IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH

DATED THIS THE 18TH DAY OF DECEMBER, 2024

BEFORE

THE HON'BLE MR. JUSTICE PRADEEP SINGH YERUR

WRIT PETITION NO. 104441 OF 2024 (KLR-RR/SUR)

BETWEEN:

MULLA KHADARSAB S/O. HUSSAINSAB,
AGE: 65 YEARS, OCC: AGRICULTURE,
R/O. YAREBOODIHAL VILLAGE,
TQ: KUNDAGOL, DIST: DHARWAD-581113.

…PETITIONER

(BY SRI. HARSHAWARDHANA M. PATIL, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA,
   DEPARTMENT OF REVENUE,
   BY ITS PRINCIPAL SECRETARY,
   VIDHAN SOUDHA, BENGALURU-560001.

2. THE DEPUTY COMMISSIONER,
   DHARWAD, DIST: DHARWAD-580008.

3. THE ASSISTANT COMMISSIONER,
   KUNDAGOL, TQ: KUNDAGOL,
   DIST: DHARWAD-581113.

4. THE TAHASILDAR, KUNDAGOL,
   DIST: DHARWAD-581113.

5. KARNATAKA STATE BOARD OF WAKF,
   BY ITS CHIEF EXECUTIVE OFFICER,
   CUNNINGHAM ROAD, BENGALURU-560001.

…RESPONDENTS

(BY SRI. JAIRAM SIDDI, HCGP)

MANJANNA E
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Date: 2024.12.20 12:30:35 +0530

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO

1. ISSUE WRIT IN THE NATURE OF CERTIORARI BY QUASHING THE IMPUGNED ENTRY BASED ON THE MUTATION DATED 01/09/2018 AT COLUMN NO.9 AND 12 IN ROR IN RESPECT OF SY NO.108/6 MEASURING 3 ACRES SITUATED AT

YAREBOODIHAL VILLAGE, KUNDAGOL TALUKA DIST: DHARWAD VIDE ANNEXURE - C.

2. ISSUE WRIT IN THE NATURE OF CERTIORARI TO QUASH THE ORDER PASSED BY THE RESPONDENT NO.4 VIDE ORDER WAKF:CR:30:2018-19 ANNEXURE-D DATED 10/08/2018.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, THE COURT MADE THE FOLLOWING:

ORAL ORDER

(PER: THE HON'BLE MR. JUSTICE PRADEEP SINGH YERUR)

1. Heard the learned counsel for the petitioner.

2. Learned HCGP is directed to take notice for respondent Nos.1 to 4.

3. Learned counsel Sri.B.Mohammed Ali is directed to take notice for respondent No.5.

4. The petitioner is permitted to seek for quashing of Annexure-D in the prayer. He is permitted to carry out correction.

5. This petition is filed by the petitioner seeking to direct respondent No.4 to delete the name of respondent No.5 in the record of rights in respect of land bearing

Sy.No.108/6 measuring 3 acres situated at Yareboodihal village, taluk Kundagol, district Dharwad in Column Nos.9 & 12 and to enter the name of the petitioner.

6. The petitioner contends that he is the absolute owner in possession and enjoyment of the land bearing Sy.No.108/6 measuring 3 acres situated at Yareboodihal village, taluk Kundagol, district Dharwad. The Land Tribunal has granted occupancy rights in favour of the petitioner. Based on the aforesaid grant of occupancy rights, his name was entered in the record of rights.

7. This being the state of affairs, the revenue authorities without any basis and cogent reason and without affording any opportunity or providing notice to the petitioner, has entered the name of "Waqf property" in Column Nos.9 & 12 of record of rights in respect of aforesaid petitioner's land. The petitioner is aggrieved by the said order of change of entry in the name of respondent No.5.

8. The vehement contention of learned counsel for the petitioner is that the respondent Nos.1 to 4 authorities have not issued notice and have not heard the petitioner while passing the impugned order and have changed the entry in the name of respondent No.5 in Column Nos.9 & 12 of record of rights.

9. The fundamental rule of law is that while Government and other authorities pass any order, it is incumbent upon them to issue notice to the aggrieved/concerned party and provide reasonable opportunity of hearing to the party and pass suitable orders in accordance with law. In the present case, admittedly, no notice has been issued to the petitioner by respondent No.4, which is a clear violation of principles of natural justice.

10. In view of above discussion, I proceed to pass the following:

ORDER

i. Petition is allowed.

ii. Annexure-D issued by the 4th respondent is hereby quashed.

iii. A writ of mandamus is issued, directing respondent No.4 to rectify and delete the name of respondent No.5 in Column Nos.9 & 12 and enter the name of the petitioner in respect of Sy.No.108/6 measuring 3 acres situated at Yareboodihal village, taluk Kundagol, district Dharwad within a period of four weeks from the date of receipt of copy of the order.

Sd/-
(PRADEEP SINGH YERUR)
JUDGE

KGK
CT-MCK
List No.: 1 Sl No.: 10