to the actual land owners viz., Hanumakka and her daughters in the said proceedings since, the husband of Hanumakka died intestate. In the present case, on perusal of the material on record, the same would indicate that the Land Tribunal has not conducted enquiry as to establish that the Appayyanna was cultivating the land personally as required under Section 48-A of the 1961-Act

22. Though the learned Senior Counsel appearing for respondents 4 to 8 argued that, there is a delay of five decades in filing the writ petition, however, on careful consideration of the order of respondent No.2-Land Tribunal, the same would indicate that the Land Tribunal has not followed the mandatory provisions under the 1961-Act. Further, the applicant-Appayyanna being a Government servant and son-in-law of Hanumakka, who was well aware about the death of his father-in-law viz., Dasappa ought to have notified the proceedings to the children of Hanumakka, however the same has not been done by him. Therefore, there is a blatant error committed by the respondent No.2-Land Tribunal, while passing the impugned order and that part, the daughters of Hanumakka were not aware about the order passed by the Land Tribunal



despite the fact that the judgment and decree in Original Suit No.125 of 1973 confirmed in Regular Appeal No.27 of 1996 declaring that, Hanumakka and her daughters are entitled for *one-seventh* share in the schedule property belonging to late Dasappa. It is pertinent to mention here that the aforesaid judgment and decree of declaring *one-seventh* share of Hanumakka and her daughters was much before the vesting of the land with the State Government as required under Section 44 of the 1961-Act. That apart, the Original Suit No.125 of 1973 filed by one of the daughters of Hanumakka *viz.*, Smt. Sanjeevamma against Hanumakka and her daughters came to be decreed on 12th December, 1976 (Annexure-R12) and as such, the said Appaayyanna was well aware about all the civil proceedings between and amongst Hanumakka and her daughters. Therefore, I am of the considered opinion that the matter requires reconsideration by the respondent No.2-Land Tribunal for adjudication of the claim made by said Appayyanna afresh in accordance with the provisions contained under the 1961-Act and Rules-1974 in the light of the observation made above. In the result, I pass the following:

ORDER



- (i) Writ Petition ***allowed;***
- (ii) Order dated 10th March, 1975 (Annexure-A) passed in LRF No.909/1974-75 by the respondent No.2-Land Tribunal is hereby set-aside; and the matter is remitted back to the respondent No.2-Land Tribunal for fresh consideration, after affording an opportunity of hearing to all the parties interested in the schedule property as observed above;
- (iii) The respondent No.2-Land Tribunal is directed to dispose of the entire proceedings at the earliest possible.

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

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