HC-KAR

NC: 2026:KHC:59856
WP No.12578 of 2022

CNR: KAHC010278362022

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.12578 OF 2022 (LR)

BETWEEN:

HONDADA VEERAPPA GOWDA
SINCE DECEASED BY LRS.

1. LINGARAJA GOWDA
S/O VEERAPPA GOWDA,
AGED ABOUT 62 YEARS,
R/AT CHIKKA IDAGODU VILLAGE,
ANAVATTI HOBLI,
SORABA TALUK – 577 413.

2. H.V. SUBENDRA GOWDA
S/O VEERAPPA GOWDA,
AGED ABOUT 48 YEARS,
R/AT CHIKKA IDAGODU VILLAGE,
ANAVATTI HOBLI,
SORABA TALUK – 577 413.

...PETITIONERS

(BY SRI. JAYAKUMAR S. PATIL, SENIOR COUNSEL FOR
SRI. BIMBADHARA H.M., ADVOCATE)

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

AND:

1. THE STATE OF KARNATAKA
REP. BY ITS SECRETARY,
DEPARTMENT OF REVENUE,
M.S. BUILDING, 7TH FLOOR,
VIDHANA VEEDHI,
BENGALURU – 560 001.

2. THE LAND TRIBUNAL
SORABA

REP. BY ITS SECRETARY,
SORABA TALUK,
SORABA – 577 429.

3. MANJAPPA
S/O SIDDAPPA

REP. BY HIS POWER OF ATTORNEY
SRI. VEERESH,
S/O MANJAPPA,
AGED ABOUT 45 YEARS,
R/AT CHIKKA IDAGODU VILLAGE,
ANAVATTI HOBLI,
SORABA TALUK – 577 413.

4. SURESH BABU
S/O VEERABHADRAPPA,
AGED ABOUT 64 YEARS,
R/O ANAVATTI, ANAVATTI HOBL,
SORABA TALUK – 577 413.

…RESPONDENTS

(BY SMT. SHARADA H.V., AGA FOR R1 AND R2;
SRI. K. DIWAKAR, SENIOR COUNSEL FOR
SRI. SYED AKBAR PASHA, ADVOCATE FOR R3;
RESPONDENT NO.4 – SERVED AND UNREPRSENTED)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO SET-ASIDE THE ORDER OF THE RESPONDENT NO.2-LAND TRIBUNAL, SORABA PASSED IN CASE NO.TNCVR.59/1979-80 DATED 08TH APRIL, 2022 VIDE ANNEXURE-A ALLOWING THE APPLICATION IN FORM NO.7 FILED BY THE RESPONDENT NO.3 AND BE PLEASED TO DISMISS THE APPLICATION; AND ETC.

THIS WRIT PETITION HAVING BEEN RESERVED FOR ORDERS, COMING ON FOR PRONOUNCEMENT THIS DAY, **E.S. INDIRESH J**., MADE THE FOLLOWING:

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

CAV ORDER

In this petition, petitioners are challenging the order dated 08th April, 2022 (Annexure-A) passed by the respondent No.2-Land Tribunal, allowing the application of the respondent No.3 filed in Form No.7, seeking occupancy right in respect of the subject land.

2. The relevant facts for adjudication of this petition are that, petitioners were the owners of the land bearing Survey No.129 measuring to an extent of 4 acre 23 guntas situate at Chikka Idagodu Village, Soraba Taluk as the father of the petitioners viz., Veerappa Gowda acquired the same as per the partition held in the family during the year-1966. It is stated that the subject land is a Patel Inam land granted in favour of the grandfather of petitioners for having rendered service to the public as a Patel of the village. It is also stated in the petition that the subject land was not tenanted and no application was filed seeking occupancy right in respect of the same. However, it is averred in the petition that the respondent No.3 filed an application produced at Annexure-B seeking occupancy right in respect of the subject land against

the respondent No.4, who is not the true owner of the subject land. It is further averred that the respondent No.3 filed another application produced at Annexure-C against the father of the petitioners seeking conferment of occupancy right in respect of the very same subject matter. Pursuant to the same, the respondent No.2-Land Tribunal, Soraba, after considering the material on record, by order dated 18th December, 1981 (Annexure-E) dismissed the claim of the respondent No.3. Being aggrieved by the same, the respondent No.3 has filed Writ Petition No.25693/1992 and this Court, by order dated 02nd June, 1999 (Annexure-E) allowed the writ petition and remitted the matter to the Land Tribunal for fresh consideration. Petitioners also produced RTC extracts as per Annexure-F series. It is also stated that the father of the petitioners filed Original Suit No.436/1975 on the file of the Principal Munsiff, Sagar for the relief of permanent injunction. The said suit came to be dismissed on 27th January, 1981 (Annexure-J). It is the case of the petitioners that the respondent No.2–Land Tribunal passing of the impugned order dated 08th April, 2022 (Annexure-A),

conferring the occupancy right in favour of the respondent No.3 is contrary to law. Hence, the present writ petition is filed.

3. Heard Sri. Jayakumar S. Patil, learned Senior Counsel on behalf of Sri. Bimbadhara H.M., appearing for petitioners; Smt. Sharada H.V., learned Additional Government Advocate appearing for respondents 1 and 2; and Sri. K. Diwakar, learned Senior Counsel on behalf of Sri. Syed Akbar Pasha, appearing for the respondent No.3.

4. Sri. Jayakumar S. Patil, learned Senior Counsel appearing for petitioners contended that the application filed by the respondent No.3 on 15th December, 1980 is beyond the time stipulated under the provisions of the Karnataka Land Reforms Act and further the respondent No.3 filed two applications, seeking occupancy right in respect very same subject land, which is impermissible under law. In this regard, learned Senior Counsel appearing for petitioners refers to the judgment of this Court in the case of ***GIRIYAPPA AND OTHERS vs. STATE OF KARNATAKA***

AND OTHERS reported in *ILR 2000 KAR 1166* and in the case of ***SMT. NAGAMMA AND ANOTHERS vs. STATE OF KARNATAKA AND OTHERS*** reported in *ILR 2001 KAR 4935* and argued that the tenant cannot file two applications in Form No.7 seeking occupancy right in respect of the very same subject matter of the land or in respect of different lands. Accordingly, he sought for interference of this Court.

5. Per contra, Sri. Diwakar, learned Senior Counsel appearing for the respondent No.3 submits that the respondent No.3 had filed application on 27th June, 1979 as against the respondent No.4 (landlord) as the father of petitioners viz., Hondada Veerappa Gowda had sold the subject land to the respondent No.4 on 02nd May, 1975 and the respondent No.3 was cultivating the same for more than four decades and was paying Geni to the landlord as per Annexures 'R', 'R1', 'R2' and 'R3'. It is further argued by learned Senior Counsel appearing for the respondent No.3 that the respondent No.4 had appeared before the Land Tribunal along with a copy of the Sale Deed in respect of the subject land that he had purchased from the father of

petitioners and thereafter, the Tahisildar had conducted spot mahazar on 15th December, 1980 and arrived at a conclusion that the respondent No.3 was cultivating the subject land.

6. It is further contended by learned Senior Counsel appearing for the respondent No.3 that the respondent No.3 had filed Form No.7 in respect of the land bearing Survey Nos.70, 64 and 41 of Nellikoppa Village and land bearing Survey No.151 of Chikka Idagodu Village, however, From No.7 in respect the subject land bearing Survey No.129 was filed separately. Therefore, learned Senior Counsel contended that the contentions raised by learned Senior Counsel appearing for petitioners that two Form Nos.7 have been filed in respect of the subject land is incorrect. Accordingly, he sought to justify the impugned order passed by the respondent No.2-Land Tribunal.

7. In order to buttress his arguments, learned Senior Counsel appearing for the respondent No.3 refers to the judgment of this Court in the case of ***GIRIAYAPPA*** *(supra)* and contended that the conclusion reached by the Land

Tribunal is just and proper. Accordingly, sought to justify the impugned order passed by the respondent No.2-Land Tribunal

8. In the light of the submission made by learned counsel appearing for the parties, on perusal of the averments made in the writ petition, it is forthcoming that the petitioners claim to be landlords in respect of land bearing Survey No.129 measuring to an extent of 5 acre 13 guntas of Chikkaidagodu Village, Soraba Taluk. The respondent No.3 has filed Form No.7 against the respondent No.4 on 27th June, 1979 (Annexure-B) seeking occupancy right in respect of the subject land. It is also forthcoming that the respondent No.3 filed Form No.7 against the father of petitioners on 15th December, 1980 (Annexure-C) seeking occupancy right in respect of the subject land. The respondent No.2-Land Tribunal, by order dated 18th December, 1981 (Annexure-D) rejected the application filed by the respondent No.3 and being aggrieved by the same, the respondent No.3 filed Writ Petition No.25693/1992 before this Court. The said writ petition was disposed of on 02nd June, 1999 (Annexure-E) by remitting the matter to the respondent No.2-Land Tribunal for

fresh consideration. Thereafter, the respondent No.2-Land Tribunal, by impugned order dated 08th April, 2022 (Annexure-A), granted occupancy right in favour of the respondent No.3.

9. It is the principal submission of learned Senior Counsel appearing for petitioners that the respondent No.3 filed two From Nos.7 in respect of the different lands seeking occupancy right and therefore, the second application seeking occupancy right is not maintainable. It is forthcoming from the writ papers that the respondent No.2-Land Tribunal granted occupancy right in respect of land bearing Survey No.151 to an extent of 1 acre 1 gunta and in Survey No.157 to an extent of 1 acre 5 guntas as per the order dated 23rd March, 1981 (Annexure-L) and these two grants are based on the Form No.7 filed by the respondent No.3 independent of the application in Form No.7 filed in respect of the land bearing Survey No.129 of Chikka Idagodu Village. In this regard, it is relevant to cite the judgment of Division Bench of this Court in the case of ***DAVALSAB vs. THE STATE OF KARNATAKA BY ITS SECRETARY FOR THE DEPARTMENT***

OF REVENUE AND OTHERS reported in *ILR 2008 KAR 280,* wherein at paragraphs 13 to 15 held as under:

> *" 13. In the next judgment ILR 2006 Kar 2061, the facts are different from the earlier two decisions of the learned Single Judge of this Court. In this case, there were two different landlords under whom the tenant claimed tenancy rights. The learned Single Judges having regard to the format of application under Rule 19 and also the definition of "tenancy" and the "tenant" in the Act, held if a tenant claims separate tenancy under two different landlords, there could be two applications in respect of two different landlords as they constitute two separate tenancies. In other words, as the tenant was required to establish tenancy separately under two different landlords, the learned Judge said such tenant is not precluded from filing two applications in Form No. 7.*
>
> *14. The situation is altogether different in the present. Under the same landlord, the tenant is claiming tenancy rights by filing two Form No. 7 applications, one in the year 1974 and the other in 1976. Apparently, the tenant has not restricted his claim to one of the applications. He has claimed tenancy rights in respect of all the three lands compromised under two applications in Form No. 7. We are concerned with the second application filed during the year 1976 only.*

> *15. Having regard to Rule 19, it is noticed applicant has to furnish details of all the lands held under each separate tenancy and after filing of the same, the Tahsildar concerned would collect the information from the concerned revenue officials regarding the details. But one Tribunal would decide the matter. As a matter of fact, reading of Rule 19 and Sec. 2(33) and 2(34) of the Act, provides filing of one Form No. 7 application only in respect of all the tenancies claimed by a tenant even under different landlords. In other words, it would be well within the procedure if a tenant files one application in Form No. 7 in respect of different tenancies belonging to different landlords."*
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> *(emphasis supplied)*

10. Perusal of the aforementioned judgment would indicate that, it is open for the tenant claiming occupancy right in respect of the subject land to file only one Form No.7 for all tenanted lands claiming against the different landlords. This Court, considering Rule 19 of the Karnataka Land Reform Rules, 1974 held that, it is not open for the tenant to file several From Nos.7 on different stages. It is also appropriate to cite the judgment of this Court in the case ***GIRIYAPPA*** (supra), wherein at paragraphs 12 to 15 held as under:

"12. From sub-section 1 of Section 48A of the Act it is clear that every person who is entitled to be registered as an occupant under Section 45 of the Act is entitled to make an application seeking grant of occupancy right. Sub-section 2 of Section 48A provides that after receipt of the application, the Tribunal should publish or cause to be published a public notice in the village in which the land is situated calling upon the landlord and all other persons having an interest in the land to appear before it on the date specified in the notice etc. Sub-section 3 of Section 48 provides that Form of the application and the form of the notices, the manner of publishing or serving the notices and all other matters connected therewith shall be such as may be prescribed. "Prescribed" means as prescribed under the Rules. The provision confers power on the Tribunal for valid and sufficient reasons to permit the applicant to amend the application. Rule 19 of the Rules provides that the application under sub-section 1 of Section 48A of the Act shall be in Form No. 7. The said rule further provides that the application shall furnish particulars of all the lands held under each separate tenancy in one or more than one taluk in respect of which an applicant claims to be entitled to be registered as an occupant; and where the lands are situated in more than one taluk, the application should be filed before the Tribunal of the Taluk where the greater part of the lands are situated. The same Rule further provides that on receipt of the applications, the Tahsildar is required to send the

extract of the application to the Tribunal concerned. A duty is also cast by the said Rule on the Tahsildar to verify the particulars mentioned in the application with reference to the revenue records and record of rights and also note the same on the application. As observed by me earlier, sub-section 3 of Section 48A of the Act provides that the form of the application should be as prescribed under the Rules. The language employed in Rule 19 of the Rules which makes it obligatory on the part of an applicant to furnish particulars of all the lands held under each separate tenancy in one or more than one taluk in respect of which the applicant claims to be entitled to the registered as an occupant, in my view, clearly supports the contention of Sri Gunjal that under the provisions of the Act and the rules framed thereunder, only one application is contemplated. This is also clear from sub-section 3 of Section 48A referred to earlier which confers power on the Tribunal to permit the applicant to amend the application for valid and sufficient reason. Therefore, I am of the view from the scheme of the Act and the Rules framed thereunder it is not permissible when once an order is passed by the Tribunal disposing of an application filed by an applicant, for such an applicant or persons claiming through him to file another application claiming occupancy right in respect of the land to which he has not made a claim in his earlier application. From this observation, I should not be understood as having stated that before the disposal of the application filed by

a tenant by the Tribunal, the second application filed in order of time is not maintainable. It may be open to the tenant to confine his relief to any one of the applications filed by him before the Tribunal takes up the applications filed by him, for disposal. But as observed by me earlier, once the application is disposed of by the Tribunal, on consideration of the claim made by the applicant, the second application filed after the order passed by the Tribunal is not maintainable. Therefore, in the instant case since the petitioners are claiming occupancy right in respect of the land in question through their father, in my view the application in Form No. 7 filed by the 1st petitioner is not maintainable. This question can be considered from another angle also. The interpretation placed by me on Rule 19 of the Rules and Section 48A of the Act also gets support from the principle underlying Order 2 Rule 2 of the Code of Civil Procedure. It is useful to extract Order 2 Rule 2 of the Code of Civil Procedure which reads as hereunder:

"***R1.2. Suit to include the whole claim:-***

(1) Every suit shall include the whole of the claim which the plaintiff is entitled to make in respect of the cause of action; but a plaintiff may relinquish any portion of his claim in order to bring the suit within the jurisdiction of any Court.

(2) Relinquishment of part of claim:— Where a plaintiff omits to sue in respect of, or intentionally relinquishes, any portion of his

claim, he shall not afterwards sue in respect of the portion so omitted or relinquished."

13. No doubt, the Code of Civil Procedure is not made applicable to the proceedings before the Tribunal, but while considering the question whether the second application in Form No. 7 is maintainable in the backdrop of the provision contained in Section 48A of the Act and also Rule 19 of the Rules, I am of the view, the principle underlying Order 2 Rule 2 of the Rules can be applied. Otherwise, it will lead to any Court or Tribunal as far as possible should be to avoid multiplicity of proceedings.

14. As it can be seen from Form No. 7, it not only requires an applicant to set out the lands in respect of which he is a tenant, it also requires him to set out the lands held by him and his family as owner or in any other capacity. The said details are required to be furnished by a tenant because the Tribunal is also required to consider the total holding by a tenant while considering his claim for grant of occupancy right. If a person holds land in excess of the ceiling limit, he is not entitled to claim occupancy right in excess of the ceiling limits fixed. Therefore, I find considerable force in the submission of Sri Gunjal that the Form No. 7 filed by the 1st petitioner is not maintainable. In my view, I am also supported by the decision of this Court in the case of Naikara Gadirappa (supra) made in Writ Petition No. 31 of 1989, wherein this Court while disposing of I.A. II on

18th July 1989, at paragraph 2 has taken the view that the second application filed is not maintainable. At paragraph 2 of the said judgment, this Court (Shivshankar Bhat J.) has observed as follows:

> *"Form No. 7 will have to be read with this Rule which also provides that every applicant should state in the said application the particulars of any other land held by him including the land held by any other member of his family, either as owner or tenant. Rule 19 extracted above also categorically lays down that the application shall furnish particulars of all the lands held under each separate tenancy in one or more than one Taluk in respect of which the applicant claims to be entitled to be registered as an occupant. The requirement that an application should be exhaustive of all the lands claimed by an applicant obviously is based on certain purpose and to prevent piece-meal applications so that there may be a consolidated enquiry and hearing by a Tribunal competent to decide a particular application. This also will enable to Tribunal competent to decide a particular application. This also will enable the Tribunal to appreciate the objections if any of the landlord as to the genuineness of the claim of the applicant by pointing out the impracticability of a person holding lands in different places. The principle behind the requirement of Rule 19 and Form No. 7 is not foreign to legal proceedings, which is almost similar to Order II Rule 2 of the Code of Civil Procedure. Mr. Hudlamane contended that this requirement should not be read as a mandatory requirement having regard to the fact that the applicants are generally poor, illiterate and ignorant villagers. I cannot accept this contention because the entire legislation is meant for the benefit of the agriculturists and the legislature was certainly aware of the fact*

> *that those who invoke the provisions of the Act will be mostly ignorant, illiterate and poor villagers. If the requirement of the law is not to be adhered to strictly, there would have been necessary power to relax the requirement. Having regard to the object behind this requirement of Rule 19 and Form No. 7, I am constrained to hold that these are mandatory requirements, failure to comply which will render the application defective."*
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> *15. Therefore, in the light of the discussion made above, I am of the view that the second application made by the 1st petitioner seeking conferment of occupancy right in respect of the land in question is not maintainable."*

11. Perusal of the law declared by this Court in the aforesaid cases, makes it clear that the second application filed by the applicant cannot be accepted as the same would affect the rights of the landlords, if a person holds land in excess of ceiling limit as per Section 63 of the Karnataka Land Reforms Act. Therefore, following the judgments of this Court, referred to above, as the respondent No.3 has not filed consolidated application claiming occupancy right in respect of land under tenancy and has filed two Form Nos.7 on different dates pertaining to the different lands, I find force in the submission made by learned Senior Counsel appearing for

petitioners. In that view of the matter, the finding recorded by the respondent No.2-Land Tribunal in the impugned order is incorrect and contrary to the judgments of this Court referred to above. Hence, I pass the following:

O R D E R

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

(ii) Order dated 08th April, 2022 (Annexure-A) passed by the respondent No.2-Land Tribunal, Soraba Taluk in case No.TNCVR.59/79-80 is hereby set-aside.

SD/-
(E.S.INDIRESH)
JUDGE

ARK
List No.: 1 Sl No.: 59