



**RESERVED ON : 17.04.2026**  
**PRONOUNCED ON : 10.07.2026**

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 10<sup>TH</sup> DAY OF JULY, 2026**

**PRESENT**

**THE HON'BLE MR. JUSTICE JAYANT BANERJI**

**AND**

**THE HON'BLE MR. JUSTICE T.M.NADAF**

**WRIT APPEAL NO. 2102 OF 2017 (LR)**

**BETWEEN:**

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

...APPELLANT

(BY SRI. N BAYYA REDDY, ADVOCATE)

**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,  
RERPRESENTED BY ITS SECRETARY,  
KOLAR - 563 130.





3. SRI. CHANDRASHEKHARAIHA,  
@ CHANDRASHEKAR DIXIT,  
DEAD BY HIS LRs.
- 3(a). SRI. SOMASHEKAR DIXIT,  
AGED ABOUT 65 YEARS,  
S/O SRI. CHANDRASHEKARAIHA  
@ CHANDRASHEKAR DIXIT,
- 3(b). SRI. RAVIHSANKAR DIXIT,  
AGED ABOUT 62 YEARS,  
S/O SRI.CHANDRASHEKARAIHA  
@ CHANDRASHEKAR DIXIT,
- 3(c). SRI. GOURISHANKAR DIXIT,  
AGED ABOUT 60 YEARS,  
S/O SRI. CHANDRASHEKARAIHA  
@ CHANDRASHEKAR DIXIT,
- 3(d). SRI. SHIVAKUMAR DIXIT,  
AGED ABOUT 58 YEARS,  
S/O SRI.CHANDRASHEKARAIHA  
@ CHANDRASHEKAR DIXIT,
- 3(e). SRI. NAGABHUSHAN DIXIT,  
AGED ABOUT 55 YEARS,  
S/O SRI. CHANDRASHEKARAIHA  
@ CHANDRASHEKAR DIXIT,
- 3(f). SMT. MANJULA,  
AGED ABOUT 48 YEARS,  
D/O SRI. CHANDRASHEKARAIHA  
@ CHANDRASHEKAR DIXIT,

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

...RESPONDENTS

(BY SMT. PRATHIBA R.K., ADVOCATE FOR R1 AND R2,  
SRI. K. RAGHAVENDRA RAO, ADVOCATE FOR R3 (a & d),  
R3(b),(c),(e),(f) ARE SERVED AND UNREPRESENTED)



THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT, 1961, PRAYING TO SET ASIDE THE ORDER PASSED IN THE WRIT PETITION No.25493/2004 DATED:13.02.2017 AND ALLOWING THIS APPEAL, DISMISSING THE WRIT PETITION IN THE INTEREST OF JUSTICE AND EQUITY.

THIS APPEAL HAVING BEEN HEARD AND RESERVED AND COMING ON FOR PRONOUNCEMENT OF JUDGMENT THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE JAYANT BANERJI  
and  
HON'BLE MR. JUSTICE T.M.NADAF

**CAV JUDGMENT**

(PER: HON'BLE MR. JUSTICE T.M. NADAF)

This Writ Appeal is by the third respondent in W.P.No.25493/2004, assailing the order dated 13.02.2017 passed by the Writ Court.

2. By means of the impugned order, the Writ Court allowed the Writ Petition filed by the landlord and set-aside the order passed by the Land Tribunal and rejected the application filed under Form No.7 seeking grant of occupancy rights.



3. The parties are referred to as per their ranking before the Writ Court.

4. Facts germane to file the present appeal are as under:

4.1 The third respondent - Chikkachowdappa filed Form No.7 claiming occupancy rights in respect of land bearing Sy.No.7 measuring 02 Acre 03 Guntas, situated at Markandepura Village, Vokkaleri Hobli, Kolar Taluk & District. The land originally was a Shanbogue Inamti Land.

4.2 The father of the petitioner was Shanbogue for 07 villages including Markandepura Village, during his lifetime. He died in the year 1962. After his death, the petitioner continued the office of Shanbogue till the Village Offices Abolition Act came into force. He is in possession and enjoyment of the land in question. He filed an application for re-grant after coming into force of Karnataka Village Offices Abolition Act, 1961. By means of order dated 14.02.1986, the competent



authority passed an order re-granting the land in favor of the petitioner.

4.3 The third respondent as stated above, filed Form No.7 to an extent of 02 Acre 03 Guntas on the basis of photocopy of Lease Deed dated 12.07.1957. The Land Tribunal<sup>1</sup> by its order dated 10.08.1981, granted occupancy rights in favor of the third respondent, which was the subject matter in W.P.No.23404/1981. The Writ Court allowed the Writ Petition, set-aside the order passed by the Tribunal and remanded the matter for *de-novo* inquiry.

4.4 Again the occupancy rights were granted to the third respondent, which was again called in question in W.P.No.8916/1984. The Writ Petition was allowed and order of the Tribunal was set-aside and again the matter was remanded for *de-novo* inquiry.

4.5 Once again, similar order of granting occupancy rights in favor of the third respondent came to be

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<sup>1</sup> the Tribunal, for short



passed by the Tribunal, which was again the subject matter in W.P.No.16837/1992. The Writ Court by means of its order dated 28.01.1997, allowed the Writ Petition, set-aside the order and remanded the matter for *de-novo* inquiry with certain observations, directing the first respondent i.e., third respondent herein, to produce the original Lease Deed before the Tribunal and he has to prove the document as permitted by the Law. It was further directed that the Tribunal has to satisfy whether the endorsement and signatures which were found on the photocopy of the alleged Lease deed are that of the petitioner or not. The observation of the Writ Court found in Paragraph No.4 of the order reads as under:

*"In view of these rival contentions, now it is to be seen that if the respondent No.1 was in possession of the document dated: 12-5-1957 he could have produced the original. Suppose, if he was not in possession of the original document, then he could have assign some reasons as to why he is not in possession of the original document and under what circumstances he is compelled to produce the original document. It goes without saying that primary evidence has to be taken for*



*consideration. In the absence of the primary evidence, secondary evidence can be lead in. As far as this position of Law is concerned, there can be no second opinion. The Land Tribunal has mainly relied upon the Gutta receipts for the above stated years and on the document dated 12-5-1957. But in the position the petitioner has denied on all these aspects. Even the respondent No.1 in his statement has not assigned any reasons as to why he did not produce the original documents. In view of this, I think it is necessary for the Tribunal to make an enquiry once again and Respondent No.1 be given a chance to produce the original document dated 12-5-1957. In the event he is in possession of the original document, he has to prove the document as permitted by the Law. The Land Tribunal also has to be satisfied whether the endorsements and the signatures are made by the petitioner or not. The observation of the Land Tribunal that, because he continued to be Shanbhogue, he used his high-handedness to see that his name appeared, may be correct or may not be correct. That all depends upon the circumstances of each case. In the light of this observations, the following order is passed:-*

*In the result, the Writ Petition is allowed. The impugned order is set-aside, matter is remanded for the fresh enquiry after giving opportunities to both the parties."*



4.6 After remand, the Tribunal issued direction to the third respondent to produce the original document. However, the said document was not produced on the premise that he has already produced the said document to the Land Tribunal and the same is available with the Tribunal. The Tribunal on the basis of the Lease Deed dated 12.07.1957, passed the impugned order granting occupancy rights in favor of the third respondent. The petitioner questioned the Grant Order passed by the Tribunal dated 13.02.2004 in Proceedings No.LRF:1504/1979-80 in the present Writ Petition bearing W.P.No.25493/2004.

4.7 Before the Writ Court it was contended by the petitioner that, the document i.e., alleged Lease Deed dated 12.07.1957 is a fictitious and created document and there is numerous difference in the document found in the record produced by the Government Pleader as well as the record produced in the Writ Petition i.e., photocopy.



4.8 The Writ Court upon consideration of rival submissions, was of the opinion that the Tribunal has misread the entire evidence of the petitioner recorded before it and the documents purported to be the Lease Deed dated 12.07.1957. The Writ Court further observed that the original Lease Deed dated 12.07.1957 which was found in the records produced by the Government Pleader differs widely with the Photostat copy. Further observed that the name of the third respondent found in the Record of Rights only from the year 1980-81 i.e., subsequent to the order passed by the Land Tribunal, will not come to the aid of the third respondent as the same cannot be considered as a document to base the right/ claim that he was tenant on the relevant date. On this, the Writ Court set-aside the order passed by the Tribunal and rejected the application filed under Form No.7. It is this order passed by the Writ Court is called in question in this appeal.



5. Heard, Sri.Y.N.Sadashivareddy, learned Senior counsel assisted by Sri.N.Bayya Reddy, learned counsel appearing for the appellant/third respondent, Smt.Prathiba.R.K, learned Additional Government Advocate appearing for respondents 1 and 2 and Sri.K.Raghavendra Rao, learned counsel appearing for respondents 3(A) and 3(D).

6. Sri.Y.N.Sadashivareddy, learned Senior counsel appearing for the appellant/third respondent submits that this Court earlier dismissed the Writ Appeal by order dated 22.05.2023 confirming the order passed by the Writ Court. A Review Petition was filed in R.P.No.280/2023 seeking to review the order passed by the coordinate bench of this Court. In the said Review Petition, an application was filed seeking to produce certain documents i.e., RTC's for the year 1965-66 to 1974-75 and other RTC's thereafter. The Review Court having considered the materials placed on record by means of the application, allowed the Review Petition and restored the Writ Appeal to its original file and directed the office to put up I.A.No.1/2023 filed in the



Review Petition for production of additional documents in the Writ Appeal and the same may be considered while disposing of the Writ Appeal.

6.1 Learned Senior counsel further submits that the Writ Court only on the basis of RTC of the year 1980-81, disbelieved the contention of the third respondent. The RTC extract now produced for the year 1965-66 to 1969-70 and further 1970-71 and 1974-75 clearly depicts the name of third respondent - Chikkachowdappa in Column No.12 since 1965-66 to the extent of 23 Guntas, so also the name of his Uncle Chinnappa who was maintaining the affairs of the family to the extent of 01 Acre 20 Guntas. Hence, the entire extent of land i.e., 02 Acre 03 Guntas was under the cultivation of the family of Chikkachowdappa. As such, it is proved that the land is a tenancy land and stood vested with the Government as on the appointed dated i.e., 01.03.1974.



- 6.2 Learned Senior counsel further submits that the Lease Deed produced at Annexures-R1 and R2 along with the Statement of objections to the Writ Petition clearly proves that the land is a tenanted land and was given on rental basis by collecting rent of Rs.100/- in the year 1956, executed by one Shanbhogue Somayya and thereafter in the year 1957 by the wife of his brother Smt.Ramamaniyyamma and the endorsement found on the overleaf of the Lease Deed of the year 1957 clearly depicts the endorsement of Ramamaniyyamma for having received rent up till 1970, wherein the signature of the petitioner also found place.
- 6.3 Learned Senior counsel submits that there is no surrender of land as contemplated under the Act, especially under Section 25 of the erstwhile Land Reforms Act and relied on the Judgment of the Hon'ble Supreme Court in **RAMCHANDRA KESHAV ADKE (DEAD) BY LRS AND OTHERS VS. GOVIND**



***JOTI CHAVARE AND OTHERS<sup>2</sup>***, to contend that in the absence of specific mahazar and resumption of possession of the land by the landlord in terms of mandatory provisions contemplated under the Act, there is no surrender of land. As such, the land continues to be a tenancy land.

6.4 Further, the learned Senior counsel submits that the Writ Court in exercise of power under Article 226 of the Constitution of India, gone beyond the jurisdiction while re-appreciating the evidence placed before the Tribunal, which is not amenable under law, unless and until there is a finding of fact recorded by the Tribunal, is said to be either perverse or based on no evidence or on non-consideration of material evidence brought on record. In the absence of such a finding, the Writ Court ought not to have lightly interfered with the order of the Tribunal, which was based on documentary proof and sought to dismiss the Writ Petition by interfering

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<sup>2</sup> (1973) 1 SCC 559



with the order passed by the Writ Court and confirm the order passed by the Land Tribunal.

7. In contrast, Sri.K.Raghavendra Rao, learned counsel appearing for legal representatives of deceased original petitioner Chandrashekaraiah, who has been arrayed as respondent No.3 in this appeal and legal representatives as respondent No.3(A) to (F), with all vehemence submits that the Writ Court having properly considered the entire material placed before the Tribunal and after going through the records, has properly come to a conclusion that the original Lease Deed of the year 1957 and the copy of the same produced along with the Writ Petition, widely differs and there is no record to show that the third respondent - Chikkachowdappa is in personal cultivation of the land as tenant, immediately prior to the appointed date.

7.1 Learned counsel further submits that the application now filed along with a new ground without there being any foundational facts, cannot be permitted to raised for the first time in the application. Any



ignorance to produce the said documents would not come within the parameters of 'sufficient cause' as contemplated under the provisions of Rule 27 of Order XLI of CPC. That apart, learned counsel submits that the provision under Order XLI Rule 27 of CPC is an exception and cannot be claimed as a matter of right. The alleged Lease Deeds produced are said to have been executed by person who has nothing to do with the land in question. The land belongs to Chandrashekariah. In that view of the matter, the documents even if the same were to be stated executed by Shanbhogue Somayya and his brother's wife Ramamaniyamma, has no relevance to consider the tenancy rights of the third respondent in respect of the land under the petitioner, as the land belongs to the petitioner.

7.2 Learned counsel further submits that a perusal of the documents produced itself even clearly shows that the lands were under personal cultivation of Chandrashekaraiah to an extent of 01 Acre 20



Guntas and what is displaced is only 23 Guntas in the name of Chikkachowdappa, that too, without there being any proper mutation entries. In one entry, the name of Chinnappa has been shown, which now according to the appellant/ third respondent in the Writ Petition is that of his Uncle, however there is no such pleading to support his contention now taken in the application in the entire statement of objections or before the Tribunal. All the while, what was canvassed before the Tribunal as well as the Writ Court was, Chikkachowdappa was the tenant in respect of entire extent of 02 Acres 03 Guntas.

7.3 Learned counsel further submits that the Writ Court having considered these aspects of the matter, rightly set-aside the order passed by the Tribunal and rejected Form No.7 filed by the third respondent to put a quietus to the long standing litigation. In order to buttress his arguments, learned counsel relied on the Judgment of the Hon'ble Supreme Court in ***UNION OF INDIA VS. IBRAHIM UDDIN AND***



***ANOTHER<sup>3</sup> and IQBAL AHMED (DEAD) BY LRS AND ANOTHER VS. ABDUL SHUKOOR<sup>4</sup>*** and relied on Paragraph Nos.36 to 40 and Paragraph No.8 respectively in the aforesaid judgments, to contend that the Appellate Court cannot supplement the evidence adduced by one party or the other in the Lower Court. In the absence of satisfactory reasons for the non-production of the evidence in the Trial Court, additional evidence should not be admitted in appeal as a party guilty of remissness in the lower court is not entitled to the indulgence of being allowed to give further evidence under his Rule. A party who had ample opportunity to produce certain evidence in the lower Court but failed to do so or elected not to do so, cannot have it admitted in appeal. The inadvertence of the party or his inability to understand the legal issues involved or the wrong advice of a pleader or the negligence of a pleader or that the party did not realize the importance of a

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<sup>3</sup> (2012) 8 SCC148

<sup>4</sup> 2025 SCC OnLine SC 1787



document does not constitute a 'substantial cause' within the meaning of Rule 27. With this, he sought to dismiss the application, so also the appeal as the same sans merits.

8. Smt.Prathiba.R.K, learned Additional Government Advocate argued in support of the order passed by the Writ Court.

9. Having considered the rival submissions, we have perused the appeal paper along with other record.

10. In order to satisfy ourselves in respect of truthfulness of the Lease Deed with other records, vide order dated 05.02.2026, we directed the learned Additional Government Advocate to secure the original records and directed to list the matter on 18.02.2026. After having perused the records, we have noticed that the document found in the records as well as the Photostat copy produced along with the petition are one and the same and there is no difference as observed by the Writ Court. The reason being, the original document was folded



in many folds, which probably the reason for the Writ Court to observe that the same differs with that of Photostat copy. However, the fact remains that the documents at Annexures-R1 and R2 alleged to have been executed by Shanbhogue Somayya in the year 1956 and by his brother's wife Smt.Ramamaniyamma in the year 1957, have nothing to do with the land in question. The land belongs to Chandrashekaraiah, which is even admitted by the tenant/third respondent - Chikkachowdappa as he has filed Form No.7 claiming tenancy rights under chandrashekaraiah. One more reason is there is no document of 1956 found in the record. All that was produced was only Lease Deed of the year 1957 and as admitted by the third respondent, it was by executed by one Ramamuniyamma who was not concerned with the land.

11. As it is seen, in the earlier order of remand, the Writ Court has given clear direction to the Tribunal to dwell upon the Lease Deed as well as the endorsement found on it. However, there is nothing forthcoming in the



order of the Tribunal regarding compliance of such a direction. All that the Tribunal has relied on was that, the Lease deed has proved the tenancy, when the same was denied by Chandrashekaraiah, including denial of the endorsement found in the said Lease Deed. The Tribunal has not taken any pain to consider the case of the third respondent on the endorsement, which were alleged to be found on the overleaf of the Lease Deed. However, relied only on the stray admission found in the cross-examination of the landlord.

12. It is cardinal principle of evidence law that the entire evidence be read as a whole and not a few lines or some stray admission. In the entire evidence, there is a denial with respect to execution of Lease Deeds of the year 1956 and 1957. The Tribunal has discussed only with respect to Lease Deed dated 15.07.1957. However, there is nothing forthcoming in respect of Lease Deed of the year 1956.

13. Even according to the third respondent, the land belongs to Chandrashekaraiah S/o.Somayya and not



to the wife of brother of Somayya, that is, Smt.Ramamaniyamma. The Lease Deed of the year 1957 said to have been executed by Ramamaniyamma, who is alleged to be the brother's wife of Somayya, has nothing to do with the land in question. Admittedly, the third respondent filed Form No.7 claiming tenancy under Chandrashekaraiah S/o.Somayya. However, there is nothing forthcoming except the Lease Deed of the year 1957 to support the contention of the third respondent that he was a tenant under Chandrashekaraiah within the meaning given under the definition of the provisions under Land Reforms Act, 1961. There is no corroborative and cogent evidence placed on record to prove the tenancy as on the appointed date. The Tribunal merely on the stray admission of Chandrashekaraiaha that he has entered his name in the RTC, has considered that the third respondent was a tenant. The said statement, even if it is taken as it is, by no stretch of imagination be construed that the third respondent had proved his tenancy over the land and he was cultivating the same in accordance with the provisions



of Karnataka Land Reforms Act immediately on the appointed date.

14. We find force in the arguments of Sri.K.Raghavendra Rao, learned counsel appearing for the legal representatives of original petitioner that order XLI Rule 27 is an exception and cannot be claimed as a matter or right. Any ignorance on the part of the party or his pleader to produce any document does not constitute 'substantial cause' within the meaning of Rule 27 of Order XLI of CPC. The mere fact that certain evidence is important is not in itself a sufficient ground for admitting that evidence in the appeal, in the absence of the ingredients under Order XLI Rule 27 of CPC having been satisfied, the application cannot be considered permitting the appellant/third respondent to produce additional documents.

15. Even otherwise, the documents will not come to the benefit of the third respondent, as the RTCs never depicts his name to the entire extent of 02 Acre 03 Guntas, which is claimed under Form No.7. For the first



time in the application, he has taken a plea that the name Chinnappa against whom extent of 01 Acre 20 Guntas of the said Survey number was shown, happens to be his Uncle. However, there is no such supporting pleading urged either in the statement of objections or taken before the Tribunal or before the Writ Court. Perhaps, this be the reason for the third respondent to withhold those documents.

16. A close scrutiny of documents at Annexures-R1 and R2 produced along with statement of objection clearly depicts that, what was allegedly given on rent in favor of the third respondent was only 23 Guntas. There is nothing forthcoming in the said document regarding the fact that the third respondent - ChikkaChowdappa was given on rent the entire extent of 02 Acre 03 Guntas. There is no specification stated in the said documents. It says 'Sy.No.7, Kushki 23 Guntas'. However, there is no specification regarding Acres and Guntas. In these circumstances, it becomes very hard for us to believe the said documents in the absence of any corroborative and



supportive independent evidence either oral or documentary. All along, the name of Chandrashekaraiah has been shown in the RTC and mode of cultivation as No.1. There is no mutation entry forthcoming for insertion of the name of Chikkachowdappa. This again falsifies the suggestion of Chikkachowdappa to Chandrashekaraiah on entering his name in the RTC in his cross-examination. The reason being, if he has got any authority to enter the name, he would not have entered the name of Chikkachowdappa even to the extent of 23 Guntas as depicted in the RTC. This falsifies the claim of the third respondent. As admittedly he was not working as Shanbhogue in 1970s and thereafter.

17. So far as the judgment in **RAMCHANDRA KESHAV ADKE** supra, is concerned, it was nobody's case either before the Tribunal or before the Writ Court that there is surrender of land as contemplated under Section 25 of the erstwhile Land Reforms Act. In that an eventuality, the said judgment has no application to the facts of the present case.



18. So far as the contention of the learned Senior counsel that in the absence of any finding of the Writ Court that, the finding of fact recorded by the Tribunal, either be perverse or based on no evidence or bad for non-consideration of evidence brought on record, has no legs to stand, as the Writ Court having considered all the materials available on record which have been summoned through learned High Court Government Pleader, satisfied with respect to veracity of the documents and having found perversity in the order of the Tribunal, set-aside the order observing, especially at Paragraph No.7, which reads as under:

*"7. The plea of the petitioner based on the lease deed dated 12-7-1957 has been wrongly considered by the Tribunal. It draws a presumption that because the lease deed dated 12-7-1957 has been executed, the 3<sup>rd</sup> respondent is deemed to be in cultivation. Such an issue has been wrongly considered by the Land Tribunal. It cannot give rise to a presumption of status of landlord or a tenant based on the lease deed. The relevant records indicating the cultivation or ownership through the Record of Rights would constitute the status of landlord or the tenant. Only because, the lease deed has been executed would not lead to a presumption of tenancy in favour of the 3<sup>rd</sup> respondent. Therefore, the finding of the Tribunal vis-à-vis the lease deed dated 12-7-1957, would therefore render the impugned order of the Land Tribunal as unsustainable."*



19. The appellant has failed to explain the reasons for production of additional evidence within the meaning of Order XLI Rule 27 of CPC. In view of settled position of law that, the additional evidence cannot be claimed as a matter of right, but as an exception and in the absence of proper explanation, bringing the said application within the four of Order XLI Rule 27 of CPC, is not sustainable in law. Accordingly, the application - I.A.No.1/2023 is dismissed.

20. We find no infirmity in the order passed by the Writ Court, which requires any interference at our hands. The Writ Appeal sans merits and is accordingly, ***dismissed***. However, no order as to costs.

21. In view of dismissal of Writ Appeal, all pending interlocutory applications, if any, stand disposed of.

**Sd/-  
(JAYANT BANERJI)  
JUDGE**

**Sd/-  
(T.M.NADAF)  
JUDGE**

TKN