IN THE HIGH COURT OF KARNATAKA AT DHARWAD BENCH

DATED THIS THE 04TH DAY OF OCTOBER, 2024

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

WRIT PETITION No.104621 OF 2022 (KLR - RES)
C/W
WRIT PETITION No.105134 OF 2022 (KLR – RR/SUR)
WRIT PETITION No. 105135 OF 2022 (KLR - RR/SUR)
WRIT PETITION No. 105136 OF 2022 (KLR - RR/SUR)
WRIT PETITION No.105189 OF 2022 (KLR - RR/SUR)
WRIT PETITION No.105191 OF 2022 (GM - CPC)
WRIT PETITION No.105192 OF 2022 (KLR - RR/SUR)
WRIT PETITION No.105194 OF 2022 (KLR - RR/SUR)
WRIT PETITION No.105231 OF 2022 (KLR - RES)
WRIT PETITION No.105233 OF 2022 (KLR - RES)
WRIT PETITION No.105234 OF 2022 (KLR - RES)

IN WRIT PETITION No.104621 OF 2022

BETWEEN:

VINAYAKA
B V

Digitally signed by
VINAYAKA B V
Location: High Court
of Karnataka Dharwad
Date: 2024.10.07
12:29:34 +0530

VIMALCHAND
S/O VAKTHAR MALAJI OSWAL
AGED ABOUT 70 YEARS,
OCC.: BUSINESS AND AGRICULTURE,
R/O. JAMKHANDI, TQ. JAMKHANDI,
DISTRICT BAGALAKOTE – 587 201.

... PETITIONER

(BY SRI SHIVAPRASAD M.SHANTANAGOUDAR AND
SRI NANDISH PATIL, ADVOCATES)

AND:

1 . THE ASSISTANT COMMISSIONER,
JAMKHANDI,
SUB DIVISION JAMKHANDI,
TQ. JAMKHANDI,
DISTRICT BAGALAKOTE – 587 201.

2 . THE TAHASILDAR,
JAMKHANDI,
TQ. JAMKHANDI,
DISTRICT BAGALAKOTE – 587 201.

... RESPONDENTS

(BY SRI GANGADHAR J.M., AAG A/W
SRI V.S.KALASURMATH, HCGP)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO A) ISSUE WRIT IN THE NATURE OF CERTIORARI QUASHING THE IMPUGNED ENDORSEMENT NO BHOMI.CR.280.2019-20 DATED 19.05.2020 ISSUED BY THE RESPONDENT NO.2 VIDE ANNEXURE-L AND ETC.,

IN WRIT PETITION No.105134 OF 2022

BETWEEN:

SNEHALATHA
W/O DILIP OSWAL
AGED ABOUT 59 YEARS,
OCC. AGRICULTURE,
R/O. JAMKHANDI,
TQ. JAMKHANDI,
DISTRICT BAGALAKOTE.

... PETITIONER

(BY SRI SHIVAPRASAD M.SHANTANAGOUDAR AND
SRI NANDISH PATIL, ADVOCATES)

AND:

1 . THE ASSISTANT COMMISSIONER
JAMKHANDI,
SUB DIVISION JAMKHANDI,
TQ. JAMKHANDI,
DISTRICT BAGALAKOTE.

2 . THE TAHASILDAR
JAMKHANDI,
TQ. JAMKHANDI,
DISTRICT BAGALAKOTE.

... RESPONDENTS

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IN WRIT PETITION No.105135 OF 2022

BETWEEN:

REKHA
W/O. HITESH OSWAL
AGED ABOUT 40 YEARS,
OCC. AGRICULTURE,
R/O. JAMKHANDI, TQ. JAMKHANDI,
DISTRICT BAGALAKOTE.

... PETITIONER

(BY SRI SHIVAPRASAD M.SHANTANAGOUDAR AND
SRI NANDISH PATIL, ADVOCATES)

AND:

1 . THE ASSISTANT COMMISSIONER
JAMKHANDI,
SUB DIVISION JAMKHANDI,
TQ. JAMKHANDI,
DISTRICT BAGALAKOTE.

2 . THE TAHASILDAR,
JAMKHANDI,
TQ. JAMKHANDI,
DISTRICT BAGALAKOTE.

... RESPONDENTS

(BY SRI GANGADHAR J.M., AAG A/W
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IN WRIT PETITION No.105136 OF 2022

BETWEEN:

SAGAR
S/O DILIP OSWAL
AGED ABOUT 38 YEARS,
OCC. AGRICULTURE,

R/O. JAMKHANDI,
TQ. JAMKHANDI,
DISTRICT BAGALAKOTE.

... PETITIONER

(BY SRI SHIVAPRASAD M.SHANTANAGOUDAR AND
SRI NANDISH PATIL, ADVOCATES)

AND:

1 . THE ASSISTANT COMMISSIONER
JAMKHANDI,
SUB DIVISION JAMKHANDI,
TQ. JAMKHANDI,
DISTRICT BAGALAKOTE.

2 . THE TAHASILDAR
JAMKHANDI,
TQ. JAMKHANDI,
DISTRICT BAGALAKOTE,

... RESPONDENTS

(BY SRI GANGADHAR J.M., AAG A/W
SRI V.S.KALASURMATH, HCGP)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO A) ISSUE WRIT IN THE NATURE OF CERTIORARI QUASHING THE IMPUGNED ENDORSEMENT NO. BHOMI.CR.280.2019-20 DATED 19.05.2020 ISSUED BY THE RESPONDENT NO. 2 VIDE ANNEXURE-L AND ETC.,

IN WRIT PETITION No.105189 OF 2022

BETWEEN:

VIRAJ
S/O MAHENDRA OSWAL
AGED ABOUT 21 YEARS,
OCC. AGRICULTURE,
R/O. JAMKHANDI
TQ JAMKHANDI
DISTRICT BAGALAKOTE.

... PETITIONER

(BY SRI SHIVAPRASAD M.SHANTANAGOUDAR AND
SRI NANDISH PATIL, ADVOCATES)

AND:

1 . THE ASSISTANT COMMISSIONER
JAMKHANDI,
SUB DIVISION JAMKHANDI,
TQ. JAMKHANDI,
DISTRICT BAGALAKOTE 587 101.

2 . THE TAHASILDAR
JAMKHANDI,
TQ. JAMKHANDI,
DISTRICT BAGALAKOTE – 587 101.

... RESPONDENTS

(BY SRI GANGADHAR J.M., AAG A/W
SRI V.S.KALASURMATH, HCGP)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO A) ISSUE WRIT IN THE NATURE OF CERTIORARI QUASHING THE IMPUGNED

ENDORSEMENT NO. BHOMI.CR.280.2019-20 DATED 19.05.2020 ISSUED BY THE RESPONDENT NO. 2 VIDE ANNEXURE-L AND ETC.,

IN WRIT PETITION No.105191 OF 2022

BETWEEN:

VISHAL
S/O. VIMALCHAND OSWAL
AGED ABOUT 43 YEARS,
OCC. AGRICULTURE,
R/O. JAMKHANDI,
TQ. JAMKHANDI,
DISTRICT BAGALAKOTE.

... PETITIONER

(BY SRI SHIVAPRASAD M.SHANTANAGOUDAR AND
SRI NANDISH PATIL, ADVOCATES)

AND:

1 . THE ASSISTANT COMMISSIONER
JAMKHANDI,
SUB DIVISION JAMKHANDI,
TQ. JAMKHANDI,
DISTRICT BAGALAKOTE.

2 . THE TAHASILDAR
JAMKHANDI,
TQ. JAMKHANDI,
DISTRICT BAGALAKOTE.

... RESPONDENTS

(BY SRI GANGADHAR J.M., AAG A/W
SRI V.S.KALASURMATH, HCGP)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO A) ISSUE WRIT IN THE NATURE OF CERTIORARI QUASHING THE IMPUGNED ENDORSEMENT NO. BHOMI.CR.280.2019-20 DATED 19.05.2020 ISSUED BY THE RESPONDENT NO. 2 VIDE ANNEXURE-L AND ETC.,

IN WRIT PETITION No.105192 OF 2022

BETWEEN:

DILIP
S/O VAKTARMALAJI OSWAL
AGED ABOUT 60 YEARS,
OCC. AGRICULTURE,
R/O. JAMKHANDI,
TQ. JAMKHANDI,
DISTRICT BAGALAKOTE – 587 101.

... PETITIONER

(BY SRI SHIVAPRASAD M.SHANTANAGOUDAR AND
SRI NANDISH PATIL, ADVOCATES)

AND:

1 . THE ASSISTANT COMMISSIONER
JAMKHANDI,
SUB DIVISION JAMKHANDI,
TQ. JAMKHANDI,
DISTRICT BAGALAKOTE – 587 101.

2 . THE TAHASILDAR
JAMKHANDI,
TQ. JAMKHANDI,
DISTRICT BAGALAKOTE – 587 101.

... RESPONDENTS

(BY SRI GANGADHAR J.M., AAG A/W
SRI V.S.KALASURMATH, HCGP)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO A) ISSUE WRIT IN THE NATURE OF CERTIORARI QUASHING THE IMPUGNED ENDORSEMENT NO. BHOMI.CR.280.2019-20 DATED 19.05.2020 ISSUED BY THE RESPONDENT NO. 2 VIDE ANNEXURE-L AND ETC.,

IN WRIT PETITION No.105194 OF 2022

BETWEEN:

RANJEETA
W/O MAHENDRA OSWAL
AGEA ABOUT 37 YEARS,
OCC. AGRICULTURE
R/O JAMAKHANDI, TQ. JAMAKHANDI
DISTRICT BAGALAKOTE.

... PETITIONER

(BY SRI SHIVAPRASAD M.SHANTANAGOUDAR AND
SRI NANDISH PATIL, ADVOCATES)

AND:

1 . THE ASSISTANT COMMISSIONER
JAMKHANDI,
SUB DIVISION JAMKHANDI,
TQ. JAMKHANDI,
DISTRICT BAGALAKOTE – 587 101.

2 . THE TAHASILDAR
JAMKHANDI,
TQ. JAMKHANDI,
DISTRICT BAGALAKOTE – 587 101.

... RESPONDENTS

(BY SRI GANGADHAR J.M., AAG A/W
SRI V.S.KALASURMATH, HCGP)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO A) ISSUE WRIT IN THE NATURE OF CERTIORARI QUASHING THE IMPUGNED ENDORSEMENT NO. BHOMI.CR.280.2019-20 DATED 19.05.2020 ISSUED BY THE RESPONDENT NO. 2 VIDE ANNEXURE-L AND ETC.,

IN WRIT PETITION No.105231 OF 2022

BETWEEN:

1 . RAJUL
W/O VIMALCHAND OSWAL
SINCE DECEASED
REPRESENTED BY HER LRS.

1a. VIMALCHAND S/O VAKTARMAL OSWAL
AGED ABOUT 71 YEARS,
OCC. AGRICULTURE.

1b. SUNITA
W/O GAUTAM KOTHARI
AGED ABOUT 52 YEARS
OCC. AGRICULTURE.

1c. CHAYA
W/O RAJEEV GANDHI
AGED ABOUT 48 YEARS,
OCC. AGRICULTURE.

1d. MAHENDRA
S/O VIMALCHAND OSWAL
AGED ABOUT 46 YEARS,

OCC. AGRICULTURE.

1e. VISHAL VIMALCHAND OSWAL
AGED ABOUT 44 YEARS,
OCC. AGRICULTURE.

1f. BHAVANA RAHUL SANGHAVI
AGED ABOUT 43 YEARS,
OCC. AGRICULTURE.

ALL ARE R/O. JAMKHANDI,
TQ. JAMKHANDI
DISTRICT BAGALAKOTE.

... PETITIONERS

(BY SRI SHIVAPRASAD M.SHANTANAGOUDAR AND
SRI NANDISH PATIL, ADVOCATES)

AND:

1 . THE ASSISTANT COMMISSIONER
JAMKHANDI,
SUB DIVISION JAMKHANDI,
TQ. JAMKHANDI,
DISTRICT BAGALAKOTE.

2 . THE TAHASILDAR
JAMKHANDI,
TQ. JAMKHANDI,
DISTRICT BAGALAKOTE.

... RESPONDENTS

(BY SRI GANGADHAR J.M., AAG A/W
SRI V.S.KALASURMATH, HCGP)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO A) ISSUE WRIT IN THE NATURE OF CERTIORARI QUASHING THE IMPUGNED

ENDORSEMENT NO. BHOMI.CR.280.2019-20 DATED 19.05.2020 ISSUED BY THE RESPONDENT NO. 2 VIDE ANNEXURE-L AND ETC.,

IN WRIT PETITION No.105233 OF 2022

BETWEEN:

HITESH
S/O DILIP OSWAL
AGED ABOUT 40 YEARS,
OCC. AGRICULTURE,
R/O. JAMKHANDI
TQ. JAMKHANDI
DISTRICT BAGALAKOTE.

... PETITIONER

(BY SRI SHIVAPRASAD M.SHANTANAGOUDAR AND
SRI NANDISH PATIL, ADVOCATES)

AND:

1 . THE ASSISTANT COMMISSIONER
JAMKHANDI,
SUB DIVISION JAMKHANDI,
TQ. JAMKHANDI,
DISTRICT BAGALAKOTE.

2 . THE TAHASILDAR
JAMKHANDI,
TQ. JAMKHANDI,
DISTRICT BAGALAKOTE.

... RESPONDENTS

(BY SRI GANGADHAR J.M., AAG A/W
SRI V.S.KALASURMATH, HCGP)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO A) ISSUE WRIT IN THE NATURE OF CERTIORARI QUASHING THE IMPUGNED ENDORSEMENT NO. BHOMI.CR.280.2019-20 DATED 19.05.2020 ISSUED BY THE RESPONDENT NO. 2 VIDE ANNEXURE-L AND ETC.,

IN WRIT PETITION No.105234 OF 2022

BETWEEN:

VEENA
W/O VISHAL OSWAL
AGED ABOUT 40 YEARS
R/O JAMKHANDI
TQ.JAMKHANDI
DISTRICT BAGALAKOTE.

... PETITIONER

(BY SRI SHIVAPRASAD M.SHANTANAGOUDAR AND
SRI NANDISH PATIL, ADVOCATES)

AND:

1 . THE ASSISTANT COMMISSIONER
JAMKHANDI,
SUB DIVISION JAMKHANDI,
TQ. JAMKHANDI,
DISTRICT BAGALAKOTE.

2 . THE TAHASILDAR
JAMKHANDI,
TQ. JAMKHANDI,
DISTRICT BAGALAKOTE.

... RESPONDENTS

(BY SRI GANGADHAR J.M., AAG A/W
SRI V.S.KALASURMATH, HCGP)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO A) ISSUE WRIT IN THE NATURE OF CERTIORARI QUASHING THE IMPUGNED ENDORSEMENT NO. BHOMI.CR.280.2019-20 DATED 19.05.2020 ISSUED BY THE RESPONDENT NO. 2 VIDE ANNEXURE-L AND ETC.,

THESE WRIT PETITIONS HAVING BEEN HEARD AND RESERVED FOR ORDER, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

CORAM: THE HON'BLE MR JUSTICE M.NAGAPRASANNA

CAV ORDER

The petitioners who are members of the same family in all these cases and purchasers of certain properties from particular vendors are aggrieved by the endorsements/orders issued/passed by the 2nd respondent/Tahsildar in entering the name of the State in place of the vendors of the petitioners and consequently the names of the petitioners.

2. Heard Sri Shivaprasad M Shantanagoudar, learned counsel appearing for the petitioners and Sri J.M. Gangadhar, learned Additional Advocate General appearing for the respondents.

3. Facts, in brief, germane are as follows:-

One Smt. Somabai wife of Kadappa Desai of Konnur Village, Dharwad District owned certain lands as described in the schedule. Smt. Somabai died on 23-10-1940. Thereafter the schedule lands were inherited by her adopted son Gurusidappa Kadappa Desai. His name came to be entered into the record of rights. On 10-11-1940 pursuant to entry of the name of Gursidappa Kadappa Desai in the record of rights, mutation entry was accordingly changed to his name. This Gurisidappa Kadappa Desai ("Desai" for short) held the scheduled lands. When things stood thus, on 24-12-1968 on applications being made by the people of the village, the 2nd respondent/Tahsildar deletes the name of the original owner from kabjedars and cultivators column. Desai family which owned the lands prefers an appeal before the 1st respondent/Assistant Commissioner under the Karnataka Land Revenue Act. The appeal comes to be allowed on 26-07-1969. The name Desai family was then restored and mutation entries were accordingly changed.

4. Gurusidappa Kadappa Desai dies on 21-02-1977. The property then was inherited by his wife Smt. Gangubai and her

name comes to be mutated in the mutation register and entered in the record of rights. On 30-12-1990 Smt. Gangubai passes away. It is then the property is inherited by one Gurappa, the son of Smt. Gangubai, who also dies and upon his death, inheritance passes on to Smt. Maheshwari, Kadappa and Kum. Vidya who would be hereinafter referred to as the vendors or Desai family vendors.

5. When things stood thus, it appears, the names of vendors of the petitioners were again sought to be changed. This becomes the subject matter of Writ Petition No.68866 of 2010. A learned single Judge of this Court allows the petition for want of compliance with the principles of natural justice. The State challenges the said order before the Division Bench in Writ Appeal No.30069 of 2012. The writ appeal comes to be dismissed on 19-11-2012. Therefore, the order of the learned single Judge that the order of entry of the name of the State was in violation of the principles of natural justice becomes final. It was a petition filed by the vendors of the petitioners. The petitioners n purchase certain extent of lands from the hands of the vendors in Sy.No.247/1. It is then, the petitioners

come into the picture of the properties that were owned by the Desai family.

6. In terms of the order passed by the Division Bench, the original vendors/Desai family communicate the same to the Tahsildar for necessary action. It appears that the Tahsildar claiming to have heard Desai family, passes an order again to delete the names of members of Desai family and enters the name of the State. Applications were again made by the Desai family seeking restoration of their names concerning the lands. Notwithstanding the aforesaid order of direction to hear the vendors of the petitioners and then pass necessary orders, claiming to have been heard, an order comes to be passed deleting the names of the original owners. The Desai family then prefers an appeal against the order of the Tahsildar. Those appeals come to be rejected. The petitioners were not aware of any of these proceedings who had purchased the lands from the hands of the vendors.

7. The petitioners are said to have approached the 2nd respondent/Tahsildar to get khatas changed into their names. The

khatas were refused to be changed on the ground that the name of the State has already been entered and the lands have been classified as 'B' kharab. The appeal preferred by Desai family against the order of the Assistant Commissioner dated 08-03-2018 was dismissed by the Deputy Commissioner for non-joinder of necessary parties as they had not impleaded subsequent purchasers as party-respondents. It is calling in question those orders, the petitioners/purchasers of the properties and who are in possession presently are knocking at the doors of this Court in the subject petitions.

8. The learned counsel Sri Shivaprasad M Shantanagoudar representing the petitioners would project a threshold submission. The learned counsel would take this Court through the order passed by the learned single Judge of this Court in a petition filed by Desai family which was affirmed by the Division Bench. It is his submission that by the time possession could be taken, the petitioners had stepped into the shoes of the vendors. The petitioners have purchased the properties through registered sale deeds. They are not aware of any of the proceedings that have

taken place earlier to their purchase. Today the lands that the petitioners have purchased are treated to be the properties of the State, describing them to be 'B' kharab. It is the submission that valuable property rights of the petitioners are lost on account of them not being heard. On merits of the matter, even the learned counsel would seek to submit that the petitioners are entitled to retain their lands as they are the product of validly executed sale deeds on exclusive right of the vendors.

9. Per contra, learned Additional Advocate General would defend the action of the Tahsildar entering the name of the State and the Assistant Commissioner rejecting the appeal filed by the petitioners and affirmation order passed by the Deputy Commissioner. He would seek dismissal of the petitions.

10. I have given my anxious consideration to the submissions made by the respective learned counsel and have perused the material on record.

11. The afore-narrated facts are not in dispute. Though several submissions are made by the respective learned counsel, what merits acceptance at this juncture is, non-compliance with the order passed by the learned single Judge of this Court in a petition filed by the vendors of the petitioners. The link in the chain of events is as narrated hereinabove. The name of the State was sought to be entered when the vendors of the petitioners were in possession of the properties. This drove them to this Court in Writ Petition No.68866 of 2010. This comes to be disposed of on 8-04-2011 by the following order:

> *"Petitioners claiming to be absolute owners of 493 Acres 30 Guntas in Sy.No.99/01; 283 acres 24 Guntas in R.S.No.109; 518 acres 39 guntas in R.S.No.109, 32 acres 16 guntas in R.S.No. 219, 21 acres 34 Guntas in R.S.No.233 and R.S.No.247/1, 303 acres 37 gutnas in R.S.No.247/01 of Konnur Village, Jamkhandi Taluk, Bagalkot District have called in question the communication dated 14-09-2010 Annexure-F, of the State Government ordered to the Regional Commissioner, directing the deletion of the petitioners names from the revenue records in respect of the said properties.*
>
> *2. Petition is opposed by filing statement of objections dated 3-12-2010 inter alia contending that Section 4 of the Bombay Personal Inams Abolition Act, 1952, for short the "Act" which came into force from 1.08.1953 extinguished all personal rights in respect of Inam lands which stood vested in the State. On the coming into force of the Act, the lands in question being inam lands, it is stated, the names of the original Inamdars stood deleted and the name of the State inserted. According to the State lands in question are uncultivable and un-assessed pot*

kharab "B", being, hilly areas and the original inamdars did not apply for re-grant of the lands. It is further stated that one late Gurusiddappa Kadappa Desai, husband of the first petitioner and father of the other petitioners filed a declaration in Form No.11 under Section 66 of the Land Reforms Act, 1961 declaring the said lands, as his holdings for the purpose of land ceiling, subject matter of W.P.20716 of 1993, whence, stood remitted to the Land Tribunal for fresh consideration, following which the Land Tribunal, Jamkhandi, by order dated 18-04-2002, held that being pot kharab lands do not fall under the Karnataka Land Reforms Act, 1961. At paragraph 11 of the objection it is stated that extending an opportunity of hearing to the petitioners before passing the order, is unnecessary, since the Land Tribunal has declared the lands as pot kharab and uncultivable lands. It is further contended that the alienees of certain portions of the land have initiated legal steps/proceedings by filing appeal and revision petitions. In addition, it is contended that the petitioners have mis-represented the fact of alleged ownership of the lands in question, with an intention to dispose of the lands in bits and pieces to gullible persons. In paragraph-18 it is stated thus."

3. "The State Government, having noticed the misuse of the initial entry made under the provisions of Bombay Personal Inams Abolition Act, 1952, though it appropriate to take immediate action to prevent further misuse and has accordingly directed the deletion of the names of Inamdars and to enter the name of the Government in the mutation register".

4. Having heard the learned counsel for the parties, suffice it to state that the communication Annexure 'f' suffers from the vice of violation of principles of natural justice. It is elsewhere said that if there is a power to decide and determine to the prejudice of person, duty to act judicially is implicit in the exercise of such power. If essentials of justice be ignored and an order to the prejudice of a person is made the order is a "nullity". "Justice" is an alternative name of "common sense justice". Principles of natural justice are not codified cannons but are principles ingrained into the conscious of a man.

5. In the light of the specific averment in paragraph-18 of the statement of objection, supra, it is needless to state that the

direction contained in the letter Annexure-'F' of the State is arbitrary and unsustainable.

In the result petition is allowed. The Communication Annexure-F is quashed."

The learned Judge sets aside the communication challenged therein as it suffers from the vice of principles of natural justice. The State calls the said order in question before the Division Bench in Writ Appeal No.30069 of 2012. The Division Bench on 19-11-2012 affirms the order of the learned single Judge by the following order:

"The State Government filed this appeal challenging the order dated 8-4-2011 made in W.P.No.68866/2010 passed by the learned Single Judge wherein the learned Single Judge allowed the writ petition quashing the communication Annexure-F issued by the first respondent therein.

2. The respondents herein filed a writ petition challenging the communication dated 14-09-2010 issued by the first respondent directing the Regional Commissioner, Belgaum to delete the name of Inamdar in the mutation register and enter the name of the State Government in view of Section 4 of Bombay Personal Inam Abolition Act, 1952 which came into force from 1-8-1953 extinguishing all the personal rights in respect of inam lands which stood in the State Government on coming into force of the Act. The petitioners have contended that they are the absolute owners in possession of the properties. Without issuing notice and without hearing the petitioners the State Government issued directions to the Regional Commissioner to delete the names of petitioners, which is contrary to law. The learned Single Judge after considering the matter held that the communication dated 14-09-2010 suffer from vice of principle of natural justice. Without issuing notice to the affecting parties, the Government issued

directions to the Regional Commissioner, Belgaum to change the mutation entries is contrary to law. Accordingly set aside the said order as the same is arbitrary and unsustainable. Being aggrieved by the said order, the above writ appeal has been filed.

3. Sri. Mahesh Wodeyar, learned counsel appearing for the appellants contended that the order passed by the learned Single Judge is contrary to law. In view of coming into force of Bombay Personal Inam Abolition Act, 1952, all the inam lands vest with the State Government without any encumbrance. In the instant case, Inamdars have not made any application for regrant of the said lands. However, mutation entries continue in their names. In view of that the Government taking note of all these aspects of the matter, issued directions to the Regional Commissioner to enter the name of State Government in the mutation register by deleting the names of inamdars. There is no infirmity or irregularity in the said order. The petitioners are not the inamdars or grantees of the said lands. Hence sought for setting aside the order passed by the learned Single Judge by allowing this appeal.

4. On the other hand, Sri.F.V.Patil, learned counsel appearing for Respondents 1 to 3 argued in support of the order passed by the learned Single Judge and contended that the communication dated 14-09-2010 issued by the State Government is in violation of Principles of natural justice. The affected persons were not heard in the matter and sought for dismissal of the writ appeal.

5. We have carefully considered the arguments addressed by the parties and perused the order impugned and also communication date 14-09-2010 issued by the State Government.

6. The communication dated 14-09-2010 clearly discloses that before ordering for change of mutation entry, no notice was issued to the affected persons and they are not heard in the matter. From the year 1940, inamdars names continued to be shown in the mutation register. Before deleting their names, the Competent Authority has to follow the procedure prescribed under law. The order passed by the State Government unilaterally deleting the names of inamdars or their successors

in the RTC entries is in violation of principles of natural justice. We find that there is no infirmity or irregularity in the order passed by the learned Single Judge. It is open to the State Government to take appropriate action in accordance with law.

7. With the above observations, the writ appeal is dismissed."

The petitioners then come into the picture when they purchased the properties from the hands of the vendors who were the writ petitioners. The purchases come about on several dates beginning from 31-01-2013. The Tahsildar, Jamkhandi, in terms of the order passed by this Court *supra* issues show cause notices to the members of Desai family seeking to show cause as to why their names should not be deleted as owners of the properties and the name of the State should not entered in their place. Simultaneously, it appears that an application is filed by Desai family for restoration of RTC in their names.

12. The Assistant Commissioner deletes the names of the original owners and enters the name of the State in respect of the properties in question. Desai family prefers an appeal against the said order. In the interregnum part of the lands were sold to one Malina Vinteners Private Limited. Malina Vinteners Private Limited

challenged the order of the Tahsildar deleting the names of its vendors in Writ Petition No.101994 of 2015. The writ petition comes to be disposed of by an order dated 28-09-2015 with a direction to approach the Assistant Commissioner by filing an appeal. All the appeals filed by the vendors of the petitioners and the one filed by Malina Vinteners Private Limited were all taken up together and rejected by a common order by the Assistant Commissioner on 08-03-2018. The petitioners again were nowhere in the picture. The petitioners were only told in the year 2020 when they approached the 2nd respondent to get the khata changed in their names by an endorsement dated 19-05-2020 that there is an order against such an action. Thereafter, the Deputy Commissioner on the appeal preferred against the order of the Assistant Commissioner dated 08-03-2018 rejects the appeal for non-joinder of parties as Malina Vinteners Private Limited was not made a party respondent in the appeals.

13. The issue now would be whether the petitioners were, at any point, heard by any of the authorities. The learned single Judge while quashing identical communication had held that rights

of the parties cannot be trampled without hearing them. In the case at hand, the rights of the parties i.e., the petitioners, are now decided without them being heard. The vendors of the petitioners were said to be heard. By then the petitioners were in possession of the properties. Therefore, to protect the rights of these petitioners, it is just and necessary for the Tahsildar to hear the petitioners and then effect change of the subject lands according to his order.

14. In the light of the matter being sent back for issuance of notice and hearing the petitioners, all other grounds that are urged in the petitions need not bear consideration at this juncture, as violation of principles of natural justice necessitate this Court to dispose of the petitions, more so, in the light of the fact that the learned single Judge had already directed hearing of the parties who are aggrieved, accordingly. The petitioners are undoubtedly aggrieved. The hearing of the petitioners, in all these cases is imperative, as the properties of the petitioners are now left in limbo, since their names are not found in the revenue records and the name of the State is entered.

15. For the aforesaid reasons, the following:

O R D E R

(i) Writ Petitions are allowed.

(ii) Order dated 19-05-2020 passed by the 2nd respondent/Tahsildar stand quashed.

(iii) The matters are remitted back to the hands of the 2nd respondent/Tahsildar to issue notices to the petitioners, afford them a reasonable opportunity of hearing, consider and then pass necessary orders in accordance with law.

(iv) All contentions of parties shall remain open.

Sd/-
(M. NAGAPRASANNA)
JUDGE

bkp
CT:MJ