



**IN THE HIGH COURT OF KARNATAKA,
DHARWAD BENCH**

DATED THIS THE 7TH DAY OF JULY, 2023

BEFORE

THE HON'BLE MR JUSTICE S.VISHWAJITH SHETTY

WRIT PETITION NO. 102816 OF 2021 (KLR-RR/SUR)

BETWEEN:

1. SRI. BALARAM S/O CHANNAPPA MALI,
AGE. 72 YEARS, OCC. AGRICULTURE,
R/O. BASAVANALGADDI NEAR
TELEPHONE OFFICE, CHIKKODI,
TALUK CHIKKODI, BELAGAVI-591201.
2. SRI. SADASHIVA S/O CHANNAPPA MALI
AGE. 60 YEARS, OCC. AGRICULTURE,
R/O. BASAVANALGADDI NEAR
TELEPHONE OFFICE, CHIKKODI,
TALUK CHIKKODI, BELAGAVI-591201.
3. SMT. KAMALA S/O DATTU MALI,
AGE. 55 YEARS, OCC. AGRICULTURE,
R/O. BASAVANALGADDI NEAR
TELEPHONE OFFICE, CHIKKODI,
TALUK CHIKKODI, DIST BELAGAVI-591201.

... PETITIONERS

(BY SRI. H M DHARIGOND, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA,
R/BY ITS SECRETARY,
DEPARTMENT OF REVENUE,
VIDHAN SOUDHA, BENGALURU-560001.
2. THE DEPUTY COMMISSIONER, BELAGAVI,
DISTRICT BELAGAVI-590001.





3. THE ASSISTANT COMMISSIONER,
CHIKODI SUB-DIVISION, CHIKODI,
DIST. BELAGAVI-591201.
4. THE TAHASILDAR,
CHIKKODI, TALUK CHIKKODI,
DIST. BELAGAVI-591201.
5. SRI. TUKARAM S/O MARUTI MALI,
AGE. MAJOR, OCC. AGRICULTURE,
R/O. BASAVANALGADDI CHIKKODI,
TALUK CHIKKODI, DIST. BELAGAVI-591201.
6. SRI. NIVRUTTI S/O MARUTI MALI,
AGE. MAJOR, OCC. AGRICULTURE,
R/O. BASAVANALGADDI, CHIKKODI,
TALUK CHIKKODI, DIST. BELAGAVI-591201.
7. SRI. JYOTHIBA S/O SAKARAM MALI,
AGE. MAJOR, OCC. AGRICULTURE,
R/O. BEHIND SARAKARI, NOUKARAR BAVAN,
CHIKKODI, TALUK CHIKKODI,
DIST. BELAGAVI-591201.
8. SRI. VASANT NARASAPPA MALI,
AGE. MAJOR, OCC. AGRICULTURE,
R/O. HIREKUDI VILLAGE,
TALUK. CHIKKODI, DIST. BELAGAVI-591201.
9. SRI. JYOTIBA S/O SANNAPPA KORE,
AGE. MAJOR, OCC. AGRICULTURE,
R/O. DAMBAL PLOT CHIKKODI,
TALUK CHIKKODI, DIST. BELAGAVI-591201.
10. SRI. POPATALAL KEMPCHAND SHAH,
AGE. MAJOR, OCC. AGRICULTURE, R/O. MAHALAXMI
SOCIETY, K.C. ROAD, CHIKKODI, TALUK CHIKKODI,
DIST. BELAGAVI-591201.

... RESPONDENTS

(BY SRI. M H PATIL, AGA FOR R1-R4;
SRI. CHETAN MUNNOLI, ADVOCATE FOR C/R5-8;
SMT. SURABHI KULKARNI, ADVOCATE FOR R9 & R10)



THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE A WRIT IN THE NATURE OF CERTIORARI TO QUASH THE IMPUGNED ORDER PASSED BY THE SECOND RESPONDENT UNDER NO.RB/ RTA/10/2020-21 BELAGAVI DATED 20.07.2021 VIDE ANNEXURE-L.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

1. The petitioners have approached this Court assailing the order Annexure-L dated 20.07.2021 passed by the 2nd respondent in proceedings bearing No.RB/RTA/10/2020-21.

2. Heard the learned counsel for the parties.

3. Considering the Form No.7 filed under the provisions of the Karnataka Land Reforms Act, 1961 (for short, 'the Act of 1961') by the father of the petitioners, the jurisdictional Tribunal by order dated 29.06.1977 had granted occupancy rights of the land bearing Sy.No.329/1 measuring 3 acres 16 guntas and Sy.No.338/1 measuring 7 acres 36 guntas 8 annas in his favour.



4. The said order had attained finality and subsequently even Form No.10 was issued in favour of the claimant. It appears that on the basis of the waradi submitted by the petitioner's father, 1 acre of land in each survey number was mutated in the name of Sri.Mahadev Maruti Mali, father of respondent Nos.5 and 6 and another acre of land in each survey number in the name of Jyothiba Annappa Mali, who were his cousin brothers. The mutation orders on the basis of the waradi was passed on 19.06.1981 in proceedings bearing M.E.No.9551. The original grantee Channappa died on 07.03.1988. After his death, in the year 2013 the petitioners for the first time filed an appeal under Section 136(2) of the Karnataka Land Revenue Act, 1964 (for short, 'the Act of 1964') before the Assistant Commissioner, who allowed the said appeal and set aside the mutation orders passed in M.E.No.9551 dated 19.06.1981. Being aggrieved by the same, the contesting private respondents had filed revision petition before the Deputy Commissioner, who had allowed the said revision petition by the impugned



order Annexure-L dated 20.07.2021. Being aggrieved by the same, the petitioners are before this Court.

5. Learned counsel for the petitioners submits that the Deputy Commissioner has not given proper opportunity to the petitioner before passing the order impugned. He submits that even before the records were received, the Deputy Commissioner has passed the impugned order. He also submits that the occupancy rights was granted absolutely in the name of his father Channappa and therefore without any basis, the mutation entries were made in the name of Mahadev Maruti Mali and Jyothiba Annappa Mali and the Assistant Commissioner had rightly set aside the same.

6. Per contra, learned counsel for the contesting private respondents submits that Channappa Mali who was the original grantee before the Land Tribunal had died in the year 1988. It is on the basis of the waradi submitted by Channappa Mali, entry in the revenue records of the lands in question was mutated in the name of Mahadev



Maruti Mali and Jyothiba Annappa Mali. He submits that during the lifetime of Channappa Mali, he had not questioned the said entry. He also submits that petitioners have approached the Assistant Commissioner after a lapse of more than 30 years and therefore the Assistant Commissioner was not justified in entertaining the appeal. He submits that the lands in question have been sold to various persons under different sale deeds and he has referred to the particulars of the said sale which is furnished by him in the statement of objection filed on behalf of the contesting private respondents. He accordingly prays to dismiss the writ petition.

7. I have given my anxious consideration to the arguments addressed on both sides and also perused the material on record.

8. The occupancy rights of the lands bearing Sy.No.329/1 and 338/1 measuring 3 acres 16 guntas and 7 acres 36 guntas 8 annas situated at Hirekudi village of Chikkodi taluk was granted in favour of the petitioners'



father late Channappa in the year 1977. Form No.10 was issued in his favour on 12.12.1980. Thereafter, it appears that he has given a waradi to the jurisdictional revenue officer to enter the name of his cousin brothers Mahadev Maruti Mali and Jyothiba Annappa Mali in respect of 1 acre of land each in the aforesaid two survey numbers. Considering the waradi submitted by him, the jurisdictional Revenue Officer passed an order on 16.09.1981 in proceedings bearing M.E.No.9551 and accordingly name of Mahadev Maruti Mali and Jyothiba Annappa Mali were entered in the revenue records of the lands in question. During the lifetime of Channappa Mali, who had died on 07.03.1988, he had not questioned the said entry. Even after his death, the petitioners had not questioned the said entries till the year 2013. It is for the first time, in the year 2013 an appeal was filed by the petitioners before the Assistant Commissioner under Section 136(2) of the Act of 1964. As rightly contended by the learned counsel for the respondents, the Assistant Commissioner ought not



have entertained the said appeal after delay of more than three decades.

9. From the impugned order as well as the order-sheet, it is clear that proper opportunity was given to the petitioners by the Deputy Commissioner and infact even written arguments were submitted on behalf of the petitioners. The Deputy Commissioner after considering the entire material has passed a well reasoned and sound order.

10. The material on record would go to show that the contesting private respondents have created third party rights in the lands in question. In paragraph 5E of the statement of objection, the particulars of the sale made by the contesting private respondents in respect of the lands in question are given, which reads as follows:

Sl. No.	Name of purchaser	Extent Sold	Sale Deed Date
1	Vrushab Babu Chougala Brahmanath Babu Chougala	12 Gs	13.08.2012
2	Shital Iranna Gomai Ashok Iranna Gomai	12 Gs	13.08.2012



3	Arun Adinath Shetti Amol Adinath Shetti	11 Gs	05.10.2012
4	Babasab satyappa Jugale	22 Gs	05.10.2012
5	Vrushab Annasab Digraje	25 Gs	05.10.2012
6	Bhimu Dhanapal Akiwate	14 Gs	13.10.2012

11. From the overall reading of statement of objection filed on behalf of the contesting private respondents, it is seen that the purchasers have thereafter further created third party rights in the properties in question and there are several suits in respect of the lands in question. Under the circumstance, no relief can be granted to the petitioners since disputed questions of facts would arise for consideration in this petition. In addition to the same, the third party in whom the rights have been created by the contesting private respondents are not before this Court. Therefore I do not find any good ground to interfere with the orders passed by the Deputy Commissioner which is impugned in this writ petition. It is for the petitioners to approach the jurisdictional Civil court By initiating appropriate proceedings seeking necessary reliefs to protect their rights when multiple transactions



have taken place in respect of the lands in question. It is not proper for the Revenue Authority to entertain the challenge made to the revenue entry after a lapse of inordinate delay of 30 years.

12. Under the circumstances, I do not find any merit in this writ petition. Accordingly, the writ petition is dismissed.

13. This order will not come in the way of the petitioners approaching the Civil Court by initiating appropriate proceedings and seeking appropriate reliefs to protect their rights, if any, in the lands in question.

Sd/-
JUDGE

Kgk/Ct:Bck
List No.: 1 Sl No.: 37