

IN THE HIGH COURT OF KARNATAKA

GULBARGA BENCH

DATED THIS THE 30TH DAY OF JUNE, 2014

BEFORE

THE HON'BLE MR.JUSTICE B.S.PATIL

WP.No.201137/2014 (GM-WAKF)

BETWEEN:

1. Syed Azeezuddin
S/o Syed Azeemuddin,
Age: 55 years, Occ: Agriculture,
R/o Badi Base, Sindhanur,
Dist. Raichur – 584 101.
2. Syed Khudratulla Hussaini
W/o Late Syeda Gousiya Begum,
Age: 75 years, Occ: Agriculture,
R/ Badi Base, Sindhanur,
Dist. Raichur – 584 101.
3. Syed Shafiulla Hussaini
S/o Syed Khudratulla Hussaini,
Age: 45 years, Occ: Agriculture,
R/o Badi Base Sindhanur,
Dist. Raichur – 584 101.
4. Rehama Begum
W/o Late Syed Ameemuddin,
R/o Badi Base, Sindhanur,
Dist. Raichur – 584 101.
5. Syed Naziya Begum
W/o Syed Ameenuddin,
Age: 30 years, Occ: Agriculture,
R/o Taveregera, Tq. Kustagi,
Dist. Koppal – 584 101.
6. Syeda Arshiya Begum
D/o Syed Ameenuddin,
Age: 28 years, Occ: Agriculture,

R/o Badi Base, Sindhanur,
Dist. Raichur – 584 101.

7. Syeda Atiya Begum
D/o Syed Ameenuddin,
Age: 26 years, Occ: Agriculture,
R/o Badi Base, Sindhanur,
Dist. Raichur – 584 101.
8. Syed Faisal Pasha S/o Syed Ameenuddin,
Age: 23 years, Occ: Agriculture,
R/o Badi Base, Sindhanur,
Dist. Raichur – 584 101.
9. Syeda Shoura Begum
D/o Syed Ameenuddin,
Age: 22 years, Occ: Agriculture,
R/o Badi Base, Sindhanur,
Dist. Raichur – 584 101.
10. Syeda Bushra Begum
D/o Syed Ameenuddin,
Age: 20 years, Occ: Agriculture,
R/o Badi Base, Sindhanur,
Dist. Raichur – 584 101.

... **PETITIONERS**

(By Sri Ashok S. Kinagi, Adv.)

AND:

1. The State of Karnataka,
Represented by its Secretary,
Dept. of Revenue, M.S. Building,
Bangalore – 01.
2. The Land Tribunal,
Represented by its Secretary,
Taluk Office, Sindhanur,
Dist. Raichur – 584 101.
3. Virupanna S/o Late Rangappa Kurbar,
Age: 50 years, Occ: Agriculture,
R/o Sukalpet, Tq. Sindhanur,
Dist. Raichur – 584 101.

4. Basappa S/o Late Rangappa Kurbar,
Age: 45 years, Occ: Agriculture,
R/o Sukalpet, Tq. Sindhanur,
Dist. Raichur – 584 101.
5. Yankappa S/o Late Rangappa Kurbar,
Age: 44 years, Occ: Agriculture,
R/o Sukalpet, Tq. Sindhanur,
Dist. Raichur – 584 101.
6. Huchamma W/o Yankappa Kurbar,
Age: 38 years, Occ: Agriculture,
R/o Sukalpet, Tq. Sindhanur,
Dist. Raichur – 584 101.
7. D.S. Kalmat S/o Siddayya Kalmat,
Age: 60 years, Occ: Advocate cum
Tax practitioner,
R/o Opp. Town PS, Sindhanur,
Dist. Raichur – 584 101.

... RESPONDENTS

(Sri Shivakumar Tengli, AGA for R1 & R2)

This Writ Petition is filed under Articles 226 & 227 of the Constitution of India praying to issue a writ or direction or order writ in the nature of certiorari, quashing the impugned order dated 08.07.1980 in No.LRM/TNC/SR-1393/75-76 vide Annexure-D.

This petition coming on for Preliminary Hearing this day, the Court made the following:

ORDER

1. Learned Additional Government Advocate takes notice for respondents 1 & 2.
2. In this writ petition, petitioners are challenging the order dated 08.07.1980 passed by the Land Tribunal, Sindhanur in Raichur District granting occupancy rights in favour of late

Rangappa Kurbar, father of respondents 3 to 6 in respect of 23 acres 18 guntas of land comprised in Sy.No.11 situated at Siddapur-D Village, Sindhanur Taluk.

3. There is delay of 34 years in approaching this Court by filing this writ petition. The delay is sought to be explained by the petitioners contending *inter alia* that enquiry was conducted by the Tribunal without giving any notice to their predecessor. It is their contention that late Mehaboob Bee was not aware of the proceedings. She died in the year 1985 and her legal representatives were also not aware of the proceedings and when 'recently' respondents 3 to 6 sold a portion of the land in question to respondent No.7, petitioners came to know about the proceedings before the Land Tribunal.

4. This explanation offered for the long and inordinate delay of 34 years in challenging the order passed by the Tribunal cannot be accepted. It is not in dispute that immediately after the order was passed, names of the tenants in whose favour occupancy rights were granted came to be entered in the revenue record. There is nothing to show that petitioners or their predecessor in title continued in possession of the property and asserted any right over the same during the last three decades. The explanation now sought to be offered is

designed only to lay a baseless claim which is belated and has become stale.

5. It has to be borne in mind that at such distance of time, if settled things are sought to be reopened, it will result in serious injustice. Conduct of the petitioners discloses that they were negligent in asserting their right and have kept quiet without any justification for more than three decades to challenge the order passed by the Land Tribunal. In such circumstances, without going into the merits of the matter, this Writ Petition is liable to be dismissed on the ground of delay and laches. Accordingly, the same is dismissed.

Learned Additional Government Advocate is permitted to file memo of appearance for respondents 1 & 2 within three weeks from today.

**Sd/-
JUDGE**

PKS