



HC-KAR

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NC: 2026:KHC:11709
WP No. 5568 of 2020

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.G.S. KAMAL

WRIT PETITION NO.5568 OF 2020 (GM-FOR)

BETWEEN:

JOSE THOMAS
S/O.LATE THOMAS
AGED ABOUT 39 YEARS
R/P. CHRISTA ASHRAMA (MCBS)
GOKUL FARM
MUMBALU GRAMA-577 412
ANANDAPURAM HOBLI
SAGAR TALUK

...PETITIONER

(BY SRI VARADARAJ R.HAVALDAR, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
REP. BY THE PRINCIPAL
CHIEF CONSERVATOR OF FORESTS
ARANYA BHAVAN
T.CHOWDAIAH ROAD
NH-4, KODANDARAMAPURAM
MALLESWARAM
BENGALURU-560 012
2. CHIEF CONSERVATOR OF FOREST
AND APPELLATE AUTHORITY
ALKOLA CIRCLE, SAGAR ROAD
SHIMOGA-577 205
3. AUTHORISED OFFICER AND
ASST. CONSERVATOR OF FORESTS
SAGAR SUB DIVISION
MAIN ROAD
SAGAR-577 401





4. RANGE FOREST OFFICER
ANANDAPURAM RANGE
B.H.ROAD
CHARADI GRAMA
SAGAR TALUK-577 423

...RESPONDENTS

(BY SMT.B.SUKANYA BALIGA, AGA)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE ORDER DATED 18.09.2019 PASSED IN APPEAL NO.36/2019-2020 PASSED BY RESPONDENT NO.2 VIDE ANNEXURE-A AND THE ORDER DATED 08.04.2019 PASSED IN CASE NO.06/2019-2020 PASSED BY RESPONDENT NO.3 VIDE ANNEXURE-B AND ETC.

THIS PETITION COMING ON FOR PRELIMINARY HEARING, IN 'B' GROUP THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE M.G.S. KAMAL

ORAL ORDER

The petitioner is before this Court being aggrieved by the order dated 08.04.2019 passed in Case No.6/2019-2020 by respondent No.3 as well as the order dated 18.09.2019 passed in Appeal No.36/2019-2020 by respondent No.2, by which the respondents-authorities have conclusively held that the petitioner has encroached



an extent of 16 acres 8 guntas of forest land forming part of Sy.No.12 of Mumbalu Village which is reserved as 'Aaduru Mini Forest'.

2. Learned counsel for petitioner refers to an order dated 02.07.1965 passed by the Special Officer for Rehabilitation, Shivamogga produced at Annexure-E, in terms of which, an extent of 9 acres of land in Hullabani Sy.No.12 of Mumbal Village has been granted in favour of one N.Ramachandraiah, S/o.Nagappa as a compensation for his land having been utilised for Sharavathi Valley project. The said order is followed by issuance of saguvali chit/grant certificate dated 09.09.1965, issued by the Special Tahsildar produced at Annexure-F. He also refers to the survey sketch and the Record of Rights produced at Annexure-H series indicating reflection of name of the grantee. He submits that thereafter, one Mathew had purchased the said land in terms of deed of sale dated 31.12.1986. The petitioner herein claims to be a legatee of the said Mathew in terms of Will dated 01.01.2004.



3. Learned counsel for petitioner submits that the claim of the petitioner is only to the extent of 9 acres of land having been granted in favour of predecessor in title as noted above and that the petitioner has been in possession and enjoyment of the same without any encroachment. He refers to the impugned orders produced at Annexures-A and B to submit that despite the petitioner furnishing these documents, the respondents-authorities have erroneously held that the petitioner has not only encroached upon the said 16 acres 8 guntas of land but has also allegedly admitted the same. He submits such a finding apart from being incorrect is also contrary to the records produced by the petitioner himself. He further submits that the extent of land reserved as 'mini forest' of Mumbalu Village is only 260 acres while admittedly the total extent of land is 269 acres. However, the respondents-authorities ought to have seen the land being claimed by the petitioner falls outside the limit of the land which is declared as the forest area, since the petitioner is



claiming only an extent of 9 acres of land. Therefore, he submits that the order passed by the respondents-authorities is without application of mind warranting interference at the hands of this Court.

4. Learned Additional Government Advocate, on the other hand, referring to statement of objections and Annexures-R1 to R3, submits that a detailed survey with the equipment has been conducted and a mahazar has been drawn identifying the total extent of 260 acres of forest area. Thereafter, the actual extent of land encroached upon by the petitioner has been reflected in Annexure-R3. She submits that the same can be *juxtaposed* with the sketch produced at Annexure-G by the petitioner himself and further submits that the inference can be drawn about petitioner being in possession of the encroached forest area.

5. At this juncture, learned counsel for petitioner submits that the documents now relied upon by the respondent-State Government at Annexures-R1 to R3



have been prepared without benefit of any opportunity of being heard by the petitioner. He submits that when admittedly the total extent of land was 269 acres and even according to the respondents-authorities, only 260 acres of land was the forest land, they ought to have specifically pointed out whether 9 acres of land being claimed by the petitioner falls outside the limit of the forest area or not and any conclusion arrived by the respondents-authorities without being provided an opportunity for the petitioner to identify the land in his presence, cannot be accepted. There is considerable force in the submission being made by learned counsel for petitioner.

6. According to the submission made by learned counsel for petitioner, the petitioner is not claiming any right over the forest land. It is his specific case that his land falls outside the limits of 260 acres of declared 'mini forest' land of Mumbalu Village. The records furnished by the respondents-authorities at Annexures-R1 to R3 are not clear as to whether the land claimed by the petitioner,



which according to them, is encroached by him, falls within or outside the limit of 260 acres of reserved forest. If it falls within the limits of 260 acres, which even according to the petitioner, is a forest land. They are justified in taking action. If it falls outside the limits of 260 acres, they may not. This Court, at this jurisdiction is not in a position to ascertain these disputed facts of the matter, as the reasons assigned in the impugned order do advert to the specific case of the petitioner.

7. In the result, the following:

ORDER

- i) This writ petition is ***allowed***;
- ii) The impugned order dated 08.04.2019 passed in Case No.6/2019-2020 by respondent No.3 and the order dated 18.09.2019 passed in Appeal No.36/2019-2020 by respondent No.2 are quashed;
- iii) The matter is remitted to respondent No.3, who shall after adverting to the specific case of the petitioner, more particularly, with regard to the documents produced by him and identification of the land shall pass a reasoned order as to whether



the land claimed by the petitioner falls within the limits of 260 acres of declared mini forest area or outside the said limit of 260 acres;

- iv) A survey in this regard be conducted in the presence of the petitioner and a detailed order as directed above shall be passed within outer limit of six (06) months from the date of receipt of certified copy of this order;
- v) It is made clear that while conducting the survey, respondent No.3 shall ensure physical presence of the petitioner or his authorised representative and the same shall be reflected in the order in the manner acceptable;
- vi) Since the petitioner is represented by learned counsel, he shall appear before respondent No.3 on **23.03.2026** without any further notice.

Sd/-
(M.G.S. KAMAL)
JUDGE

LB
List No.: 1 Sl No.: 23