



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 11TH DAY OF JUNE, 2026

PRESENT

THE HON'BLE MR. JUSTICE D K SINGH

AND

THE HON'BLE MR. JUSTICE T.M.NADAF

WRIT APPEAL NO. 1721 OF 2024 (LR)

BETWEEN:

SMT PUTTAGANGAMMA,
W/O LATE KEMPAIAH,
AGED ABOUT 73 YEARS,
R/AT KOLIGERE VILLAGE,
DODDABELAVANGALA HOBLI,
DODDABALLAPURA TALUK,
BENGALURU RURAL DISTRICT - 561 204.

REPRESENTED BY HER
POWER OF ATTORNEY HOLDER,
SRI. VENKATESH N.,
S/O LATE NARAYANAPPA,
AGED ABOUT 45 YEARS,
R/AT RAMESHWARA VILLAGE,
DODDABELAVANGALA HOBLI,
DODDABALLAPURA TALUK,
BENGALURU RURAL DISTRICT - 561 204.

...APPELLANT

(BY SRI. RAJESH MAHALA, SR. ADVOCATE FOR
MS. THANUJA M V., ADVOCATE)

AND:

1. THE STATE OF KARNATAKA,
REPTD. BY ITS SECRETARY,
VIDHANA SOUDHA,
DR. AMBEDKAR VEEDHI,



- BENGALURU - 560 001.
2. THE DEPUTY COMMISSIONER,
BENGALURU RURAL DISTRICT,
BEERASANDRA,
DEVANAHALLI TALUK,
BENGALURU RURAL DISTRICT - 562 110.
 3. THE ASSISTANT COMMISSIONER,
DODDABALLAPURA SUB DIVISION,
DODDABALLAPURA
BENGALURU RURAL DISTRICT - 562 110.
 4. THE TAHASILDAR,
DODDABALLAPURA TALUK,
DODDABALLAPURA - 562 110.

...RESPONDENTS
(BY SRI. B. RAVINDRANATH, AGA FOR R1 TO R4)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT, 1961, PRAYING TO ALLOW THE WRIT APPEAL AND SET ASIDE THE ORDER MADE BY THE LEARNED SINGLE JUDGE IN WP No.10851/2024 (LR) DATED:11.07.2024 AND ORDER DATED:05.09.2024 IN REVIEW PETITION No.374/2024

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

CORAM: HON'BLE MR. JUSTICE D K SINGH
and
HON'BLE MR. JUSTICE T.M.NADAF



ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE T.M.NADAF)

Unsuccessful petitioner in W.P.No.10851/2024 is before us in this intra Court appeal filed under Section 4 of High Court of Karnataka Act, 1961, assailing the order dated 11.07.2024 passed by the Writ Court as well as order dated 05.09.2024 passed in R.P.No.374/2024.

2. In the impugned orders, the Writ Court in W.P.No.10851/2024, dismissed the petition on the ground of delay and laches that there is delay of 44 years in approaching the Writ Court, assailing the order dated 21.08.1980 in No.LRF.571/75-76 (***Annexure-G***) passed by the Land Tribunal, Doddaballapura¹.

3. Further, in the review petition, the learned Single Judge declined to interfere with the order stating that there is no error apparent on the face of the record.

¹ "Tribunal for short"



4. Parties are referred to as per the rankings before the Writ Court.

5. Facts germane to file this present appeal are as under:

5.1 The petitioner was before the Writ Court in W.P.No.10851/2024, calling in question the order passed by the Tribunal in LRF No.1781/77-78 dated 21.08.1980, in respect of the subject land insofar as direction issued by respondent No.4 to take possession of the land under Section 58 of the Karnataka Land Reforms Act, 1961² (**Anneuxre-G**).

5.2 It was contented before the Writ Court that the Land Tribunal has no jurisdiction to pass any order taking possession of land in terms of Section 58 of the Act of 1961 as the same is as per the Act enjoined with respondent No.4 i.e., Tahsildar.

² "Act of 1961 for short"



6. Per contra, the learned Additional Government Advocate submitted that the order was challenged after 44 years in the writ petition, as such the same is hit by delay and laches. The Writ Court considering the fact that the challenge is laid after inordinate delay of 44 years in challenging the order dated 21.08.1980 in the writ petition filed in 2024, dismissed the writ petition, stating that even if the Writ jurisdiction has to be invoked by the petitioner/applicant, the same should have been done within a reasonable period and therefore dismissed the petition only on the ground of delay and laches.

7. An unsuccessful attempt made by filing review in R.P.No.374/2024 tested failure. Assailing both the orders passed in the writ petition as well as in the review petition, the present writ appeal is filed.

8. Heard Sri.Rajesh Mahale, learned Senior counsel assisted by Ms.Thanuja.M.V, learned counsel for



appellant and Sri.B.Ravindranath, learned Additional Government Advocate for the State.

9. Sri.Mahale taking us to through the **Annexure-G** submits that, the applicant who sought for occupancy rights has stated before the Court that he was not in cultivation of the land and the cultivation was by the land owner himself. The Tribunal having rejected the application ought not to have proceeded to pass order under Section 58 of the Act of 1961. Sri.Mahale, learned counsel refers to Section 58 of the Act of 1961, which reads as under:

"58. Vesting in the State Government of land leased contrary to the Act.—(1) *Where it appears to the Tahsildar that any person has leased land contrary to the provisions of this Act, he shall issue a notice to such person to show cause within fifteen days from the date of service of the notice why the land leased should not be forfeited to the State Government as penalty for contravention of the Act.*
(2) *If the Tahsildar on considering the reply or other cause shown is satisfied that there has been such a lease he may, by order, declare that the right, title and interest of such person in the land shall be forfeited to the State Government as penalty. Thereupon the land shall vest in the State Government and the Tahsildar may take possession thereof by summarily evicting any person occupying it. 1[No amount shall be payable in respect of such land.*



(3) Such land shall be disposed of in accordance with the provisions of section 77."

10. Learned counsel submits that once the tenant himself has stated that he was not a tenant, there is no question of exercising power under Section 58 even by the Tahsildar, which contemplates that if any land leased contrary to the provisions of this Act, then only the Tahsildar is enjoined with the power to issue a notice and thereafter considering the submissions or representations of the concerned party, pass orders for taking possession of the property. In the case on hand, the Tribunal rejected the application on the ground that the tenant himself has stated that he was not the tenant and the land is under the cultivation of the land owner. In that view of the matter, the Tribunal loses jurisdiction even to entertain the application.

11. Learned Senior counsel placed reliance on the judgment of the Supreme Court in the case of ***Tukaram Kana Joshi and Others (Through Power of Attorney***



holder) Vs. Maharashtra Industrial Development Corporation and Others³, and submits that mere delay and latches is not an impediment to the Constitutional Court under Article 226, exercising extra ordinary jurisdiction and render substantial justice. So far as power under Section 58 is concerned, the learned Senior counsel relied on the judgment of this Court in the case of **Vinayaka Shivrao Mantri Vs the State of Karnataka by its Secretary and Others⁴**, submits that it is only in case illegal lease against provisions of Act of 1961 that, the Tahsildar could take action under Section 58 and not otherwise.

12. In these circumstances, learned Senior counsel submits that the power is vested only with the Tahsildar and not with the Tribunal that to in terms of provision under Section 58 of the Act of 1961 and sought to allow the appeal by setting aside the order passed by the Writ

³ (2013) 1 SCC 353

⁴ W.P.No.7614/1976



Court as well as review petition and consequently allow the appeal setting aside the order impugned therein and rests his case.

13. Per contra, Sri.B.Ravindranath, learned Additional Government Advocate, with all vehemence submits that the order of the Tribunal which was passed order on 21.08.1980 as per **Annexure G**, was called in question for the first time in the present W.P.No.10851/2024 i.e., in the year 2024, that is after lapse of 44 years. Even the order is to be treated as an illegal order for want of jurisdiction, the same could have been challenged within a reasonable time. The delay on the part of petitioner in seeking a challenge renders the petition a staled one. As such supported the order passed by the Writ Court and sought to dismiss the appeal.

14. Having considered the rival submissions, we have gone through the entire writ appeal papers.



15. We find that the tenant who has filed the application seeking for grant of occupancy rights clearly stated that he was not cultivating the land and it is the land owner who was in cultivation of the land as on the appointed date. As per Section 44 of Act of 1961, only those lands which were under the personal cultivation of tenants and in their possession immediately prior to the appointed date are deemed to be vested in the Government and the authority established under the provisions of Act of 1961 get jurisdiction to dwell upon the claims for registration of occupancy, if an application is filed as per the provisions contained in Act of 1961.

16. Here it is a case wherein the tenant himself had stated that he was not a tenant and cultivating the land and it was the landowners, who are in cultivation as on the appointed date. In that eventuality there is no vesting of land, even the Tribunal gets no jurisdiction to dwell upon the application besides lacking jurisdiction to exercise power under Section 58 of the Act of 1961, which is in



terms of the provisions contained in the Act not amenable to the Tribunal to exercise. When the question is of jurisdiction to exercise a power, it goes to the roots of the case. An order without jurisdiction is non-est, as it is *void ipso jure*. Such an order needs no order to once again state that the order is void or non-est. Once it is non-est in law, it is always *void ab initio*. An order setting aside is just a formality and not absolute necessity. The Co-ordinate Bench of this Court in W.A.No.1158/2025, in the case of ***Ramappa Vs Secretary and others***, disposed on 08.06.2026 has held at paragraph No.16, which reads as under:

"xxx

16. The Supreme Court in its judgment in the case of ***YAMUNABHAI ANANTRAO ADHAV*** *supra*, considering the effect of Section 11 of the Hindu Marriage Act, has held that a marriage in contravention of clause (1) of Section 5 r/w Section 11 is therefore null and void and further held that the marriage covered under Section 11 are void *ipso jure*, that is, void from the very inception, and have to be ignored as not existing in law at all if and when such a question arises. What falls from the verdict



of the Supreme Court is Section 11 clearly holds that a marriage is void, if it is in contravention of clauses (i), (iv) and (v) of Section 5 of the Hindu Marriage Act. However, the Section permits a formal declaration to be made on the presentation of a petition. This clarifies that in the absence of a formal declaration, a marriage which is void under law cannot be valid for all other purposes. A thing which is void ab initio is void for all purposes and cannot be legalized or valid in the absence of a formal declaration."

17. The order stated supra relying on the judgment of Supreme Court, in ***Yamunabai Anantrao Adhav Vs. Anantrao Shivram Adhav and Another***⁵, states that a thing which is void from the inception is void forever. Any order on such void and non-est order is just a mere formality and not an absolute necessity. Even otherwise in the petition, a plausible explanation has been offered by means of contention, that the petitioner was not aware of passing of the order in the year 1980 and they came to know about the same recently as stated in paragraph No.7 which reads as under:

⁵ (1988) 1 SCC 530



"7. The petitioner submits that after death of N.Kempaiah, the petitioner and her family members continued to be in possession of the land in question and are raising raagi and other crops regularly. The respondents at no point of time either during lifetime of N.Kempaiah or after his death have taken possession of the land till date. The petitioner and her children are not at all aware of proceedings before the Land Tribunal and its order. The petitioner and her children are illiterate and rustic villagers, they have no worldly knowledge about the revenue proceedings and documents and they belong to Schedule Caste. Recently, the children of petitioner have insisted for partition, at that stage, petitioner with elders of the villagers wanted to partition the property, then she and her family came to know that RTC is showing name of Government. Immediately, after obtaining RTC recently through her Power of Attorney Holder came to know that on the basis of Land Tribunal order, the 4th respondent - Tahalsildar, Doddaballapura entered in the name of Government."

18. For the reasons stated supra, we are of the considered opinion that the dismissal of the petition only on the ground of delay and laches is unsustainable in law, when the order itself is non-est for want of jurisdiction. Accordingly, we **allow** this writ appeal, setting aside both the orders in the writ petition as well as the review



petition. Consequently, review petition is set aside, so far as the direction to take possession under Section 58 of the KLR Act as sought in the petition.

19. In view of disposal of appeal, pending application/s if any does not survive for consideration and the same are disposed of as having become infructuous.

**Sd/-
(D K SINGH)
JUDGE**

**Sd/-
(T.M.NADAF)
JUDGE**

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