

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF MARCH, 2026

PRESENT

THE HON'BLE MR. JUSTICE D K SINGH

AND

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

WRIT APPEAL NO. 823 OF 2025 (LR-SEC 48)

BETWEEN:

1. SMT. RATHNAMMA
D/O. LATE CHOKKAPPA,
AGED ABOUT 69 YEARS,
RESIDING AT HORAKERE VILLAGE,
VAKKALERI HOBLI,
KOLAR TALUK,
KOLAR DISTRICT 563 101.
2. SMT. BAGYAMMA,
D/O. LATE CHOKKAPPA,
AGED ABOUT 66 YEARS,
RESIDING AT SHILENGIRI VILLAGE,
UTTUR HOBLI,
KOLAR TALUK,
KOLAR DISTRICT - 563 101.

...APPELLANTS

(BY SRI.MURALIDHAR.B.N., ADVOCATE)

AND:

1. THE LAND TRIBUNAL,
KOLAR TALUK,
AT THE OFFICE OF
THE ASSISTANT COMMISSIONER,
KOLAR SUB-DIVISION,
KOLAR - 563 101.

2. SMT. SARASWATHAMMA,
W/O. SAMPANGIRAMAIAHA.
3. SRI. RAMAPPA,
S/O. SAMPANGIRAMAIAHA,
R2 AND 3 ARE RESIDING AT
MATANAHALLI VILLAGE,
SUGUTUR HOBLI,
KOLAR TALUK AND DISTRICT.
4. THE SPECIAL DEPUTY COMMISSIONER
FOR INAM ABOLITION,
KOLAR - 563 101.
5. PARVATHARAJU,
S/O. VENKATASWAMAPPA,
AGED ABOUT 56 YEARS,
RESIDING AT CHOKKAPURA VILLAGE,
NARASAPURA HOBLI,
KOLAR TALUK AND DISTRICT - 563 101.

...RESPONDENTS

(BY SRI.MOHAMMAD JAFFAR SHAH., AGA FOR R1 & 4;
SRI.D.S.RAMACHANDRA REDDY., ADVOCATE FOR R5;
R3 - SERVED AND UNREPRESENTED)

THIS WRIT APPEAL IS FILED U/S 4 OF THE KARNATAKA
HIGH COURT ACT, 1961 PRAYING TO CALL FOR THE RECORDS
IN WP NO.11510/2012 AND SET ASIDE THE ORDER DATED
08/04/2025 PASSED IN WP NO.11510/2012 BY ALLOWING
THIS APPEAL.

THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR
JUDGMENT, COMING ON FOR PRONOUNCEMENT THIS DAY,
JUDGMENT IS DELIVERED/ PRONOUNCED AS UNDER:

CORAM: HON'BLE MR. JUSTICE D K SINGH
and
HON'BLE MR. JUSTICE T.M.NADAF

CAV JUDGMENT

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

This intra-Court appeal under Section 4 of the Karnataka High Court Act, 1961, is by respondent Nos.4 and 5 calling in question the order dated 08.04.2025 passed by the learned Single Judge in W.P.No.11510/2012.

2. The parties are referred to as per their rankings before the learned Single Judge.

3. The brief factual matrix leading to filing of this appeal is as under:

The father of the petitioner by name Venkataswamappa filed an application before the Special Deputy Commissioner seeking to grant occupancy rights in respect of land bearing Sy.Nos.41 measuring 01 Acre 32 Guntas, 47 measuring 01 Acre, 47 measuring 16 Guntas and 49 measuring 01 Acre 20 Guntas minus Phot Kharab 05 Guntas, so also claimed rights over the land bearing Sy.No.17 measuring 02 Acre 02 Guntas and Sy.No.89

measuring 20 Guntas, immediately after coming into force of Inams Abolition Act, 1954 i.e., the Mysore (Personal and Miscellaneous) Inams Abolition Act, 1954 (for short 'the Act'), under Section 10 of the said Act.

4. The Special Deputy Commissioner, after hearing the rival submissions, registered Venkataswamappa - the father of the petitioner as Occupant under Section 5 of the Act in respect of Sy.Nos.41, 47, 47 and 49. In so far as Sy.No.17 and 89 are concerned, in view of the admission given by the Jodidhar that Venkataswamappa was cultivating the land as Vara tenant, he was registered as ordinary vara tenant under Section 9A of the Act. So far as Sy.No.87 measuring 30 Guntas is concerned, since the said Venkataswamappa has submitted that he was not cultivating the land for last three years, the claim on the said land has been rejected. This order was passed by the Special Deputy Commissioner for Inams Abolition, Kolar Circle, Kolar on 22.09.1963. So far, this order has not been challenged by anybody including the Inamdhar and father of respondent Nos.4 and 5 and has attained finality.

5. Subsequent to passing the order in 1963, stating that Venkataswamappa is an Ordinary vara tenant under Section 9A of the Act, an endorsement came to be issued on 17.12.1963 by the Special Deputy Commissioner for Inams Abolition. In this endorsement, it has clearly been mentioned that Venkataswamappa has been registered as an ordinary tenant under Section 9A in respect of two lands stated supra i.e. No. 89 and No.17 (Annexure-B1).

6. It seems that one Chokkappa - father of respondent Nos.4 and 5, said to have purchased the property in Sy.No.17, measuring 02 Acres 02 Guntas from the Inamdar, filed an application for re-grant of the said land. The Special Deputy Commissioner considered the application and proceeded to re-grant the land in favour of Chokkappa. In the said order, the Special Deputy Commissioner without there being any notice on the father of the petitioner, has held that Venkataswamappa could not have been treated as a Tenant under Section 9A of the Act. This order came to be passed on 21.08.1978.

7. Venkataswamappa who was continuing as a tenant under Section 9A of the Act, after coming into force of Karnataka Land Reforms Act, filed Form No.7 claiming occupancy rights. During the proceedings the Land Tribunal taking note of the fact that in respect of the two properties wherein he was stated as vara tenant under Section 9A and in respect of other properties, the Land Tribunal, passed an order registering him as an occupant and confirmed the tenancy rights on 23.03.1976.

8. During the pendency of the proceedings before the Land Tribunal, Venkataswamappa expired and his wife Muniyamma and the petitioner herein who was minor, were brought on record as applicants representing the estate of Venkataswamappa. The Tribunal having considered the fact that the claimant Venkataswamappa is cultivating the land as on the date of coming into force of the Act, so also the fact that he has already been registered as an ordinary tenant under Section 9A, granted occupancy rights in their favour in respect of land

bearing Sy.Nos.17 and 89, measuring 02 Acre 20 Guntas and 19 Guntas respectively.

9. This order was challenged by the father of respondent Nos.4 and 5 by name Sri.Chokkappa in W.P.No.4291/1976. This Court allowed the Writ Petition and remanded the matter to hold *de novo* inquiry.

10. Subsequently, the Land Tribunal passed an order on 27.05.1986 rejecting the application filed by Venkataswamappa and continued by the petitioner and his mother Muniyamma.

11. The same was subject matter in W.P.No.30178/1993 by Smt.Muniyamma. The Writ Petition came to be allowed remanding the matter to the Tribunal for consideration *de novo* vide order dated 22.11.1999.

12. The Land Tribunal by the impugned order dated 01.02.2011, considering the order dated 02.08.1978 and the sale deed dated 12.12.1968 in favour of the father of respondent Nos.4 and 5 and particularly in view of the Order dated 1978 stated supra by the Special Deputy

Commissioner, observed that the name of Sampangi Ramaiah was found in Column No.9 and name of Chokkappa was found in Column No.12(2) of the RTC, rejected Form No.7 filed by Venkataswamappa and continued by Smt.Muniyamma on behalf of the petitioner. This order passed by the Tribunal as well as the order dated 21.08.1978 passed by the Special Deputy Commissioner were called in question by the petitioner in W.P.No.11510/2012.

13. The learned single Judge, after going through the entire record, found that on 22.09.1963, an order came to be passed holding that Venkataswamappa was entitled to be treated as a Vara Tenant under Section 9A of the Act. Admittedly, the said order has not been challenged by anybody including Chokkappa *qua* Jodidhar i.e., Inamdhar.

14. The learned single Judge has found that once Venkataswamappa has been registered as Ordinary Tenant by the Special Deputy Commissioner for Inams Abolition Act, which has attained finality without there being any

challenge to the same, it would be impermissible in law for a subsequent Special Deputy Commissioner while considering the application for re-grant by Chokkappa - father of respondent Nos.4 and 5 - appellants herein, who came into picture only in 1968 to hold that the earlier order of the Special Deputy Commissioner treating Venkataswamappa as a tenant was incorrect and held that the order dated 21.08.1978 passed by the Special Deputy Commissioner was a void order and could not obviously bind the petitioner herein.

15. The learned single Judge further held that a perusal of original records produced by AGA indicate that a notice was said to have been issued to Parvatharaju - petitioner herein, who was a minor at that point of time, represented through his mother. However, no acknowledgment has been found in the record for having served the notice either on the petitioner or his mother. As such, the learned single Judge held that the order dated 21.08.1978 was an order passed behind the back of the petitioner and therefore, cannot be sustained. In view of

the same, the learned single Judge has held that the Special Deputy Commissioner could not have passed an order on 21.08.1978 annulling an order which was passed in the year 1963. Consequently, proceeded to hold that the order dated 21.08.1978 is void.

16. Further, the learned Single Judge on the basis of the order dated 22.09.1963 treating Venkataswamappa as a Tenant under Section 9A of the Act and which was in subsistence till the Karnataka Land Reforms Act came into force, treated Venkataswamappa as Tenant and held that the Land Tribunal was therefore not justified in rejecting the application. Consequently, the order of the Land Tribunal was set-aside and Tribunal was directed to register the petitioner who is the son of Venkataswamappa as a Tenant in respect of land bearing Sy.No.17. Accordingly, allowed the Writ Petition. It is this order passed by the learned Single Judge is called in question by respondent Nos.4 and 5 who are the daughters of Chokkappa.

17. Heard, Sri.Muralidhar.B.N., learned counsel appearing for the appellants, Sri.Mohammad Jaffar Shah., learned Additional Government Advocate for respondents 1 and 4 and Sri.D.S.Ramachandra Reddy., learned counsel for respondent No.5. Respondent No.3 though served, is unrepresented.

18. The main contention urged by Sri.Muralidhar.B.N., is that the Order dated 22.09.1963 has not registered the father of the petitioner Venkataswamappa as occupant of the land. It has been stated in the order that the claim of the Jodidhar has been upheld to the aforesaid lands, but Venkataswamappa was registered only as an ordinary vara tenant under Section 9A of the Act, which is subject to Chapter III-A of the Act, 1954. Chokkappa purchased the property in 1968 under registered sale deed executed by Inamdhar and filed an application seeking re-grant of the land, which has been considered by the Special Deputy Commissioner in 1978, re-granting the land, wherein it has also been observed that treating Venkataswamappa as ordinary tenant under

Section 9A was incorrect. In these circumstances, the learned single Judge has not properly considered the entire material placed on record and sought to allow the appeal.

19. To buttress his arguments, learned counsel has relied on the judgment of the Hon'ble Apex Court in Civil Appeal No.10299/2011, W.P.No.14133/2008 and W.A.No.1677/2019 and stressed more on the order in W.P.No.14133/2008 passed by the learned single Judge of this Court.

20. All the respondents in unison, argued in support of the judgment passed by the learned single Judge.

21. Having heard the rival submissions, we have perused the judgments cited by Sri.Muralidhar.B.N. Though the judgment in W.P.No.14133/2008 is passed by the learned single Judge, though we are in division bench, however we have considered the same on a persuasive value, since it was rendered based on the judgment passed by Division Bench of this Court and Hon'ble Apex

Court. Even in the said judgment, the learned single Judge in Paragraph No.8 continued till page No.25 of the Judgment has clearly stated that in the said case on hand in the said petition, the persons who have been registered as ordinary tenant under Section 9A have not filed any application for grant of land by filing Form No.7 after coming into force of the Land Reforms Act. In those circumstances, the land has been granted to other tenants and therefore, for non-filing of Form No.7 immediately after coming into force of the Act i.e., on the appointed date i.e., 01.03.1973, the right in their favour stood extinguished by virtue of Section 48A(8) of the Land Reforms Act. In the case on hand, Form No.7 has been filed by Venkataswamappa claiming occupancy rights and that has been considered by the Land Tribunal way back in the year 1976 and granted occupancy rights considering the fact that he was registered as ordinary tenant under Section 9A. None of the other judgments referred by learned counsel for the appellants supports their case, rather, they support the case of the respondent.

22. The learned single judge in his order has given appropriate reasons which starts with Paragraph No.8 and ends with Paragraph No.14. The appellants have not made out any case to take a contrary view, as has been taken and considered by the learned single Judge after going through the records placed on record.

23. In these circumstances, the appeal fails and is accordingly, ***rejected***.

**Sd/-
(D K SINGH)
JUDGE**

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

TKN