



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH 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. 1267 OF 2024 (KLR-RES)

BETWEEN:

SRI. S MUNIYAPPA
MOTHER LATE MUNIYAMMA
S/O LATE SONNAPPA
AGED ABOUT 67 YEARS
RESIDING AT NO.47
KOTHANUR, K.R.PURAM HOBLI
BANGALORE EAST TALUK
PIN CODE - 560 077.

...APPELLANT

(BY MS. PRAMILA NESARGI, SR. ADVOCATE FOR
SRI. RAMACHANDRA.P.M, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
REVENUE DEPARTMENT
M S BUILDING
DR. AMBEDKAR BEEDI
BENGALURU - 560 001.
REPRESENTED BY ITS PRINCIPAL SECRETARY



2. THE DEPUTY COMMISSIONER
BANGALORE URBAN DISTRICT
K.G.ROAD
BANGALORE - 560 009.
3. THE ASSISTANT COMMISSIONER
BENGALURU SUB-DIVISION
BANGALORE URBAN DISTRICT
K.G. ROAD
BANGALORE - 560 009.
4. THE TAHSILDAR
EAST TALUK
K.R.PURAM HOBLI
BENGALURU - 560 036.
5. ASSISTANT CONSERVATOR OF FOREST
18TH CROSS
MALLESWARAM
BENGALURU - 560 003.

...RESPONDENTS

(BY SRI. M.N.SUDEV HEGDE, AGA FOR R1 TO R5)

THIS WRIT APPEAL IS FILED U/S 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO ALLOW THE ABOVE APPEAL, BY SETTING ASIDE THE ORDER DATED 24/06/2024 PASSED IN WP NO.10421/2022 (KLR-RES) PASSED BY THE LEARNED SINGLE JUDGE OF THIS HON'BLE COURT AND ETC.,

THIS APPEAL, COMING ON FOR ORDERS, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

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



ORAL JUDGMENT

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

The unsuccessful petitioner is before us in this appeal under Section 4 of the Karnataka High Court Act, 1961, calling in question the order dated 24.06.2024 passed by the writ Court in WP.No.10421/2022. Under the impugned order, the writ Court dismissed the Writ Petition calling in question the orders impugned dated 02.03.2022 (Annexure-A), passed by the Deputy Commissioner, Bengaluru Urban District, Bengaluru and order dated 05.06.2017 passed by the Assistant Commissioner, Bangalore North Sub Division, Bangalore (Annexure-B).

2. The parties are referred to as per their ranking before the writ Court.

3. Brief factual matrix leading to filing of the present appeal are as under:

It is the case of the petitioner that, Petitioner's mother Smt.Muniyamma W/o. Late Sonnappa, along with



her father-in-law Munipillagga and her son Muniga were resident of Kothanur village, K.R.Puram Hobli, Bangalore East Taluk. Since 1970, they have been cultivating land in Sy.No.47, to an extent of 2 Acres 10 Guntas. The petitioners belong to Scheduled Caste category.

4. Earlier Late Smt. Muniyamma filed Form No.50 in respect of the disputed land stated supra seeking regularisation of an unauthorised cultivation under the Provisions of Karnataka Land Revenue Act, 1964, wherein it was stated that, since 1970-71 she was cultivating the land unauthorizedly. The request for regularisation of land was turned down by the authorities which was the subject matter before this Court in writ petition and thereafter in WA.No. 3633-3638/2010. On 06.08.2010, late Muniyamma was permitted to withdraw the application filed under Section 94A of the Karnataka Land Revenue Act, 1964 i.e., Form No.50 and permitted her to prosecute her application under the provisions of Scheduled Caste and other Traditional Forest Dwellers (Recognition of



Forest Rights) Act, 2006 and Rules 2008, which late Muniyamma filed in Form No.A on 23.06.2008. As there was no proceedings held on the application, late Muniyamma approached writ Court in WP.No.31159/2014, which was disposed of directing the fourth respondent to dispose of the claim of late Muniyamma in accordance with law. After the direction of the Writ Court, proceedings were held before the fourth respondent- Assistant Commissioner.

5. Upon considering the case of the petitioner, the fourth respondent rejected the application on the count that the applicant has not furnished the proper information as contemplated under Section 3(1)F of the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. So also no document was produced to satisfy the requirement of definition provided in Section 2(o) i.e., other Traditional Forest Dwellers as defined under the Act, 2006 and Rules there under. Section 2(o) of Act, 2006, describes other Traditional



Forest Dwellers. It means any member or community who has for at least three generations prior to the 13th day of December, 2005 primarily resided in and who depend on the forest or forest land for *bona fide* livelihood needs. The explanation provided to the said definition clarifies the word generation means a period comprising of 25 years. The respondent No.2 having found that no such document regarding the three hereditary generations as on 13.12.2005 were in possession and enjoyment of the land and for lack of information as contemplated under the provisions, rejected the application, holding that the land is a forest land which has been declared long ago that is in 2000 and under the survey, the possession of the land has already been handed over to the Forest Department.

6. During the pendency of the application before the Assistant Commissioner, Smt.Muniyamma expired and petitioner was brought on record as her legal representative.



7. Aggrieved by the order passed by respondent No.2-Assistant Commissioner, Muniyappa - petitioner was in an appeal before respondent No.3-Deputy Commissioner in Appeal No.LND(A)CR.02/2017-2018. The Deputy Commissioner having considered the submissions of petitioner and the materials on record dismissed the appeal holding that the petitioner has not satisfied the requirements under the provisions of Act of 2006. So also the fact that the land has already been handed over to Forest Department way back in the year 2000 and mutation has already been effected, reflecting name of the Forest Department in RTC vide MR.No.6/1999-2000.

8. Aggrieved by both the orders, the petitioner was before the writ Court in WP.No.10421/2022. The writ Court having considered the MR.No.6/99-2000 and relying on the order dated 13.06.2014 in WP.No.9075/2006 (Annexure-R3) and also considering the submissions of the petitioner that several other persons have been granted with lands and the discrimination was shown only against



the petitioner, observed that the petitioner has no legal right to claim writ of Certiorari for quashing the orders passed by the respondents. The land has already been demarcated as forest area and forest department is in possession of land in question and the petitioner has no legal right to claim over the property in terms of judgment of this Court in ***HOLEYAPPA AND OTHERS VS. STATE OF KARNATAKA REPRESENTED BY ITS SECRETARY AND OTHERS*** reported in ***ILR 2005 KAR 5437***, which is confirmed in SLP.No.30869/2014 vide order dated 24.03.2017, dismissed the Writ Petition. It is this order passed by the writ Court is called in question in this appeal.

9. Heard Smt.Pramila Nesargi, learned Senior counsel appearing for Sri.Ramachandra P.M, learned counsel for the appellant and Sri. M.N.Sudev Hegde, learned Additional Government Advocate for respondent Nos.1 to 5. Perused the writ appeal paper.



10. Smt.Pramila Nesargi, learned Senior counsel submits that the petitioner belongs to Scheduled Caste and filed an application seeking for grant of land under the provisions of the Act of 2006. Several persons have been granted land on the application as per Act of 2006, but only discrimination is shown against the petitioner. Time immemorial petitioner is in possession of the property, that is, even prior to the mutation entry made in favour of the Forest Department. She further submits that the petitioner as on date is in possession of the property and earning his livelihood. The writ Court has failed to consider this aspect of the matter and swayed only on the mutation entry i.e., MR.No.6/99-2000. She further submits that the writ Court has observed that the mutation stated has not been challenged by the petitioner. The petitioner's mother, his father along with his grandfather were in possession of the property for very long time i.e., time immemorial and this aspect of the matter has not been considered by both the authorities and by the writ Court. The respondent



No.3- Assistant Commissioner has not provided any opportunity to the petitioner to submit the records. She refers to the genealogical tree filed along with the affidavit and marked as Annexure-C to contend that the Muniyappa is fourth generation and continuing possession. As there was no opportunity provided to the petitioner to place on record the proof of their possession and enjoyment over the property for three generations in terms of the provisions of Act, 2006, the order passed in haste is erroneous. This has not been considered by the Appellate Authority as well as writ Court. With this, Smt.Nesargi submits to allow the appeal and set aside the order passed by the writ Court and allow the petition and grant the relief sought.

11. Per contra, Sri. M.N.Sudev Hegde, submits that in terms of the provisions of the Act, no documents have been produced. The production of genealogical tree will not enure to the benefit of the petitioner as it cannot satisfy the requirement of Section 2(o) of the Act. Nothing



is placed either before the Authorities or before the Writ Court to satisfy the provisions under Act of 2006. The petitioner except reiterating the submissions already made before the writ Court has not made out any case which requires any interference with the order of Writ Court and sought to dismiss the appeal with costs.

12. Before advertng to the claim of petitioner, it is apt to extract the object behind introduction of Act of 2006, which came into force on 29.12.2006. The object of the Act as enumerated reads as under:

"An Act to recognise and vest the forest rights and occupation in forest land in forest dwelling Scheduled Tribes and other traditional forest dwellers who have been residing in such forests for generations but whose rights could not be recorded; to provide for a framework for recording the forest rights so vested and the nature of evidence required for such recognition and vesting in respect of forest land.

WHEREAS the recognised rights of the forest dwelling Scheduled Tribes and other traditional forest dwellers include the responsibilities and authority for sustainable use, conservation of biodiversity and maintenance of ecological balance and thereby strengthening the conservation regime of the forests while ensuring livelihood and food security of the forest dwelling Scheduled Tribes and other traditional forest dwellers;

AND WHEREAS the forest rights on ancestral lands and their habitat were not adequately recognised in the consolidation of State forests during the colonial



period as well as in independent India resulting in historical injustice to the forest dwelling Scheduled Tribes and other traditional forest dwellers who are integral to the very survival and sustainability of the forest ecosystem;

AND WHEREAS it has become necessary to address the long standing insecurity of tenurial and access rights of forest dwelling Scheduled Tribes and other traditional forest dwellers including those who were forced to relocate their dwelling due to State development interventions."

13. Section (2) is the definition clause of Act of 2006. Section 2(c) defines "Forest Dwelling Scheduled Tribes"; Section 2(d) defines "Forest Land"; Section 2(e) defines "Forest Rights"; Section 2(o) defines "other traditional forest dweller".

2(c) "forest dwelling Scheduled Tribes" means the members or community of the Scheduled Tribes who primarily reside in and who depend on the forests or forest lands for bona fide livelihood needs and includes the Scheduled Tribe pastoralist communities;

2(d) "forest land" means land of any description falling within any forest area and includes unclassified forests, undemarcated forests, existing or deemed forests, protected forests, reserved forests, Sanctuaries and National Parks;

2(e) "forest rights" means the forest rights referred to in section 3;

2(o) "other traditional forest dweller" means any member or community who has for at least three



generations prior to the 13th day of December, 2005 primarily resided in and who depend on the forest or forests land for bona fide livelihood needs.

14. Section 3 of Act of 2006, states about the Forest Rights of Forest dwelling Scheduled Tribes and other traditional forest dwellers, which reads as under:

"1) For the purposes of this Act, the following rights, which secure individual or community tenure or both, shall be the forest rights of forest dwelling Scheduled Tribes and other traditional forest dwellers on all forest lands, namely:—

(a) right to hold and live in the forest land under the individual or common occupation for habitation or for self-cultivation for livelihood by a member or members of a forest dwelling Scheduled Tribe or other traditional forest dwellers;

(b) community rights such as nistar, by whatever name called, including those used in erstwhile Princely States, Zamindari or such intermediary regimes;

(c) right of ownership, access to collect, use, and dispose of minor forest produce which has been traditionally collected within or outside village boundaries;

(d) other community rights of uses or entitlements such as fish and other products of water bodies, grazing (both settled or transhumant) and traditional seasonal resource access of nomadic or pastoralist communities;

(e) rights including community tenures of habitat and habitation for primitive tribal groups and pre-agricultural communities;

(f) rights in or over disputed lands under any nomenclature in any State where claims are disputed;

(g) rights for conversion of Pattas or leases or grants issued by any local authority or any State Government on forest lands to titles;

(h) rights of settlement and conversion of all forest villages, old habitation, unsurveyed villages and other



villages in forests, whether recorded, notified or not into revenue villages;

(i) right to protect, regenerate or conserve or manage any community forest resource which they have been traditionally protecting and conserving for sustainable use;

(j) rights which are recognised under any State law or laws of any Autonomous District Council or Autonomous Regional Council or which are accepted as rights of tribals under any traditional or customary law of the concerned tribes of any State;

(k) right of access to biodiversity and community right to intellectual property and traditional knowledge related to biodiversity and cultural diversity;

(l) any other traditional right customarily enjoyed by the forest dwelling Scheduled Tribes or other traditional forest dwellers, as the case may be, which are not mentioned in clauses (a) to (k) but excluding the traditional right of hunting or trapping or extracting a part of the body of any species of wild animal;

(m) right to in situ rehabilitation including alternative land in cases where the Scheduled Tribes and other traditional forest dwellers have been illegally evicted or displaced from forest land of any description without receiving their legal entitlement to rehabilitation prior to the 13th day of December, 2005."

15. Section (4) of the Act prescribes Recognition of, and vesting of, forest rights in forest dwelling Scheduled Tribes and other traditional forest dwellers and Section (6) states about Authorities to vest forest rights in forest dwelling Scheduled Tribes and other traditional forest dwellers and procedure thereof. Form No.8 is provided as per Rule 6(1), at Annexure-1 of Rules 2008, is the claim form for rights to forest land.



16. A perusal of Annexure-H, J and K, which are photocopies of Form No.50 dated 18.09.1991, filed by late Muniyamma under the provisions of Karnataka Land Revenue Rules, 108(c) and two representations to Deputy Commissioner, Bengaluru Urban for grant of land vide letter dated 15.07.2004 and 31.07.2004, clearly shows that the late Muniyamma has categorically stated that she is in possession and cultivation of the land since 1970 and 1971-1972 in Annexure-H and Annexure-K. So far as Annexure-J is concerned, she has categorically stated that she is in cultivation of the land for 33 years and request for grant of land.

17. As per the admitted facts, the petitioner belongs to Scheduled caste. As per the definition, Section 2(c) "forest dwelling Scheduled Tribes", which specifically says that the members or community of Scheduled Tribes who primarily reside in and who dependent on the forest and forest lands for *bona fide* livelihood. Since the petitioner does not fall and fit under the said definition, the petitioner comes under other traditional forest dwellers. In



terms of the definition provided under Section 2(c) and in terms of the admitted fact that the petitioner belongs to Scheduled Caste, neither the petitioner nor his mother fall under definition 2(c). As per Section 2(o), which prescribes "other traditional forest dweller", provides that other traditional forest dweller means any member or community who has for at least three generations prior to the 13th day of December, 2005 primarily resided in and who depend on the forest or forest land for *bona fide* livelihood needs and the word generation has been explained in the explanation provided to the definition, stating that 'generation' means a period comprising of twenty-five years. In these circumstances, the 'three generation' means '75 years' to seek a claim for grant of land under the Act of 2006. Except the genealogical tree, the petitioner has not produced any document to show that for the three hereditary generations i.e., for more than 75 years as on 13.12.2005 petitioner and his family were in possession and enjoyment of the property. The documents which now produced are just genealogical tree that too issued on the



information given by petitioner. Annexure-C is the document furnished by the petitioner on stamp paper. It is genealogical tree furnished by petitioner on oath sworn on 27.12.2006. These documents would not come to the aid of the petitioner now to contend that they are in possession since time immemorial.

18. In the teeth of admitted statement by Muniyamma that she was in possession of the property since 33 years, as on 2004 and the categorical statement made in Form No.50 that since 1971-72 they are cultivating the land, this court finds that, both the Authorities have rightly come to the conclusion that the petitioner has failed to establish his right to claim any benefit under the provisions of Act of 2006. The writ Court considered this aspect of the matter while observing at paragraph No.5 of the impugned order, that both the revenue Authorities have arrived at right conclusion by considering the fact that the land belonged to the Forest Department particular with regard to Sy.No.47 of Kothanur Village and dismissed the petition.



19. So far as the contention of learned Senior counsel regarding discrimination has already been considered and answered by the writ Court. We find no reason to interfere with the order passed by the writ Court as well as the order impugned in the writ petition passed by the respondent-authorities. The appeal sans merit and is accordingly ***dismissed***.

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

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

PK
List No.: 2 Sl No.: 2