



IN THE HIGH COURT OF KARNATAKA AT DHARWAD

DATED THIS THE 25TH DAY OF MARCH, 2026

PRESENT

THE HON'BLE MR. JUSTICE B.M.SHYAM PRASAD

AND

THE HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

WRIT APPEAL NO. 100458 OF 2023 (LR)

C/W

WRIT APPEAL NO. 100632 OF 2023

IN WA No. 100458/2023

BETWEEN:

1. RAJESH S/O. KERIYA SIRSIKAR,
AGED: 48 YEARS, OCC: AGRICULTURIST,
R/O: GUDDADAMANE, HUBBALLI ROAD,
TQ: SIRSI, DIST: UTTARA KANNADA – 581 401.
2. VIJAYA S/O. KERIYA SIRSIKAR,
AGED 56 YEARS, OCC: AGRICULTURE,
R/O: GUDDADAMANE, HUBBALLI ROAD,
TQ: SIRSI, DIST: UTTARA KANNADA – 581 401.
3. ANNAPPA S/O. KERIYA SIRSIKAR,
AGED 52 YEARS, OCC: AGRICULTURE,
R/O: GUDDADAMANE, HUBBALLI ROAD,
TQ: SIRSI, DIST: UTTARA KANNADA-581401.

... APPELLANTS

(BY SRI. VISHWANATH HEGDE, ADVOCATE)

AND:

1. VIJAYA W/O.VINOD TIRUMALE,
AGED: 63 YEARS, OCC: HOUSEHOLD,



R/O: SIMPI GALLI, SIRSI,
DIST: UTTARA KANNADA – 581 401.

2. MANJUNATH S/O. VINOD TIRUMALE,
AGED 35 YEARS,
OCC: AGRICULTURE & BUSINESS,
R/O: SIMPI GALLI, SIRSI,
DIST: UTTARA KANNADA – 581 401.

RAMACHANDRA S/O. KERIYA SIRSIKAR,
SINCE DECEASED BY HIS LRS.

3. RADHA W/O.RAMACHANDRA SIRSIKAR,
AGED 65 YEARS, OCC: HOUSEHOLD,
R/O: GUDDADAMANE, HUBBALLI ROAD,
TQ: SIRSI, DIST:UTTARA KANNADA-581401.
4. GIRISH S/O RAMACHANDRA SIRSIKAR,
AGED 43 YEARS, OCC: AGRICULTURE,
R/O: GUDDADAMANE, HUBBALLI ROAD,
TQ: SIRSI, DIST:UTTARA KANNADA-581401.
5. GEETA W/O.MAHESH MESTRI,
AGED 42 YEARS, OCC: HOUSEHOLD,
R/O: GUDDADAMANE, HUBBALLI ROAD,
TQ: SIRSI, DIST:UTTARA KANNADA-581401.
6. JYOTI W/O. NAGESH MESTRI,
AGED 41 YEARS, OCC: HOUSEHOLD,
R/O: GUDDADAMANE, HUBBALLI ROAD,
TQ: SIRSI, DIST:UTTARA KANNADA-581401.
7. KAMALA W/O.BABU MADIVAL,
AGED 72 YEARS, OCC: HOUSEHOLD,
R/O: GUDDADAMANE, HUBBALLI ROAD,
TQ: SIRSI, DIST:UTTARA KANNADA-581401.
8. JAYANTI W/O. MAHESH HONNAVAR,
AGED 60 YEARS, OCC: HOUSEHOLD,
R/O: GUDDADAMANE, HUBBALLI ROAD,
TQ: SIRSI, DIST:UTTARA KANNADA-581401.



9. INDIRA W/O. PARASHURAM MADIVAL,
AGED 58 YEARS, OCC: HOUSEHOLD,
R/O: GUDDADAMANE, HUBBALLI ROAD,
TQ: SIRSI, DIST:UTTARA KANNADA-581401.
10. MADEVI W/O. MABLESHWAR MADIVAL,
AGED 54 YEARS, OCC: HOUSEHOLD,
R/O: GUDDADAMANE, HUBBALLI ROAD,
TQ: SIRSI, DIST:UTTARA KANNADA-581401.
11. SHARADA
W/O. CHANDRASHEKHAR MADIVAL,
AGED 50 YEARS, OCC: HOUSEHOLD,
R/O: GUDDADAMANE, HUBBALLI ROAD,
TQ: SIRSI, DIST:UTTARA KANNADA-581401.
12. STATE OF KARNATAKA
BY ITS SECRETARY,
REVENUE DEPARTMENT,
VIDHANA SOUDHA, BENGALURU-01
13. LAND TRIBUNAL, SIRSI
BY ITS CHAIRMAN, TQ: SIRSI,
DIST: UTTARA KANNADA – 581 401.

... RESPONDENTS

(BY SRI. A.P. HEGDE JANMANE, ADV. FOR C/R1 & R2;
SRI. PRAVEEN UPPAR, AGA FOR R12 & R13;
R3 TO R11 - SERVED)

THIS WRIT APPEAL IS FILED U/S. 4 OF
KARNATAKA HIGH COURT ACT, 1961 PRAYING TO, SET
ASIDE THE ORDER DATED 22-6-2023 PASSED BY
LEARNED SINGLE JUDGE OF HON'BLE HIGH COURT
KARNATAKA BENCH AT DHARWAD IN
W.P.NO.61043/2010 (LR) BY ALLOWING THIS APPEAL
AND CONSEQUENTLY W.P.NO.61043/2010 (LR) MAY



KINDLY BE DISMISSED IN THE INTEREST OF JUSTICE
AND ETC.,

IN WA NO. 100632/2023

BETWEEN:

RAMACHANDRA KERIYA SIRSIKAR
A/A: 60 YEARS, OCC: AGRICULTURIST.
SINCE DECEASED BY HIS LRS.

1. RADHA W/O. RAMACHANDRA SIRSIKAR,
A/A: 65 YEARS, OCC: HOUSEHOLD.
2. GIRISH S/O. RAMACHANDRA SIRSIKAR,
A/A: 45 YEARS, OCC.AGRICULTURE..
3. GEETA W/O. MAHESH MESTRI,
A/A: 40 YEARS, OCC.HOUSEHOLD.
4. JYOTI W/O. NAGESH MESTRI,
A/A: 39 YEARS, OCC:HOUSEHOLD.

R1 TO R4 R/O: GUDDADAMANE,
HUBLI ROAD, SIRSI,
U.K. DISTRICT – 581 402.

5. KAMALA W/O. BABU MADIVAL,
A/A: 68 YEARS,
OCC: HOUSEHOLD.
6. JAYANTI W/O. MAHESH HONNAVAR,
A/A: 58 YEARS, OCC.HOUSEHOLD.
7. INDIRA W/O. PARASHURAM MUDIVAL,
A/A: 57 YEARS,
OCC: HOUSEHOLD.
8. MADEVI W/O. MABLESHWAR MADIVAL,
A/A: 52 YEARS, OCC: HOUSEHOLD.



9. SHARADA W/O. MAHESH HONNAVAR,
A/A: 48 YEARS, OCC.HOUSEHOLD.

R5 TO R9 R/O: GUDDADAMANE,
HUBLI ROAD, SIRSI,
U.K. DISTRICT – 581 402.

... APPELLANTS

(BY SRI. PRASHANT F. GOUDAR, ADVOCATE)

AND:

VINOD PARASHURAM TIRUMALE
SINCE DEAD BY HIS LRS.

1. VIYAYA W/O. VINOD TIRUMALE,
A/A: 60 YEARS,
OCC: HOUSEHOLD.
2. MANJUNATH VINOD TIRUMALE,
A/A: 33 YEARS,
OCC: AGRICULTURE AND BUSINESS,

BOTH ARE R/O: SIMPI GALLI,
SIRSI, U K DISTRICT – 581 401.

3. THE STATE OF KARNATAKA,
BY ITS SECRETARY,
REVENUE DEPT,
GOVERNMENT OF KARNATAKA,
VIDHANA SOUDHA, BANGALORE.
4. LAND TRIBUNAL, SIRSI,
BY ITS CHAIRMAN.
5. RAJESH KERIYA SIRSIKAR,
A/A: 45 YEARS,
OCC.AGRICULTURE,
6. VIJAYA KERIYA SIRSIKAR,
A/A: 54 YEARS,
OCC.HOUSEHOLD,



7. ANNAPPA KERIYA SIRSIKAR,
A/A: 50 YEARS,
OCC: AGRICULTURE.

R3 TO R7 R/AT GUDDADAMANE,
HUBLI ROAD, SIRSI,
U.K. DISTRICT – 581 402.

...RESPONDENTS

(BY SRI. A.P. HEGDE JANMANE, ADV. FOR R1 & R2;
SRI. PRAVEEN UPPAR, AGA FOR R3 & R4;
R5 TO R6 - SERVED)

THIS WRIT APPEAL IS FILED U/S. 4 OF KARNATAKA
HIGH COURT ACT, 1961 R/W ARTICLES 226 AND 227
OF THE CONSTITUTION OF INDIA, PRAYING TO CALL
THE RECORDS AND SET ASIDE THE ORDER DATED
22.06.2023 PASSED IN WP NO.61043/2023 PASSED BY
THE LEARNED SINGLE JUDGE OF THIS HON'BLE
COURT.

THESE APPEALS, COMING ON FOR PRELIMINARY
HEARING THIS DAY, JUDGMENT WAS DELIVERED
THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE B.M.SHYAM PRASAD
and
HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR



ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE B.M. SHYAM PRASAD)

As with most cases where an application is filed in Form No.7 under the Karnataka Land Reforms Act, 1961 [for short, '*the KLR Act*'], the dispute over tenancy has persisted over five decades and this is although the tenancy claim for an extent of 3 acres 16 guntas including 4 guntas in Survey No.143/1 of Sirsi Village is first settled by the Land Tribunal's order dated 22.05.1976. There are three rounds of litigation, including the present writ petition in W.P. No.61043/2010. The writ Court has allowed this petition by the impugned order dated 22.06.2023. The writ Court by this impugned order has upset the Land Tribunal's Order dated 27.01.2010 which granted occupancy rights to these appellants for land measuring 1 acre 26 guntas in Survey No.143/2 of Sirsi Village [*the subject property*].



2. This Court must record chronologically the circumstances leading to the Land Tribunal's Order dated 27.01.2010, which is impugned in W.P. No.61043/2010, and this narration will be thus. The land in Survey No.143 of Sirsi Village originally measured 5 acres 2 guntas including 4 guntas of kharab. This is borne out by the survey records placed on record. Sri Keriya Subray Sirsiker and his brother, Sri Bangari Subray Sirsiker were in occupation of this entire extent of land in Survey No.143 as tenants. In the year 1951, revenue entries are made [M.R. No.1047] recording that Sri Keriya Subray Sirsiker is surrendering the lease of the land held by his brother [Sri Bangari Subray Sirsiker] in favour of Mallikarjun Bhavanappa Tirumale, and this extent is 1 acre 26 guntas.

3. In the year 1954, the larger land is divided into Survey No.143/1 [*measuring 3 acres 16 guntas, including 4 guntas of kharab*] and Survey No.143/2 [*measuring 1 acre 26 guntas*—the subject property].



There is a partition amongst the family members of the landlords under the registered Partition Deed dated 20.12.1957, and they assert the benefit of surrender of lease of this 1 acre 26 guntas. In this partition, Sri Parashuram Bhavanappa Tirumale [a member of the landlord's family] is allotted the extent of 1 acre 26 guntas in Survey No.143/2 of the subject property. The revenue records for this extent are also mutated in his favour, and on his demise, the revenue entries are mutated in favour of his successors-in-interest.

4. Sri Keriya Subray Sirsiker has applied in Form No.7 for grant of occupancy rights for the entire extent of 5 acres 2 guntas in Survey No.143. A mahazar is drawn on 31.05.1975, and this mahazar reads that *"Sri Keriya Subray Sirsiker asserts that he is in possession of the property, and he had in this extent ensured that manure was spread for cultivation"*. The Jurisdictional Revenue Inspector based on this mahazar has filed a report. This report



is in two parts. The first part of the report is that Sri Keriya Subray Sirsiker is in possession of the land in Survey No.143/1 and he is a secured tenant. The other part of the report is that though Sri Keriya Subray Sirsiker asserts that he was in possession as of the effective date [01.03.1974] when the landlord and his family members forcibly entered possession of the land using a tractor, but the entries in the revenue records do not show that he is a lawful tenant of the land of the subject property.

5. The Land Tribunal, despite this Report on Sri Keriya Subray Sirsiker's claim for the subject property, by its order dated 22.05.1976 has opined that the land in Survey No.143 [including the subject property] was vested with the State Government because it was in the possession of Sri Keriya Subray Sirsiker as a tenant and that he must be registered as owner. The Tribunal's order dated 22.05.1976 is called in question with this Court in W.P. No.5633/1976, and this Court has allowed the



writ petition *vide* the order dated 21.02.1983 only insofar as the subject property restoring the proceedings for reconsideration in the light of the presumption that would be attached to the revenue entries.

6. On such remand, the Land Tribunal, which was seized of the matter for almost a decade, on 13.09.1994, has rejected Sri Keriya Subray Sirsiker's application insofar as the subject property. The Land Tribunal's order dated 13.09.1994 is called in question with this Court in W.P. No.4856/1995, and this Court has once again intervened to restore the proceedings on 14.11.2002. In the interregnum, Sri Keriya Subray Sirsiker's wife had filed a memo to withdraw the application, but his other legal heirs have contested the Memo. The Land Tribunal has conducted multiple hearings between 15.03.2003 and 04.11.2009, and it has ultimately opined that the landlords have not established the surrender of lease as envisaged under the Bombay Tenancy and



Agricultural Lands Act, 1948 [for short, '*the Bombay Tenancy Act*'] and therefore, the subject property vested with the State Government. The Land Tribunal has consequently granted occupancy rights to the legal representatives of Sri Keriya Subray Sirsiker, the appellants in the present proceedings.

7. Sri Parashuram Tirumale, who is allotted the subject property under the Partition Deed dated 20.12.1957, was contesting the appellants' claim for occupancy rights to the subject land, and he has died but his legal representatives [*i.e.*, his wife and son] have called in question the Tribunal's order dated 27.01.2010 in W.P. No.61043/2010. The writ Court, by the impugned order dated 22.06.2023, has interfered with the Land Tribunal's Order observing that the Land Tribunal had completely ignored the revenue records which evidenced that:

[a] Sri Keriya Subray Sirsiker had
surrendered the tenancy in favour of the



landlord; that the question of surrender of tenancy must be under Section 29 of the Bombay Tenancy Act and not under Section 5 thereof.

[b] The records establish the subdivision of the larger extent of land based on the surrender of lease with a registered partition deed in the year 1957, the mutation of revenue entries in terms of such partition in favour of the successors-in- interest of the person who was allotted the subject property in the partition deed.

Further, the writ Court has observed that the presumption from the revenue records must yield in favour of the respondents.

8. Sri Prashant F. Goudar, the learned counsel for some of the appellants and who leads the other learned counsels on record for the appellants,



submits that the outcome in the proceedings must turn on whether Sri Keriya Subray Sirsiker had surrendered the lease of the subject property and if the records do not demonstrate the same, it should be presumed in law that he and his successors-in-interest were in possession of the subject property as tenants justifying grant of occupancy rights in their favour. The learned counsel submits that the question of surrender of lease as asserted by the private respondents must be examined in the light of the requirement under the Bombay Tenancy Act as of the relevant date, and under Section 29 of the Bombay Tenancy Act, a landlord could not have taken possession of the tenanted land unless an application was made in the prescribed form and the Jurisdictional Mamlatdar accepted such application by an order after holding an inquiry.

9. Sri Prashant F. Goudar submits that the respondents have failed to bring on record the copy of the order that would justify a conclusion that there



was indeed an application under an order by the Jurisdictional Mamlatdar emphasizing the mutation entry by itself cannot take the place of an order as contemplated under Section 29(3) of the Bombay Tenancy Act. The learned counsel submits the fact that the respondents have not produced an order of the Jurisdictional Mamlatdar under Section 29(3) of the Bombay Tenancy Act must be read in conjunction with the contents of the mahazar drawn on 31.05.1975 which records that Sri Keriya Subray Sirsiker was in possession of the subject lands.

10. Sri A P. Hegde, the learned counsel for the respondents, does not dispute the proposition of the law that a landlord could not have taken possession of the land unless there was an order as contemplated under Section 29 of the Bombay Tenancy Act, and the learned counsel submits that the mutation entry in M.R. No.1047 [*as per Annexure – A appended to the writ petition*] is proof of an order under Section 29 of the Bombay Tenancy Act as



would be the other circumstances such as **[a]** the survey division of the larger extent of land is in accordance with the surrender, **[b]** the partition deed on 20.12.1957 amongst the landlord's family members in which Sri Parashuram Tirumale is allotted the subject property resulting in revenue entries in his favour and the subsequent entries in favour of his son on his demise. The learned counsel emphasizes that in the circumstances of the case, the writ Court has rightly opined that the presumption under the revenue records is not dislodged to opine that the subject land was tenanted as of the effective date.

11. In the facts and circumstances of the case, the question that arises for consideration in the disposal of these writ appeals is:

Whether this Court can take any exception with the writ Court's order to opine that the materials on record do not show that Sri Keriya Subray Sirsiker continued as a



secured tenant of the subject property as of the effective date.

12. This Court must answer the aforesaid question upon examination of the records to conclude whether the surrender of the lease is established. While the respondents rely upon a set of other circumstances, the appellants contend that a copy of the order of the jurisdictional Mamlatdar under Section 29(3) of the Bombay Tenancy Act is not placed on record, and in the absence of such order, the presumption must be in favour of the subject land being tenanted. The other circumstance relied upon by the appellants is the terms upon which the mahazar is drawn on 31.05.1975.

13. The respondents rely upon the revenue entries as per M.R. No.1047, the survey division of the larger extent of the land in consonance with such surrender with the subject property being assigned Sy. No.143/2, the terms of the registered partition



deed dated 20.12.1957, the revenue entries based on such partition and later in favour of the successors-in-interest [of *Sri. Parashuram Tirumale*], and the continuation of these revenue entries that remained undisturbed and unquestioned even as of the effective date *i.e.*, 01.03.1974. These sets of circumstances must be considered in the light of the undisputed fact that the jurisdictional Mamlatdar's order under Section 29(3) of the Bombay Tenancy Act is not located and is not produced by either side.

14. Further, the consistency in the circumstances relied upon by the respondents must be read in juxtaposition with the fact that the appellants have offered no explanation that breaks this consistency, except for contending that the order under Section 29(3) of the Bombay Tenancy Act is not produced and coming up with an assertion, for the first time in 1976, that the landlord in the year 1975 had forcibly ploughed the subject property using a tractor. The revenue records must have the



presumption, and if such presumption is to be rebutted, there must be cogent material. The assertion that a copy of the order under Section 29(3) of the Bombay Tenancy Act is not produced comes across being lame in the light of the entries in M.R. No.1047, wherein it is specifically stated that Sri Keriya Subray Sirsiker, upon the demise of his brother, had surrendered the possession of the subject property in the light of the said order. This is followed by consistent revenue and survey records showing the timeline with no tenancy claim in the landlord's family. In the light of these circumstances, the question is answered against the appellants, and the writ appeals are ***rejected***.

Sd/-
(B.M. SHYAM PRASAD)
JUDGE

Sd/-
(SHIVASHANKAR AMARANNAVAR)
JUDGE