HC-KAR

NC: 2026:KHC:59754
WP NO.3060 OF 2022

CNR: KAHC010063892022

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF OCTOBER, 2026

BEFORE

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

WRIT PETITION NO.3060 OF 2022 (LR)

BETWEEN:

MRS. MONICA MIRANDA
D/O LATE ALICE LOBO,
AGED ABOUT 73 YEARS,
R/AT SANGEETHA BUILDING,
FLAT NO.1, NEAR (OLD SITE),
SAINT MARY CONVENT,
SAINT PUIS COLONY, MULUND (W),
MUMBAI – 400 080.

REP. BY THE GENERAL POWER OF
ATTORNEY HOLDER
MR. RAJESH KULAL
S/O MONAPPA,
AGED ABOUT 54 YEARS,
R/AT MENNA BETTU VILLAGE,
BALLADABETTU HOUSE,
KODETHUR ROAD,
KINNIGOLI,
MANGALURU – 574 150.

...PETITIONER

(BY SRI. P.P.HEGDE, SENIOR COUNSEL FOR
SRI. GANAPATHI BHAT, ADVOCATE)

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

AND:

1. STATE OF KARNATAKA
REP. BY ITS SECRETARY,
DEPARTMENT OF REVENUE,
M.S. BUILDING,
BENGALURU – 560 001.

2. THE LAND TRIBUNAL
MOODABIDRI,
MANGALURU TALUK,
DAKSHINA KANNADA DISTRICT – 574 227.
REP. BY THE PRESIDENT AND MEMBERS.

3. MR. NELSON D'SA
S/O LATE ALICE LOBO,
AGED ABOUT 58 YEARS,
R/AT PAVAN PUTRA,
H.S. SHOP NO.3, GROUND FLOOR,
DR. ERNEST BORGES ROAD,
PAREL EAST, MUMBAI
MAHARASTRA – 400 012.

4. MR. STANY CYRIL D'SA
S/O LATE ALICE LOBO,
AGED ABOUT 76 YEARS,
R/AT A/304, RAJ MUDRA APARTMENT,
NEAR GAYATHRI JUNIOR COLLGE,
KOLSEWADI, KALYAN EAST,
KALYAN, KATEMANIVALI,
KALYAN THANE,
MAHARASTRA – 421 306.

5. SMT. NOOR JAHAN
W/O S.M. NAZEER,
AGED ABOUT 59 YEARS.

6. MR. S.M. NAZEER
S/O LATE HASSAN SAHEB,
AGED ABOUT 62 YEARS.

RESPONDENTS 5 AND 6 ARE
R/AT "NOOR MANZIL",
GUTTA KADU, BITHILU HOUSE,
TALIPADY VILLAGE, MANGALURU TALUK,
DAKSHINA KANNADA DISTRICT – 574 150.

…RESPONDENTS

(BY SMT. SHARADA H.V., AGA FOR R1 AND R2;
SRI. DHANANJAY KUMAR, ADVOCATE FOR R5 AND R6;
R3 AND R4 - SERVED BUT UNREPRESENTED)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE ORDER DATED 02ND SEPTEMBER, 2010 PASSED BY THE RESPONDENT NO.2-LAND TRIBUNAL, MOODBIDRI, MANGALURU TALUK IN CASE NO.LRT.472/1979-80 VIDE ANNEXURE-A; AND ETC.

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

CORAM: HON'BLE MR. JUSTICE E.S.INDIRESH

ORAL ORDER

In this petition, the petitioner is challenging the order dated 02nd September, 2010 (Annexure-A) passed by the respondent No.2-Land Tribunal in Case No.LRT.472/1979-80.

2. Heard Sri. P.P. Hegde, learned Senior Counsel on behalf of Sri. Ganapathi Bhat, appearing for the petitioner; Smt. Sharada H.V., learned Additional Government Advocate appearing for respondents 1 and 2; and Sri. Dhananjay Kumar, learned counsel appearing for respondents 5 and 6.

3. Sri. P.P. Hegde, learned Senior Counsel appearing for the petitioner invited the attention of the Court to the order

dated 08th November, 1979 (Annexure-C) passed by the respondent No.2-Land Tribunal and submitted that the land bearing Survey No.123-7D of Talipady Village, Mangaluru Taluk to an extent of 15 cents was granted in favour of the mother of the petitioner and respondent 3 and 4. Learned Senior Counsel appearing for the petitioner further submits that the respondent No.5-Smt. Noor Jahan, being a General Power of Attorney Holder of the mother of the petitioner and respondents 3 and 4 had made application fraudulently seeking modification of order dated 08th November, 1979 (Annexure-C) passed by the respondent No.2-Land Tribunal and same was considered by the Land Tribunal in the impugned order dated 02nd September, 2010 (Annexure-A) in Case No.LRT.472/1979-80, which aspect has been came to the knowledge of the petitioner herein in the civil proceedings in Original Suit No.24/2021 on the file of the III Additional Senior Civil Jude, Mangaluru. Therefore, learned Senior Counsel appearing for the petitioner contended that the impugned order passed by the respondent No.2-Land Tribunal is required to be set-aside in the present petition.

4. Per contra Sri. Dhananjay Kumar, learned counsel appearing for respondents 5 and 6 submits that the change of

survey number in the impungned order has been made based on the General Power of Attorney said to have been executed by the mother of the petitioner and respondents 3 and 4. Accordingly, he sought for dismissal of the petition.

5. Smt. Sharada H.V., learned Additional Government Advocate appearing for respondents 1 and 2 submits that the petitioner herein had challenged the impugned order, after an inordinate delay of more than a decade.

6. In the light of submission made by learned counsel appearing for the parties, on perusal of the order dated 08th November, 1979 (Annexure-C), it is forthcoming that the respondent No.2-Land Tribunal had granted the occupancy right in favour of the mother of the petitioner and respondents 3 and 4 in respect of land bearing Survey No.123-7D measuring to an extent of 15 cents. Perusal of the impugned order dated 02nd September, 2010 (Annexure-A), it is forthcoming that the respondent No.5 *viz.,* Smt. Noor Jahan had filed application dated 04th August, 2007 (Annexure-S) being a General Power of Attorney Holder of the original grantee, seeking modification of the order dated 08th

November, 1979 (Annexure-C). On perusal of the writ papers particularly, the Death Certificate produced at Annexure-F, makes it clear that the mother of the petitioner and respondents 3 and 4 died on 11th October, 1997, which is prior to the filing of application dated 04th August, 2007 (Annexure-S) by the respondent No.5 being a General Power of Attorney Holder of the mother of the petitioner and respondents 3 and 4 seeking modification of the original grant order. Therefore, I am of the view that the respondents 5 and 6 have no authority to seek modification of the order dated 08th November, 1979 (Annexure-C) passed by the respondent No.2-Land Tribunal, after the death of original grantee on the basis of the General Power of Attorney. In that view of the matter, the impugned order passed by the Land Tribunal is required to be set-aside. Accordingly, I pass the following:

O R D E R

(i) Writ Petition ***allowed;***

(ii) Order dated 02nd September, 2010 (Annexure-A) passed by the respondent No.2-Land Tribunal in Case No.LRT.472/1979-80 is hereby set-aside;

(iii) The jurisdictional Tahsildar is directed to enter the name of the petitioner in the revenue records as the mother of the petitioner died leaving behind the petitioner as legal heir in respect of the subject land bearing Survey No.123-7D measuring to an extent of 15 cents granted as per Annexure-C, within a period of three months from the date of receipt of this order.

SD/-
(E.S.INDIRESH)
JUDGE

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List No.: 1 Sl No.: 39