



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 12<sup>TH</sup> DAY OF AUGUST, 2021

PRESENT

THE HON'BLE MR. JUSTICE SATISH CHANDRA SHARMA

AND

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

**WRIT APPEAL NO. 534 OF 2021(L-R)**

**BETWEEN:**

1. SRI RAMAKRISHNA PRASAD  
S/O LATE RAMACHANDRA PRASAD  
AGED ABOUT 76 YEARS

2. SRI T R VISHWANATH  
S/O LATE RAMACHANDRA PRASAD  
AGED ABOUT 74 YEARS

3. SRI R SOMASUNDARA PRASAD  
S/O LATE RAMACHANDRA PRASAD  
AGED ABOUT 62 YEARS

4. SRI T R ANANTHARAM PRASAD  
S/O LATE RAMACHANDRA PRASAD  
AGED ABOUT 56 YEARS

APPELLANT NOS.1 TO 4 ARE  
RESIDING AT HUTTURU HOBLI,  
KOLAR TALUK, KOLAR DISTRICT-563127

...APPELLANTS

(BY SMT.SREEVIDYA, ADVOCATE FOR  
SRI.T N VISWANATHA, ADVOCATE)



**AND:**

1. THE DEPUTY COMMISSIONER  
KOLAR DISTRICT, KOLAR-563101

2. SRI GOPALASWAMY DEVASTHANA  
TAMBIHALLI VILLAGE,  
REPTD BY TAHASILDAR  
KOLAR TALUK-563127

3. SRI GURURAJ  
S/O LATE GOPINATHA MURTHY  
MAJOR

4. SMT LAKSHMI  
D/O LATE GOPINATHA MURTHY  
MAJOR

RESPONDENT NOS.3 & 4 ARE  
RESIDING AT C/O T R ANANTHA MURTHY  
NO.411 JYOTHI NILAYA  
GROUND FLOOR, 6<sup>TH</sup> CROSS  
GOKUL 1<sup>ST</sup> STAGE, YESHVANTHAPURA  
BENGALURU-560022

5. SRI T R KRISHNA MURTHY  
S/O RAJARAMA RAO  
MAJOR  
RESIDING AT HUTTURU, HUTTURU HOBLI,  
KOLAR TALUK, KOLAR DISTRICT-563127

6. SRI ANIL KUMAR  
S/O RAJAMMA KRISHNAMURTHY  
MAJOR

7. SMT SUJATHA  
D/O RAJAMMA KRISHNAMURTHY  
MAJOR  
RESPONDENT NOS.6 & 7 ARE



RESIDING AT NO.411, JYOTHI NILAYA  
GROUND FLOOR, 6<sup>TH</sup> CROSS,  
GOKULA 1<sup>ST</sup> STAGE, YESHVANTHAPURA  
BENGALURU-560022

8. SMT LALITHAMMA  
D/O RAJARAMA RAO  
MAJOR  
RESIDING AT THAMBINAHALLI VILLAGE,  
HUTTURU HOBLI, KOLAR TALUK,  
KOLAR DISTRICT-563103

SMT.JAYAMMA,  
SINCE DEAD BY LRs

9. SRI KRISHNAVENAMMA  
W/O LATE T R NARASIMHA MURTHY  
AGED ABOUT 72 YEARS

10. SRI RAGHAVENDRA T N  
S/O LATE T R NARASIMHA MURTHY  
AGED ABOUT 53 YEARS

11. SRI SUDHEENDRA RAO T N  
S/O LATE T R NARASIMHA MURTHY  
AGED ABOUT 51 YEARS

12. SRI VIJAYENDRA RAO T N  
S/O LATE T R NARASIMHA MURTHY  
AGED ABOUT 48 YEARS

13. SRI T N ANIL KUMAR  
S/O LATE T R NARASIMHA MURTHY  
AGED ABOUT 45 YEARS

14. SRI MADHUSUDAN T N  
S/O LATE T R NARASIMHA MURTHY  
AGED ABOUT 42 YEARS  
RESIDING AT



NO.1172, 1<sup>ST</sup> CROSS  
OPP TO RAMAKRISHNA FLOOR MILL  
SHARADA TALKIES ROAD  
KOLAR-563102

15. SMT.SUDHA,  
D/O LATE T.R.NARASIMHA MURTHY,  
AGED ABOUT 56 YEARS,  
RESIDING AT NO. BEHIND ST.ANN'S SCHOOL,  
P.C.LAYOUT, KOLAR-563101.

...RESPONDENTS

(BY SRI.RAJASHEKAR.S, AGA FOR R1)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT, 1961 PRAYS TO CALL FOR THE RECORDS IN WRIT PETITION NO.3957/2021 AND THE IMPUGNED ORDER DTD. 12.03.2021 PASSED IN WRIT PETITION NO.3957/2021 ON THE FILE OF THIS HONBLE COURT MAY BE SET ASIDE AND THIS WRIT APPEAL MAY BE ALLOWED WITH COSTS IN THE INTEREST OF JUSTICE AND EQUITY.

THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 10.08.2021, COMING ON FOR PRONOUNCEMENT OF JUDGMENT THIS DAY, **SACHIN SHANKAR MAGADUM J.,** DELIVERED THE FOLLOWING:

### **JUDGMENT**

The captioned appeal is filed assailing the correctness of the order dated 12.03.2021 passed in W.P.No.3957/2021.

2. The original petitioner Smt. Jayamma is claiming occupancy rights in respect of the land bearing Survey No.10



measuring 4.01 acres situated at Thambihalli Village, Huthur Hobli, Kolar Taluk. The Deputy Commissioner by exercising powers under Section 9 of the Mysore (Religious and Charitable) Inams Abolition Act, 1955 (for short "Act of 1955"), has rejected the claim of the original applicant Jayamma. The learned Single Judge having taken note of the amending Act 26 of 1979 has set aside the order passed by the 1<sup>st</sup> respondent-Deputy Commissioner by placing reliance on the judgment rendered by the Apex Court in the case of ***M.B. Ramachandran .vs. Gowramma and others***<sup>1</sup> wherein the Apex Court while examining the amendment to Mysore (Personal and Miscellaneous) Inams Abolition Act, 1954 has held that in view of amendment which was brought into effect from 1.5.1979, the word 'Deputy Commissioner' stands substituted by the word 'Tribunal' and therefore, it is the Land Tribunal which has jurisdiction to adjudicate the claim of the applicant for grant of occupancy rights. By following the principles laid down by the Apex Court

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<sup>1</sup> (2005) 10 SCC 25.



in the judgment cited supra, the learned Single Judge has set aside the order passed by the 1<sup>st</sup> respondent-Deputy Commissioner and the matter is remanded to the jurisdictional Land Tribunal to consider Form No.7 submitted by the original applicant Jayamma.

3. This order is under challenge by the present appellants who are asserting right on the basis of the sale deed dated 4.9.1967. The present appellants claim that their vendor namely B. Narayana Rao was conferred with occupancy rights by the Deputy Commissioner of Inams and therefore, the appellants contend that the original applicant Jayamma cannot assert and claim to be the tenant in respect of the petition lands.

4. Heard the learned counsel for the appellants and the learned AGA for 1<sup>st</sup> respondent. Perused the order under challenge.



5. The learned Single Judge by placing reliance on the judgment rendered by the Apex Court has set aside the order dated 5.1.2021 passed by the 1<sup>st</sup> respondent-Deputy Commissioner and has directed the 1<sup>st</sup> respondent-Deputy Commissioner to forward the records to the jurisdictional Land Tribunal. The Hon'ble Apex Court in the case of ***M.B. Ramachandra's(supra)*** has held that where applications are submitted claiming occupancy rights under the provisions of the Mysore(Personal and Miscellaneous) Inams Abolition Act, 1954, the jurisdiction to determine the occupancy rights is conferred with the Land Tribunal. Therefore, we do not find any illegality in the order passed by the Land Tribunal. If by way of amendment, the jurisdiction is vested with the Land Tribunal, then the 1<sup>st</sup> respondent-Deputy Commissioner loses jurisdiction, though the Deputy Commissioner was conferred with the authority under the unamended Act. Though the amended Act amended both the principal Acts, the Act of 1955 was under challenge and therefore, the Apex Court in the



judgment cited *supra* was of the view that the High Court exceeded its jurisdiction and under the Principal Act, the Deputy Commissioner had power to deal with the occupancy rights and by amendment, the said power was withdrawn and conferred on the Tribunal. The amendment Act which was declared *ultra vires* by this Court was restored by the Apex Court. Therefore, under the amended Act, it is the Tribunal which is conferred with the jurisdiction.

6. The learned Single Judge has not decided the rival claims of the parties. The order passed by the 1<sup>st</sup> respondent-Deputy Commissioner is one without jurisdiction and therefore, the learned Single Judge was justified in setting aside the order with a direction to the 1<sup>st</sup> respondent-Deputy Commissioner to forward the records to the jurisdictional Land Tribunal. Therefore, no prejudice is caused to the appellants by the order under challenge. It is open for the appellants to contest the proceedings before the jurisdictional Land Tribunal. The order passed by the learned Single Judge is



strictly in consonance with the principles laid down by the Apex Court in the case cited supra. Therefore, we do not find any illegality or infirmity in the order under challenge.

Accordingly, the writ appeal is dismissed. No order as to costs.

All pending interlocutory applications, if any, stand disposed of.

Sd/-  
JUDGE

Sd/-  
JUDGE

\*alb/-.