



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 22ND DAY OF MAY, 2023

PRESENT

THE HON'BLE MR. JUSTICE ALOK ARADHE

AND

THE HON'BLE MR. JUSTICE ANANT RAMANATH HEGDE

WRIT APPEAL NO.2102 OF 2017 (LR)

BETWEEN:

1. SRI. CHIKKACHOWDAPPA
S/O NARAYANAPPA
AGED ABOUT 87 YEARS
R/AT MARKANDAPURA
KOLAR TLAUK
KOLARA DISTRICT-563 130.

...APPELLANT

(BY SRI. Y.R. SADHASIVA REDDY, SR. COUNSEL FOR
SRI. N. BAYYA REDDY, ADV.,)

AND:

1. THE STATE OF KARNATAKA
REPRESENTED BY ITS SECRETARY
DEPARTMENT OF REVENUE
M.S. BUILDING, DR. AMBEDKAR VEEDHI
BENGALURU-560 001.
2. THE LAND TRIBUNAL KOLAR
KOLAR DISTRICT
REPRESENTED BY ITS SECRETARY
KOLAR-563130.
3. SRI. CHANDRASHEKHARAIHAH
@ CHANDRASHEKAR DIXIT
DEAD BY HIS LRS.
- 3(a) SRI. SOMASHEKAR DIXIT
AGED ABOUT 65 YEARS





S/O SRI. CHANDRASHEKARAIAH @
CHANDRASHEKAR DIXIT.

3(b) SRI. RAVISHANKAR DIXIT
AGED ABOUT 62 YEARS
S/O SRI.CHANDRASHEKARAIAH @
CHANDRASHEKAR DIXIT.

3(c) SRI. GOURISHANKAR DIXIT
AGED ABOUT 60 YEARS
S/O SRI. CHANDRASHEKARAIAH @
CHANDRASHEKAR DIXIT.

3(d) SRI. SHIVAKUMAR DIXIT
AGED ABOUT 58 YEARS
S/O SRI. CHANDRASHEKARAIAH @
CHANDRASHEKAR DIXIT.

3(e) SRI. NAGABHUSHAN DIXIT
AGED ABOUT 55 YEARS
S/O SRI. CHANDRASHEKARAIAH @
CHANDRASHEKAR DIXIT.

3(f) SMT. MANJULA
AGED ABOUT 48 YEARS
D/O SRI. CHANDRASHEKARAIAH @
CHANDRASHEKAR DIXIT.

ALL ARE R/AT FORT, KOLAR TOWN
KOLAR DISTRICT-563 130.

...RESPONDENTS

(BY SMT. NAMITHA MAHESH B.G. AGA FOR R1 & R2
SRI. K. RAGHAVENDRA RAO, ADV., FOR R3 (a & d)
R3(b), R3(c), R3(e) & R3(f) SERVED & UNREPRESENTED)

THIS WRIT APPEAL IS FILED U/S 4 OF THE KARNATAKA
HIGH COURT ACT PRAYING TO SET ASIDE THE ORDER
PASSED IN THE WRIT PETITION 25493/2004 DATED
13.02.2017.

THIS APPEAL COMING ON FOR PRELIMINARY HEARING,
THIS DAY, **ALOK ARADHE J.**, DELIVERED THE FOLLOWING:



JUDGMENT

This intra Court appeal arises from an order dated 13.02.2017 passed by the learned Single Judge by which the writ petition preferred by original petitioner / deceased respondent No.3 in the appeal, has been allowed and the order dated 13.02.2004 passed by the Land Tribunal has been set aside.

2. Facts giving rise to filing of this appeal briefly stated are that the appellant claimed to be in possession of land bearing Sy.No.7 measuring 2 acres and 3 guntas situated at Markandapura Village, Kolar Taluk. It is the case of the appellant that the aforesaid land was Shanbhog Inamathi land. It is the further case of the appellant that the father of the deceased respondent No.3 was holding the village office of Shanbhog for 7 villages including Markandepura village during his lifetime who expired in 1962. Thereafter, deceased respondent No.3 held the office of Shanbhog till the Village Offices Abolition Act came into force. However,



appellant filed an application seeking occupancy rights on the ground that he is the tenant in respect of the schedule land. The Tribunal, by an order dated 10.08.1981, granted occupancy rights in his favour. The order was challenged in a writ petition. The order passed by the Land Tribunal was set aside and the matter was remitted for a fresh consideration to the Land Tribunal. The Land Tribunal again granted occupancy rights in favour of appellant which was subject matter of challenge in W.P.No.8916/1984 and the order passed by the Land Tribunal was once again set aside and remitted back to the Land Tribunal. The Tribunal thereafter once again granted occupancy rights in respect of appellant. The same was again challenged in W.P.No.16837/1992 which was decided and the matter was once again remitted to the Land Tribunal for fresh consideration. While deciding the aforesaid writ petition, a learned Judge of this Court directed the appellant herein to produce the aforesaid lease deed



dated 12.07.1957 on the basis of which, his claim for occupancy rights was found. The Tribunal, by an order dated 13.02.2004, granted occupancy rights in favour of appellant. Order dated 13.02.2004 passed by the Land Tribunal granting occupancy rights in favour of appellant was subject matter of challenge in a writ petition. The said writ petition has been allowed and the order dated 13.02.2004 has been quashed by the learned Single Judge. In the aforesaid factual background, this appeal has been filed.

3. Learned Senior counsel for the appellant submitted that the writ petition preferred by the respondent No.3 could not have been allowed merely on the basis of a discrepancy in the sale deed dated 12.07.1957. It is further submitted that the learned Single Judge ought to have remitted the matter for fresh consideration to the Land Tribunal. On the other hand, learned counsel for the respondent Nos.3(a) to (f) has supported the order passed by the learned Single Judge.



4. We have considered the rival submissions made on both sides and have perused the record. An application seeking occupancy rights under the Karnataka Land Reforms Act, 1961 is required to be proved showing that the applicant was in cultivating possession on or before 01.03.1974. In the instant case, the appellant is relying on the copy of lease deed executed on 12.07.1957. The aforesaid lease deed contains a stipulation that the land in question has been leased out to the appellant for a period of 5 years and on expiry of the aforesaid 5 years, the appellant shall handover the possession of the land only after 1968. Thereafter, for a period from 1968 onwards till 1974-75, there is no endorsement to show that the appellant had paid rent to deceased respondent No.3 in respect of the land in question. Besides that, there is no material on record including the revenue records to show that the appellant was in cultivating possession of the land prior to 1974. In the absence of any material



on record including the revenue records to show that the appellant was in cultivating possession on or before 01.03.1974, the Land Tribunal erred in granting claim of the appellant for occupancy rights. The aforesaid order has rightly been set aside by the learned Single Judge.

5. For the aforementioned reasons, we do not find any ground to differ with the conclusion arrived at by the learned Single Judge.

In the result, appeals fails and is hereby dismissed.

Consequently, pending interlocutory application is also dismissed.

**Sd/-
JUDGE**

**Sd/-
JUDGE**