NC: 2025:KHC:52814
WP No. 33001 of 2016

HC-KAR

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 11TH DAY OF DECEMBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE RAJESH RAI K

WRIT PETITION NO. 33001 OF 2016 (LR)

BETWEEN:

1. SRI. B GANESH RAO
S/O SRI. B. VITTAL RAO
AGED ABOUT 57 YEARS
R/O KALKATTA, MANJANADI VILLAGE
MANGALANTHI POST
MANGALORE TALUK - 575 018
DAKSHINA KANNADA DISTRICT
(SINCE DECEASED, REP. BY LR'S)

1(A). SMT. JAYANTHI KUMARI,
W/O LATE B. GANESH RAO
AGED ABOUT 66 YEARS

1(B). RAVISHANKAR
S/O LATE B. GANESH RAO
AGED ABOUT 37 YEARS

Digitally signed by PANKAJA S
Location: HIGH COURT OF KARNATAKA

PETITIONERS NO.1(A) AND 1(B)
BOTH ARE R/AT SHANBAGH HOUSE,
SHREYA, D.NO. 2-69(1A)
MANJANADI VILLAGE
MANGALANTHI POST, MANGALORE TALUK
DAKSHINA KANNADA DISTRICT - 575 018.

...PETITIONERS

(BY SRI. DEEPAK WAGLE, ADV. FOR
SRI. KESHAVA BHAT A., ADV.
FOR LRs OF DECEASED PETITIONER)

AND:

1. LAND REFORMS AUTHORISED OFFICER
   CUM LAND ACQUISITION OFFICER,
   MANGALORE CITY CORPORATION
   DAKSHINA KANNADA DISTRICT
   MANGALORE - 575 001.

2. SRI. SUNIL GANGADHARAN
   S/O LATE SRI. GANGADHARAN
   AGED ABOUT 43 YEARS
   NO.148, FIRST BLOCK
   VIDYARANYAPURAM
   BANGALORE - 560 097.

…RESPONDENTS

(BY SRI. RAHUL CARIAPPA, AGA FOR R1;
SRI. SANGAMESH, ADVOCATE FOR
SRI. CHANDRANATH ARIGA K., ADVOCATE FOR R2)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO CALL FOR THE ENTIRE RECORDS AND ISSUE A WRIT OF CERTIORARI OR ANY OTHER APPROPRIATE WRIT, ORDER OR DIRECTION SETTING ASIDE THE IMPUGNED ORDER MADE THEREIN BY THE KARNATAKA APPELLATE TRIBUNAL DATED 27.11.2015 IN APPEAL NO.1002/2007 (REVENUE) ANNEXURE-A AND ETC.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE RAJESH RAI K

ORAL ORDER

In this Writ Petition, the petitioner has sought for a writ of certiorari to quash the order dated 27.11.2015 in Appeal No.1002/2007 passed by the Karnataka Appellate Tribunal (for brevity 'KAT') and to restore the order dated 25.03.2006 passed by respondent No.1 as per Annexure-B.

2. The grievance of the petitioner is that his father has filed Form No.7A in respect of the land measuring 65 cents in Sy.No.107/1C of Manjanadi Village, Mangalore Taluk (for brevity "**subject land**") on 25.03.2006. Respondent No.1 i.e., the Land Tribunal has granted occupancy rights in respect of the subject land in favour of the petitioner. The said order has been challenged by respondent No.2 before the Karnataka Appellate Tribunal (KAT) in Appeal No.1002/2007. The KAT has allowed the appeal and set aside the order passed by respondent No.1. Challenge to the same is *lis* before this Court.

3. Heard the learned counsel for the petitioner so also the learned counsel for the contesting respondent.

4. The primary contention of the learned counsel for the petitioner is that he was in possession and cultivation of the subject land before 01.03.1974. Since he failed to file Form No.7 and continued in possession of the land, he filed Form No.7A, which was rightly considered by respondent No.1 and granted occupancy rights. Despite, the KAT has set aside the order on the ground that the father of petitioner has filed Form No.7 in respect of several other lands and also he is having excess land than specified in Section 77A of the Karnataka Land Reforms Act, 1961 (for brevity 'the KLR Act') without examining any documents. Accordingly, he prays to allow the appeal.

5. *Per contra,* learned counsel for the respondent submits that the application filed under Section 77A of KLR Act, is not maintainable since the father of petitioner filed Form No.7 under respondent No.1 in respect of other lands

and he stated in Form No.7 that he was in possession of the subject land, despite, he failed to file Form No.7. As such, the subsequent application under Form No.7A under Section 77A is not maintainable in view of the settled position of law by this Court. He further contented that, in view of the land ceiling prescribed under Section 77A of the KLR Act also the petitioner is not entitled for grant of occupancy right in respect of subject land. Hence, the KAT has rightly rejected the appeal.

6. Learned counsel for the contesting respondent and learned AGA by supporting the impugned orders pray to dismiss the writ petition.

7. As could be gathered from records, the father of the petitioner filed Form No.7 in the year 1999 in respect of other lands under one Methala Vitti Kannan Nair i.e., uncle of respondent No.2. The Land Tribunal granted occupancy rights in respect of other lands in favour of Methala Vitti Kannan Nair. According to the petitioner, the

subject land left over by the father, as such he filed for Form No.7A. However, it could be seen from records that while filing Form No.7 the petitioner mentioned that he was in possession of the subject land. In such circumstance, the subsequent application is not maintainable in view of the law laid down by the Division Bench in the case of ***K.P. Ramanna Rai vs. Asstt. Commissioner, Puttur and the Authorized Officer and Others*** reported in ***2006 (1) AIR Kar R 341***, wherein the Division Bench clearly held that "if the applicant/tenant filed Form No.7 claiming occupancy right by availing the benefit of Section 48A, which has become final and conclusive, cannot maintain Form No.7A under Section 77A even though he had not claimed certain survey numbers due to *bonafide* errors. Section 77A of the Act is inserted by amended Act No.23 of 1998, only to give benefit to persons who have failed to apply for registration of occupancy rights under Section 48A of the Act".

8. Nonetheless, as rightly contended by the learned counsel for the respondent, the ceiling limit prescribed under Section 77A is of two hectares and the applicant shall not possess more than two hectors while filing application under Section 77A of the KLR Act and the order of the KAT clearly depicts that the petitioner in his Form No.7 declares that he has possessed 6.49 acres of land. Under such circumstances, it is clear that the petitioner is holding excess land than prescribed under Section 77A of the KLR Act. In that view of the matter, the KAT has rightly passed the impugned order, which does not warrant interference by this Court.

Accordingly, Writ Petition stands ***dismissed***.

Sd/-
(RAJESH RAI K)
JUDGE

GPG