



IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 25TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE S.VISHWAJITH SHETTY

WRIT PETITION NO. 226915 OF 2020 (GM-WAKF)

BETWEEN:

1. SRI. BASVANAPPA
S/O SHARANAPPA KICHADI (MADDE),
SINCE DECEASED BY LRS.,
 - 1A) SHIVANAND
S/O LATE. BASVANAPPA MADDE (KICHADI),
AGE: 52 YEARS OCC: AGRICULTURE.
 - 1B) DAYANAND
S/O LATE. BASVANAPPA MADDE (KICHADI),
AGE: 47 YEARS, OCC: AGRICULTURE & PRIVATE
SERVICE
2. SRI. ROHAN
S/O SURYAKANTH SAKHARE,
(WRONGLY MENTIONED AS S/O VITHOBA SAKHARE)
AGE: 34 YEARS, OCC: BUSINESS,
R/O H. NO.8-3-75 & 76, BRAHMAN GALLI,
ALAND DIST: KALABURAGI- 585302.

BOTH R/O H. NO. 8-3-68/69 BRAHAMAN GALLI
ALAND TQ. ALAND DIST. KALABURAGI-585302.

...PETITIONERS

(BY SRI. ANANTH S JAHAGIRDAR, ADVOCATE)



AND:

1. ASHURKHANA (SUNNI),
DANGEGALLI (NEW BRAHAMAN GALLI) ALAND,
DIST.KALABURAGI-585302.
REPRESENTED BY ITS PRESIDENT OF
MANAGING COMMITTEE, TQ.ALAND,
DIST.KALABURAGI- 585302.
2. THE KARNATAKA STATE BOAD OF AUQAF,
DARULA A AUQAF NO.6, CUNNINGHAM ROAD,
REPRESENTED BY ITS CHIEF EXECUTIVE OFFICER,
BANGALORE-560052.
3. THE CHIEF OFFICER,
TOWN MUNICIPAL COUNSEL ALAND
TQ.ALAND, DIST.KALABURAGI- 585302.

...RESPONDENTS

(BY SRI LIYAQAT FAREED USTAD, ADVOCATE FOR R1;
NOTICE TO R2 AND R3 IS SERVED)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO a) ISSUE A WRIT IN THE NATURE OF CERTIORARI QUASHING THE IMPUGNED ORDER DATED 16.01.2019 IN FILE NO.ENQ-54/22/GBA/2018 PASSED BY RESPONDENT NO.2 DECLARING THAT THE PROPERTY MEASURING 14FTX22.3FT AND PLATFORM MEASURING 9.6FTX22.3FT BOUNDED BY EAST AND NORTH-ROAD WEST AND SOUTH-HOUSE OF MADAPPA SITUATED AT BRHAMAN GALLI ALAND DIST. KALABURAGI AS A WAQF PROPERTY BELONGS TO WAQF INSTITUTION AND RESPONDENT NO.1 AND 2 HAVE ENROACHED OVER SAID PROPERTY, THE CERTIFIED COPY OF WHICH IS AS PER ANNEXURE-D AND ALLOW THESE PETITIONERS TO CONTEST THE MATTER ON MERIT. B) SUCH OTHER WRIT OR ORDER AS DIRECTION AS DEEMED FIT AS CIRCUMSTANCES OF THE CASE INCLUDING AN ORDER FOR COSTS.



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

CORAM: HON'BLE MR. JUSTICE S.VISHWAJITH SHETTY

ORAL ORDER

1. Petitioners are before this Court in this writ petition filed under Articles 226 & 227 of the Constitution of India, seeking for the following reliefs:

(i) Issue a writ in the nature of certiorari quashing the impugned order dated 16.01.2019 in File No.ENQ-54/22/GBA/2018 passed by respondent No.2 declaring that the property measuring 14 ft X 22.3 ft. and platform measuring 9.6 ft X 22.3 ft, bounded by East and North: Road, West and South: house of Madappa situated at Brhman Galli, Aland, district Kalaburagi, is a Waqf property belongs to Waqf institution and respondent No.1 and 2 have encroached over said property, the certified copy of which is as per Annexure-D and allow these petitioners to contest the matter on merit in the interest of justice;

(b) Such other writ or order as direction as deemed fit as circumstances of the case including an order for costs.

2. Heard the learned counsel for the parties.



3. The petitioners claim that, they are the owners of the properties which are subject matter of the order at Annexure-D dated 16.01.2019 passed by the respondent No.2. According to the petitioners, petitioner No.1 had purchased the house property bearing No.5-4-34 (New House No.8-3-68), under the registered sale deed dated 20.01.1960 and he also had purchased house property bearing No.H-4-32 (New House No.8-3-70) under another registered sale deed dated 15.07.1965 for valid consideration. According to the petitioners, the aforesaid two house properties are situated at Dange Galli (Now Brhaman Galli) at Aland, in Kalaburagi district.

4. The house property bearing No.8-3-75 & 76 was allegedly purchased by the grand father of the petitioner No.2 under a registered sale deed dated 30.03.1937 and the revenue records of the said property also stood in his name and after his death, the petitioner No.2 allegedly has inherited the said property. Respondent No.1 had filed a petition under Section 54 of the Wakf Act, 1995, before the respondent No.2 alleging that, the petitioners had encroached the aforesaid properties and it is under these circumstances an enquiry was



held by the respondent No.2 and the order impugned dated 16.01.2019 vide Annexure-D was passed declaring that the aforesaid properties are the Wakf properties. Aggrieved by the same, the petitioners are before this Court.

5. According to the petitioners, no notice was served on them by the respondent No.2 before passing the order impugned at Annexure-D dated 16.01.2019. It is only when they were served with a notice from respondent No.3 on 05.11.2020, asking them to vacate their property, they came to know about the order impugned passed by the respondent No.2 and immediately thereafter, they have taken action for challenging the order impugned before this Court.

6. The petitioners have produced documents before this Court which prima-facie shows that, they have some right and interest over the properties in question which are subject matter of the order impugned at Annexure-D. Perusal of the order at Annexure-D would go to show that, the petitioners have been placed ex-parte in the said proceedings. No material is produced before this Court to show that, the notice was served on the petitioners in the said proceedings.



7. Under the circumstances, I am of the opinion that, the impugned order at Annexure-D passed by the respondent No.2 dated 16.01.2019 needs to be set aside and an opportunity of being heard needs to be granted to the petitioners before the respondent No.2.

8. Accordingly, the following:

ORDER

(i) The writ petition is allowed;

(ii) The impugned order at Annexure-D dated 16.01.2019 is set aside and the matter is remitted to the respondent No.2 to consider the petition filed under Section 54 of the Wakf Act, 1995, afresh after granting an opportunity of being heard to the petitioners.

**Sd/-
(S.VISHWAJITH SHETTY)
JUDGE**