IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 11TH DAY OF FEBRUARY, 2025

BEFORE

THE HON'BLE MR. JUSTICE R.NATARAJ

WRIT PETITION NO.201314 OF 2021 (LR)

BETWEEN:

CHANNAPPA S/O SHARANAPPA NAVANI,
(SINCE DECEASED BY LRS)

1. SMT. SHANTABAI W/O CHANNAPPA NAVANI,
W/O CHANNAPPA NAVANI,
AGE: 85 YEARS,
OCC: HOUSEHOLD AND AGRICULTURE,
R/O KIRANAGI VILLAGE,
FARHATABAD HOBLI,
TQ. AND DIST. KALABURAGI-585308.

2. SMT. BASAMMA W/O BASANAGOUDA PATIL,
AGE: 68 YEARS, OCC: HOUSEHOLD AND AGRICULTURE,
R/O KIRANAGI VILLAGE, FARHATABAD HOBLI,
TQ. AND DIST. KALABURAGI-585308.

3. SMT. SHARADABAI W/O SHIVARAJ MALIPATIL,
AGE: 58 YEARS, OCC: HOUSEHOLD AND AGRICULTURE,
R/O CHIMMAIDLAI VILLAGE,
TQ. CHINCHOLI, DIST. KALABURAGI-585307.

4. SHARANGOUDA S/O CHANNAPPA NAVANI,
AGE: 54 YEARS, OCC: AGRICULTURE,
R/O KIRANAGI VILLAGE, FARHATABAD HOBLI,
TQ. AND DIST. KALABURAGI-585308.

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Location: High Court Of Karnataka

5. RUDRAGOUDA S/O CHANNAPPA NAVANI,
AGE: 50 YEARS, OCC: AGRICULTURE,
R/O KIRANAGI VILLAGE,
FARHATABAD HOBLI,
TQ. AND DIST. KALABURAGI-585308.

…PETITIONERS

(BY SRI. D. P. AMBEKAR, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA,
REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF REVENUE,
VIKAS SOUDHA, BENGALURU-560001.

2. THE LAND TRIBUNAL,
KALABURAGI-585101
REPRESENTED BY ITS CHAIRMAN.

3. THE SPECIAL TAHASILDAR,
LAND REFORMS,
KALABURAGI-585101.

BHIMARAYA S/O SIDDAPPA YELAMELI,
SINCE DECEASED BY HIS LRS

4. SMT. KASHIBAI W/O BHIMARAYA YELAMELI,
AGE: 90 YEARS, OCC: HOUSEHOLD,
R/O KIRANAGI VILLAGE,
FARHATABAD HOBLI,
TQ. AND DIST. KALABURAGI-585308.

5. GURANNA S/O BHIMARAYA YELAMELI,
AGE: 65 YEARS, OCC: COOLIE,
R/O KIRANAGI VILLAGE,
FARHATABAD HOBLI,
TQ. AND DIST. KALABURAGI-585308.

6. SANGANNA S/O BHIMARAYA YELAMELI,
AGE: 60 YEARS, OCC: AGRICULTURE,
R/O KIRANAGI VILLAGE,

FARHATABAD HOBLI,
TQ. AND DIST. KALABURAGI-585308.

7. SMT. SHIVALINGAMMA
D/O BHIMARAYA YELAMELI,
AGE: 65 YEARS, OCC: HOUSEHOLD,
R/O KIRANAGI VILLAGE,
FARHATABAD HOBLI,
TQ. AND DIST. KALABURAGI-585308.

…RESPONDENTS

(BY SRI. MALLIKARJUN SAHUKAR, AGA FOR R1 TO R3;
V/O DATED 14.07.2022, NOTICE TO R4 TO R6 ARE HELD SUFFICIENT;
SRI. RAVINDRA H. BABALESHWAR, ADVOCATE FOR R5 TO R7)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE A WRIT ORDER OR DIRECTION IN THE NATURE OF CERTIORARI QUASHING ANNEXURE-H, VIZ, THE ORDER DATED 27.05.1994 PASSED BY THE RESPONDENT NO.2 LAND TRIBUNAL KALABURAGI IN LRA/74-75/154.

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

CORAM: HON'BLE MR. JUSTICE R.NATARAJ

ORAL ORDER

The petitioners have challenged an order dated 27.05.1994 passed by respondent No.2/Land Tribunal in No.LRA/74-75/154 by which occupancy rights was granted

to the husband of respondent No.4 and the father of the respondent Nos.5, 6 and 7.

2. The petitioners contend that their father was the owner of the land bearing Sy.No.366 of Kiranagi village, Kalaburagi district measuring 13 acres 24 guntas. The respondent No.4 allegedly had created certain revenue entries based upon which he had filed Form No.7 claiming occupancy rights in respect of the above land. The Land Tribunal vide its order dated 09.06.1977 granted occupancy rights which was then challenged before this Court in WP No.4821/1977. This Court in terms of the order dated 11.01.1983 held that the spot inspection allegedly conducted by the Tribunal was without notice to the parties and therefore set-aside the order granting occupancy rights and directed the Land Tribunal to conduct a fresh enquiry. The father of the petitioner died on 05.03.1986, while the respondent No.4 also expired. After remand, the petitioners claimed that no notice was issued to them and the respondent No.4(a) to (d) played

fraud on the Tribunal by getting some unknown person to impersonate the petitioner No.1(d). The Tribunal purportedly recorded the statement of respondent No.4(b) and the alleged statement of the petitioner No.1(d) and passed an order dated 27.05.1994 conferring occupancy rights on the deceased respondent No.4.

3. The petitioners contend that the revenue records of the land stood in the name of father of the petitioners till the year 2019-2020. They contend that they were kept in the dark about the proceedings before the Tribunal after this Court remanded it to the Tribunal for fresh disposal. The petitioners contend that respondent No.4(a) to (d) did not get their names entered in the revenue records and did not obtain Form No.10 as prescribed under Section 55(1) of the Karnataka Land Reforms Act 1961. The petitioners contend that in a family arrangement, they had agreed to enter the name of petitioner No.1 in the revenue records of the above said land. Consequently, M.R.No.H116 was certified in the year

2020 and the name of the petitioner No.1(a) was entered in the revenue records. They contend that the respondent No.4(b) and (c) started interfering with the possession of the petitioners and the petitioners apprehending that the respondents may attempt to get the name of petitioner No.1(a) deleted from the records filed a caveat petition before the Assistant Commissioner, Kalaburagi and also before the Civil Judge, Kalaburagi. It is only thereafter that the petitioners came to know about the order dated 27.05.1994 passed by the Land Tribunal granting occupancy rights to the deceased respondent No.4. The petitioners are therefore before this Court challenging the order passed by the Tribunal.

4. Learned counsel for the petitioners contend that though this Court had directed the Tribunal to conduct a fresh enquiry and thereafter consider the claim of the deceased-tenant, the order-sheet that does not disclose that any enquiry was ever conducted by the Tribunal. He also contends that the notice of the proceedings was not

issued to the petitioners and no steps were taken before the Tribunal to implead the petitioners. He contends that the revenue records of the land in question stood in the name of petitioners till the year 2019-2020 thereby giving an impression that respondent No.4 did not want the petitioners to come to know of the order passed by the Tribunal. He contends that since the order passed by the Tribunal is without notice to the petitioners, the impugned order has to be set at naught and an opportunity should be granted to the petitioners to contest the claim of the respondents.

5. *Per contra*, learned counsel for private respondents submitted that the proceedings had culminated in an order in the year 1994 and the petitioner No.1(d) had appeared before the Tribunal through his Advocate. He therefore contends that petitioner No.1(d) was fully aware of the proceedings before the Tribunal and hence all the petitioners are deemed to have notice and knowledge of the proceedings before the Tribunal. He

therefore contends that the petitioners have come to this Court belatedly that too after nearly 27 years. He therefore contends that the impugned order does not warrant any interference that too at the instance of the petitioners who had participated in the proceedings before respondent No.2.

6. Learned Additional Government Advocate contended that the writ petition is highly belated and the Tribunal after taking into consideration that the name of the private respondents was found in the revenue records had rightly granted the occupancy rights.

7. I have considered the submissions of the learned counsel for the petitioners and the learned Additional Government Advocate for respondent Nos.1, 2 and 3 as well as the learned counsel for respondent Nos.4 and 5.

8. This Court in terms of the order dated 11.01.1983 had remitted the case back to the Tribunal to conduct a fresh enquiry into the claim of the tenant after

notifying all the persons interested in the land. After remand, the Tribunal held in the first sitting on 29.01.1994 i.e., after nearly 11 years from the date of the order passed by this Court, by which time the father of the petitioners had expired. No doubt, petitioner No.1(d) had purportedly entered appearance in the proceedings before the Tribunal through an Advocate on 28.03.1989. But since the proceedings commenced only on 29.01.1994, it could not be held that the petitioner No.1(d) had any notice or knowledge of the proceedings. It is precisely due to that the Tribunal had directed notice to the petitioners on 05.02.1994. However the notice was not served on 16.02.1994, 23.02.1994, 19.03.1994, 08.04.1994, 16.04.1994 and 22.04.1994. On 29.04.1994 the Tribunal held that the notice of the proceedings was served on the son of the land owner and that he was absent. The Tribunal perused the records produced by the legal heirs of the tenant and proceeded to pass an order granting occupancy rights in favour of the private respondents herein. It is therefore evident that the Tribunal did not

conduct a semblance of an enquiry before coming to the conclusion that the land in question was tenanted and was cultivated by a tenant. No attempt was made by the Tribunal to conduct a spot inspection to ascertain as to who was cultivating the land in question. Therefore, the procedure adopted by the Tribunal was clearly in violation of Rule 17 of the Karnataka Land Reforms Rules, 1974 and hence the impugned order granting occupancy rights to the private respondents was not in accordance with the Rule 17 of the Karnataka Land Reforms Rules, 1974.

9. The contention of the learned counsel for the private respondents that this writ petition is filed after nearly 15 years and therefore, the impugned order should not be interfered is liable to be rejected as the Tribunal did not follow the procedure as per the order passed by this Court and did not conduct an enquiry but has proceeded on assumption that the tenant was cultivating the land. The fact that the petitioners were notified of the proceedings is not established by credible documentary

evidence. Even otherwise, the revenue records were purported to be remained in the name of petitioner No.1(a) till 2019-2020, thereby giving an impression that the Tribunal had not decided Form No.7 filed by the private respondents. Therefore, the petitioners were justified in contending that they were not aware of the order passed by the Tribunal.

10. In view of the aforesaid, the impugned order passed by the Tribunal warrants interference and accordingly, the same is liable to be set aside. Hence, the following :

ORDER

i) The writ petition is allowed.

ii) The impugned order passed by respondent No.2 dated 27.05.1994 in Case No.LRA/74-75/154 is quashed.

iii) The case is remitted back to respondent No.2 who shall conduct a fresh enquiry as

prescribed under Rule 17 of the Karnataka Land Reforms Rules, 1974 and dispose off the case after hearing the petitioners and respondents.

iv) In order to enable the early disposal of Form No.7, the parties are directed to appear before the respondent No.2 on 10th March 2024 at 11:00 a.m.

v) The learned Additional Government Advocate is directed to communicate this order to respondent No.2.

Sd/-
(R.NATARAJ)
JUDGE

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List No.: 1 Sl No.: 31
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