HC-KAR

NC: 2026:KHC:11850-DB
W.A. No.565/2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF FEBRUARY, 2026

PRESENT

THE HON'BLE MRS. JUSTICE ANU SIVARAMAN

AND

THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

<u>WRIT APPEAL NO.565/2023 (KLR-RR/SUR)</u>

<u>BETWEEN:</u>

SRI. M.S. RAMAKRISHNAIAH
S/O SANJEEVAIAH
AGED ABOUT 76 YEARS
R/AT. MAYAGANAHALLI VILLAGE
KASABA HOBLI, RAMANAGARA TALUK
RAMANAGARA DISTRICT.

...APPELLANT

(BY SRI. R. SUBRAMANYA, ADV., FOR
SRI. RAJU S, ADV.,)

<u>AND:</u>

1. THE STATE OF KARNATAKA
DEPARTMENT OF REVENUE
M.S. BUILDING
DR. AMBEDKAR ROAD
BENGALURU- 560001
REP. BY ITS PRINCIPAL SECRETARY.

2. THE SPECIAL TAHSILDAR
BENGALURU NORTH TALUK
KANDAYA BHAVAN
KEMPEGOWDA ROAD
BENGALURU- 560009.

3. SRI. K. GOPALASWAMY
AGED ABOUT 58 YEARS
THE SPECIAL TAHSILDAR
BENGALURU NORTH TALUK
KANDAYA BHAVAN
KEMPEGOWDA ROAD
BENGALURU- 560009.

4. SMT. BAYYAMMA
W/O H.M. KRISHNA MURTHY
AGED ABOUT 73 YEARS
R/AT NO.4, VIVEKANANDA COLONY
BANASHANKARI
KANAKAPURA MAIN ROAD
BENGALURU- 560078.

...RESPONDENTS

(BY SMT. PRAMODHINI KISHAN, AGA FOR R1 & R2
SRI. VARUN GOWDA, ADV., FOR R4
R3 SERVICE OF NOTICE IS D/W V.C.O.DTD:02.02.2026)

THIS WRIT APPEAL IS FILED U/S 4 OF THE KARNATAKA HIGH COURT ACT, PRAYING TO SET ASIDE THE ORDER DATED 23.03.2023 IN W.P. No.23839/2016 (KLR-RR/SUR) PASSED BY THE LEARNED SINGLE JUDGE OF THIS HON'BLE COURT, CONSEQUENTLY ALLOW THE WRIT PETITION, IN THE ENDS OF JUSTICE AND EQUITY.

THIS WRIT APPEAL HAVING BEEN HEARD AND RESERVED ON 13.02.2026, COMING ON FOR PRONOUNCEMENT OF JUDGMENT, THIS DAY ***VIJAYKUMAR A. PATIL J.,*** DELIVERED THE FOLLOWING:

CORAM: HON'BLE MRS. JUSTICE ANU SIVARAMAN
and
HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

CAV JUDGMENT

(PER: HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL)

This appeal is filed by the appellant under Section 4 of the Karnataka High Court Act, 1961, challenging the order dated 23.03.2023 passed by the learned Single Judge in W.P.No.23839/2016 (KLR-RR/SUR).

2. The brief facts leading to the filing of this appeal are that the appellant claims to be the owner of the land bearing Sy.No.369 measuring 2 acres 33 guntas situated at Kempapura Agrahara, Kasaba Hobli, Benagluru North Taluk, having purchased the same in the year 1968. The respondent No.4 made a representation on 05.11.2014 before the respondent No.2 seeking transfer of the Katha entry in respect of Sy.No.369 to an extent of 2 acres 28 guntas on the basis of Will dated 29.12.1979. The respondent No.2, without giving notice to the appellant, proceeded to pass an order dated 17.12.2014

directing the transfer of khatha in favour of the respondent No.4. The said order passed by respondent No.2 was assailed before the learned Single Judge in W.P.No.23839/2016. The learned Single Judge on considering the provision of law proceeded to dismiss the petition on the ground that an alternative remedy was available by way of appeal under Section 49 of the Karnataka Land Revenue Act, 1964, before the Assistant Commissioner. Being aggrieved, this appeal is filed.

3. Sri. R.Subramanya., learned counsel appearing for Sri.Raju.S., learned counsel for the appellant submits that the learned Single Judge has erroneously dismissed the writ petition on the ground that the change in the revenue entry must be challenged by way of an appeal before the Assistant Commissioner. It is submitted that in the earlier proceedings the respondent No.2 vide order dated 16.02.1983 rejected the claim of the father of respondent No.4, which was affirmed by the Assistant Commissioner, Bangalore. In the meanwhile, the

respondent No.4, claiming to be the daughter of the appellant's vendor, filed a suit for declaration and possession based on the Will, which was dismissed, the Regular First appeal was also dismissed. It is submitted that the proceedings before the revenue authorities with regard to the change of khatha has attained finality by the order of the Deputy Commissioner dated 21.07.1998, who held that the revenue entries are subject to outcome of the suit filed by the respondent No.4. It is further submitted that the civil proceedings initiated by respondent No.4 has also attained finality and the right, title and possession over the suit schedule property of the appellant is proved in those proceedings. It is contended that knowing fully well all these facts, the respondent No.4 again moved an application before the respondent No.2 seeking to mutate the name of the respondent No.4 on the basis of the very same Will. Hence, the appellant, who is a title holder of the property, filed the writ petition. It is further contended that the order of the respondent No.2 is wholly without jurisdiction and amounts to abuse of process of law. These aspects have not been appreciated by the learned Single Judge while relegating the appellant to an appeal remedy. Hence, he seeks to allow the appeal.

4. *Per contra*, Sri.Varun Gowda, learned counsel appearing for respondent No.4 supports the order of the learned Single Judge and submits that the learned Single Judge has directed the appellant to file an appeal against the impugned order and the appellant cannot have any grievance. It is submitted that the statute provides for alternate remedy and in view of the same, the appellant cannot invoke the writ jurisdiction. It is further submitted that the civil dispute between the parties has not attained finality. The judgment of this Court in Regular First Appeal is challenged before the Hon'ble Supreme Court in Civil Appeal No.2512/2018 and till the disposal of the said appeal before the Hon'ble Supreme Court, there cannot be any change in the revenue records. Hence, he seeks to dismiss the appeal.

5. Smt.Pramodhini Kishan, learned Additional Government Advocate appearing for respondent Nos.1 and 2 supports the order of the learned Single Judge and submits that the contentions urged in the appeal can also be raised in the appeal before the Assistant Commissioner and the appellant cannot be allowed to by-pass the remedy of appeal. Hence, she seeks to dismiss the appeal.

6. We have heard the arguments of the learned counsel for the appellant, the learned counsel for respondent No.4, the learned AGA and meticulously perused the material available on record. We have given our anxious consideration to the submissions advanced on both sides.

7. The appeal is liable to be allowed for the following reasons:

a) The facts indicate that the appellant is the owner of the land bearing Sy.No.369 measuring 2 acres 33 guntas situated at Kempapura Agrahara, Kasaba Hobli, Bengaluru

North Taluk, having purchased the same in the year 1968 from Late Sri.Chinnappa, father of the respondent No.4.

b) Late Sri.Chinnappa approached the Tahsildar, Bengaluru, North Taluk, challenging the revenue entries effected in the name of the appellant pursuant to the sale deed. The Tahsildar registered the case as No.TQ.MPR/56/80-81, conducted inquiry and proceeded to pass an order dated 16.02.1983 stating that Sri.Chinnappa has no right or title over the property in view of the previous sale and rejected the claim.

c) The respondent No.4 claiming to be the daughter of Sri.Chinnappa filed an appeal assailing the order dated 16.02.1983 in Appeal No.42/1982-83 before the Assistant Commissioner, Bengaluru Sub-Division, Bengaluru. The Assistant Commissioner, after conducting a detailed enquiry, dismissed the appeal vide order dated 23.01.1984.

d) Respondent No.4 had filed a suit in O.S.No.1353/1984 seeking declaration that she is the absolute owner of the property bearing Sy.No.369 measuring 3 acres situated at Kempapura Agrahara Village, Bengaluru North Taluk. The appellant herein was arrayed as a defendant No.1 in the said suit. The respondent No.4 claims right over the property through Will dated 29.12.1979 executed by her mother. The Trial Court dismissed the suit vide judgment dated 17.04.2003.

e) The respondent No.4 challenged the order of the Assistant Commissioner dated 23.01.1984 in case No.LND.SPL.D.C(A)3/1986-87 before the Special Deputy Commissioner (Revenue), Bengaluru District. The said appeal was dismissed vide order dated 21.07.1988 with an observation that the parties have filed a civil suit and were directed to await the outcome of the civil suit. It is to be noticed that insofar as challenge to the entry of revenue records in the name of appellant by the father of the respondent No.4 and the respondent No.4 has attained finality both in the revenue proceedings as well as the Court proceedings.

f) One-Smt.Puttamma claiming to be the owner of the above said property by virtue of a registered gift deed dated 13.11.1952 claiming to be gifted by her husband Chikkamuniyappa initiates the revenue proceedings, which came to be dismissed in view of the dismissal of the suit filed by respondent No.4 in O.S.No.1353/1984, the order in the said suit was assailed by the respondent No.4 in RFA No.1033/2003 and by Smt.Puttamma in RFA No.958/2003, which were heard together and dismissed. Smt. Puttamma also filed writ petition before this Court, which were dismissed with the finding that Smt. Puttamma did not have right over the property. The challenge of respondent No.4 as well as Smt.Puttamma with regard to the revenue entries has attained finality.

g) It is pointed out by the respondent No.4 that the judgment and decree dated 07.03.2012 in RFA

No.958/2003 c/w RFA No.1033/2003 is assailed before the Hon'ble Supreme Court in Civil Appeal No.2512/2018. The memo and the case status produced by the respondent No.4 do not indicate that there is any interim order in the matter by the Hon'ble Supreme Court.

h) The respondent No.4 suppressing all the revenue proceedings and the judgment and decree in a civil suit and the regular first appeal files an application on 05.11.2014 before the respondent No.2 requesting to enter her name in the revenue records with respect to the subject property based on the Will dated 29.12.1979 claimed to have been executed by her mother. The respondent No.2 entertained the said application ignoring the earlier proceedings, which have attained finality and without any opportunity to the appellant, ordered to transfer the revenue entries in the name of respondent No.4 in respect of the land in question.

i) The chronology of the events referred supra clearly demonstrates that the appellant's name was entered in the revenue records based on the registered sale deed executed by the father of the respondent No.4 in respect of the property in question and challenge to the said entry in the revenue records by the vendor of the appellant, the respondent No.4 and by one-Smt.Puttamma has attained finality before the revenue authorities as well as in the writ proceedings. It is also to be noticed that the suit filed by the respondent No.4 for declaration of title and possession was dismissed, regular first appeal of the respondent No.4 and one-Smt.Puttamma was also dismissed and so far there is no declaration of ownership of the respondent No.4 or of Smt.Puttamma by any competent Court. As things stood thus, surprisingly, the respondent No.2 entertains the application and vide order dated 17.12.2004 ordered to enter the name of the respondent No.4 in the revenue records. In our considered view, the exercise of power by the respondent No.2 is in violation of the principles of natural justice and ignoring the earlier revenue proceedings and decree in the suit and appeal. In our view, the exercise of power by the respondent No.2 is required to be termed as being without jurisdiction as the issue between the same parties with regard to the revenue entry has attained finality and the said issue cannot be re-opened by the respondent No.2 without any change in circumstances. Hence, we hold that the contention of alternate remedy raised by the respondents is liable to be rejected. The Hon'ble Supreme Court in the case of ***Whirlpool Corporation v. Registrar of Trade Marks, Mumbai and Others***[1] has carved out the exception for entertaining the petition despite availability of alternate remedy, the case on hand squarely falls in the exceptions enumerated by the Hon'ble Supreme Court in the referred case. The relegating of the appellant to the appeal remedy and asking him to file an appeal is unnecessary and we cannot compel him to stand the ordeal of trial in view of

[1] (1998) 8 SCC 1

finality of the issues between the parties in the aforesaid proceedings. It is needless to observe that revenue authorities would be bound by the decision of the Hon'ble Supreme Court in the pending Civil Appeal, if any.

8. For the aforementioned reasons, we proceed to pass the following

ORDER

(i) The appeal is ***allowed.***

(ii) The impugned order dated 23.03.2023 passed by the learned Single Judge in W.P.No.23839/2016 is set aside.

(iii) The writ petition filed by the appellant is partly allowed.

(iv) The Order dated 17.12.2014 passed in RRT(K)CR/123/14-15 passed by the respondent No.2 - Special Tahasildar, Bangalore North Taluk is set aside.

(v) The respondent No.2 is directed to restore the revenue records as they stood prior to the passing of the Order dated 17.12.2014.

No orders as to costs.

Sd/-
(ANU SIVARAMAN)
JUDGE

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE

BSR
List No.: 3 Sl No.: 1