HC-KAR

NC: 2026:KHC:60774-DB
WA No. 2013 of 2026

CNR: KAHC010593192026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 2ND DAY OF NOVEMBER, 2026

PRESENT

THE HON'BLE MR. JUSTICE D K SINGH

AND

THE HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN

WRIT APPEAL NO. 2013 OF 2026 (KLR-RES)

BETWEEN:

1. THE STATE OF KARNATAKA
REP. BY PRINCIPAL SECRETARY,
DEPARTMENT OF REVENUE,
M.S BUILDING, BENGALURU-560 001.

2. THE DEPUTY COMMISSIONER,
BENGALURU URBAN DISTRICT,
DEPUTY COMMISSIONER'S OFFICE,
K.G. ROAD, BENGALURU-560 009.

3. THE ASSISTANT COMMISSIONER,
BENGALURU SOUTH SUB-DIVISION,
KANDAYA BHAVAN, K.G. ROAD,
BENGALURU-560 009.

4. THE TAHSILDAR,
BENGALURU SOUTH TALUK,
KANDAYA BHAVAN, K.G. ROAD,
BENGALURU-560 009.

...APPELLANTS

(BY SRI. M N SUDEV HEGDE, AGA)

Digitally signed by MALA K N
Location: HIGH COURT OF KARNATAKA

AND:

SRI KARIYAPPA,
S/O LATE MARANNA @ MARHANUMA,
AGED ABOUT 82 YEARS,

R/A UDDANDAHALLI VILLAGE,
DHONENAHALLI DHAKALE,
TAVAREKERE HOBLI,
BENGALURU SOUTH TALUK,
BENGALURU-562 130.

…RESPONDENT

THIS WRIT APPEAL FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO A) QUASH THE IMPUGNED ORDER DATED 22/09/2025 PASSED BY THE LEARNED SINGLE JUDGE IN WP NO.28708/2025 AND B) ISSUE ANY OTHER ORDER OR DIRECTIONS.

THIS APPEAL, COMING ON FOR PRELIMINARY HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE D K SINGH
AND
HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE D K SINGH)

This present intra Court appeal has been filed impugning the order dated 22.09.2025 passed by the Writ Court in W.P.No.28708/2025.

2. The issue involved in this Writ Appeal is covered by the judgment passed by this Court in W.A.No.1212/2026 dated 13.08.2026.

> *"The present intra Court Appeals have been filed impugning the judgment and orders dated 23.02.2026, 03.02.2026, 26.02.2026 and*

19.02.2026 passed in W.P.Nos.3430/2026, 1288/2026, 3298/2026 and 3672/2026 respectively by the writ Court.

2. The State Government came out with a brilliant and unconstitutional amendment to the provisions of the Karnataka Land Reforms Act, 1961, by inserting Section 38A by Act No.43 of 2017. The amended section would read as under :-

> *"38A. Grant of certificate of ownership to an agricultural labourer.- (1) Notwithstanding anything contained in this Act or any other law for the time being in force, where in any village, agricultural labourer is ordinarily residing on dwelling house on a land not belonging to him in an unrecorded habitations like Lambani Tanda, Gollarahatti, Vaddarahatti, Kurubarhatti, Nayakarahatti, Majare Grama, Haadi, Doddi, Palya, Camp, Colony or any other such unrecorded habitations falling within the jurisdiction of that village, on the date of commencement of the Karnataka Land Reforms (Amendment) Act, 2016, which is notified as such by the Deputy Commissioner, specifying the survey numbers and boundaries in the pre scribed manner, such dwelling house or houses along with the site thereof and land immediately appurtenant thereto and necessary for its enjoyment shall, on the date of such notification by the Deputy Commissioner, vest absolutely in the State Government, free from all encumbrances and the agricultural labourer shall be entitled to be registered as owner thereof.*
>
> *Explanation.- For the purpose of this section an agricultural labourer residing in a dwelling house which is a portion of the house of the owner or which is a temporary residence on such land shall not be regarded as ordinary residing therein.*

(2) Every agricultural labourer entitled to be registered as a owner under sub-section (1) may make an application to the Assistant Commissioner or any other officer authorized by the State Government, in the prescribed manner on or before completion of one year from the date of notification by the Deputy Commissioner under sub-section (1) and the Assistant Commissioner or the officer authorized, shall after such enquiry as may be prescribed, by order, determine the person entitled to be registered as owner and the dwelling house and land in respect of which he is entitled to be so registered and such other matters as may be prescribed and forward a copy of the Order to the Tahasildar.

(3) The Tahasildar shall, on receipt of the order passed under subsection(2) determine in the manner specified in sub-sections (1) and (2) of section 47, the amount of the land owner shall be entitled to, for the extinguishment of his rights in such land on payment of the amount determined, to the Government, by the agricultural labourer, the Tahasildar shall issue a notification to this effect and also issue a certificate to such labourer specifying the extent and such other particulars as may be prescribed relating to such dwelling house and land and that he shall be registered as owner thereof. A copy of the certificate shall be forwarded by the Tahasildar to the sub-registrar who shall, notwithstanding anything contained in the Registration Act, 1908 (Central Act 16 of 1908) register the same. The owner of the land shall be paid the amount remitted by the agricultural labourer in cash in a lump sum.

(4) The provisions of sub-sections (2) and (3) of section 38 shall, so as may be, apply and the reference to "Tribunal" shall be

construed as being reference to Assistant commissioner or officer authorized.

(5) The provisions of section 61 shall apply to a dwelling house or site granted under this section to an agricultural labourer as they apply to a land in respect of which a tenant has been registered as an occupant."

3. By way of amendment, the State Government wants the private properties to be handed over to the persons, who have illegally and unauthorizedly occupied the private lands. This amendment is an ingenious effort on the part of the State Government, to confer the rights in favour of the persons, who are on the wrong side of the law. If the State, in its benevolent outlook towards so-called marginalization, wants to confer rights over the private lands, the State should acquire that lands under the provisions of the law by making adequate and timely payment of compensation.

4. However, the State has no right to acquire or get vested in it, the private property, in violation of Article 300A of the Constitution of India without acquiring the property in exercise of the power of eminent domain.

5. It is well established that power of eminent domain cannot be exercised in violation of Article 300A of the Constitution of India even for the public purpose. The purpose of amendment may be loud, but it is on the face of it unconstitutional.

6. We therefore, find no ground to interfere with the impugned judgment and orders dated 23.02.2026, 03.02.2026, 26.02.2026 and 19.02.2026 passed in W.P.Nos.3430/2026, 1288/2026, 3298/2026 and 3672/2026 respectively, by the learned Single Judge. However, we leave it open to the State that if the State wants to reach out to the so-called marginalized section of the society, they may acquire the land or the property under the provisions of the Right to Fair Compensation Act, 2013, and not otherwise.

*7. Accordingly all these appeals are **dismissed**, however without costs.*

8. Pending interlocutory applications, if any, stand disposed of."

Accordingly, this Writ Appeal is also disposed of in terms of the aforesaid order.

Sd/-
(D K SINGH)
JUDGE

Sd/-
(H.SHANTHI BHUSHAN)
JUDGE

BVK
List No.: 1 Sl No.: 2