

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF NOVEMBER, 2016

BEFORE

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

W.P.No.1507/2016 &
W.P.Nos. 2386-87/2016 (KLR-RES)

BETWEEN

SRI K.B.RAMACHANDRARAJE URS,
S/O LATE SIRDAR K.BASAVARAJE URS,
SINCE DECEASED, REP. BY HIS LRS.

1. SMT.TRIPURASUNDARA DEVI,
D/O LATE SHRI. K.B.RAMACHANDRA RAJE URS,
AGED ABOUT 45 YEARS,
R/AT NO.5, DORCHESTER,
BEHIND JAKKUR FLYING CLUB,
JAKKUR, BANGALORE-65.
2. SMT. KEERTHI MALINI
D/O LATE SHRI.K.B.RAMACHANDRA RAJE URS,
AGED ABOUT 41 YEARS,
RESIDING AT NO.17, DORCHESTER,
BEHIND JAKKUR FLYING CLUB,
JAKKUR, BANGALORE-65.
3. SHRI CHADURANGA KANTHARAJA URS
SON OF LATE SHRI K.B.RAMACHANDRA RAJE URS,
AGED ABOUT 39 EYARS,
RESIDING AT "LEELA VIHAR",
NO.22/1, VINOBA ROAD,
JAYALAKSHMIPURAM, MYSORE-12,
MYSORE DISTRICT. ... PETITIONERS

(By Smt.GEETHA DEVI M.P., ADV.)

AND

1. THE JOINT DIRECTOR OF LAND RECORDS
MYSORE DISTRICT,
MYSORE. 570024.
2. THE ASSISTANT DIRECTOR OF LAND RECORDS
AND CITY SURVEY OFFICER,
MYSORE-570024.
3. SHRI SHIVAMADAIAH
JOINT DIRECTOR OF LAND RECORDS,
MYSORE DISTRICT,
MYSORE-570024.
4. THE DEPUTY DIRECTOR OF LAND RECORDS
MYSORE DISTRICT,
MYSORE-570024. ... RESPONDENTS

(By Sri KIRAN KUMAR T.L., AGA)

THESE WRIT PETITIONS ARE FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE ORDER DTD:8.5.2015 IN APPEAL NO.1689 OF 2003 ON THE FILE OF THE KARNATAKA APPELLATE TRIBUNAL AT BANGALORE AS PER ANNEXURE-P

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

ORDER

1. Order passed by the Karnataka Appellate Tribunal in appeal No.1689/2003 produced at Annexure-P is called in question in this writ petition. By the said order, the Tribunal has having set aside the order passed by the Joint Director of Land Records remitted the matter back to him to get the report

from the concerned Tahsildar regarding the question whether the land was a tenanted land or not and thereafter decide regarding deletion of entries made in column No.9 in the PT sheet with regard to the land in question.

2. Petitioners claim to be owners of land comprised in Sy.No.1 of Vijayashreepura situated at Mysore. According to them, land in question is not an agricultural land and was never assessed for land revenue. However, revenue officials had made a wrong noting in respect of the land in the PT sheet / enquiry register showing that it was a tenanted land. This was found in the land records particularly in column Nos.7(A) and 9. This entry was challenged before the Joint Registrar of Land records. By order dated 13.10.2003 the Joint Director of Land records partly allowed the appeal with regard to the entry in column No.7(A) pertaining to the alleged assessment of the land for revenue but rejected the appeal pertaining to entry in column No.9 showing that the land was a tenanted land. This was challenged by petitioner before the Karnataka Appellate Tribunal. The Tribunal has remitted the matter for fresh consideration to the Joint Director of Land Records. In

paragraph No.10 of the order, the Tribunal has observed as under:

“We feel that the claim made by the appellant regarding Col No.9 is not sustainable because the issue regarding the land in question was a tenanted land or not cannot be decided by the first respondent. We would say that the revenue authority is the only competent authority to say whether the land in question or part of this land was a tenanted land or not? Therefore, an investigation is necessary by calling the report from the concerned Tahsildar and then only the first respondent would be able to give a finding on this entry. Because the entry made as “genidararu” has been entered in the PT sheet means there must be some investigation on this point”.

3. Learned counsel for petitioners has filed a memo enclosing the copy of the judgment dated 17.03.2016 passed in W.A.Nos.1654/2008 and W.A.Nos. 2180-2201/2008. In the said order which pertains to the very same survey number, appeals filed by several persons claiming to be tenants of entire extent of land involved in Sy.No.1 of Vijayashreepura have been dismissed recording a finding that none of the records produced by them supported their claim for tenancy. Indeed, the Division

Bench of this Court confirmed the orders passed by the Land Tribunal and the learned Single Judge who had rejected the claim made by the tenants. A specific finding has been recorded in the said order by the Division Bench to the effect that the land in question had lost the characteristic of agricultural land way back in the year 1889-1900. In the light of this order passed by the Division Bench of this Court, learned counsel for petitioners rightly contends that the question of making any further investigation into the status of land as an agricultural land or as a tenanted land did not arise at all and therefore, the order passed by the Tribunal remitting the matter back for investigation in this regard and for calling for a report from the concerned Tahsildar does not arise. This submission, in my view, is quite correct and deserves to be accepted.

4. Order passed by the Division Bench puts at rest the controversy as to whether the land was a tenanted land or not. The Division Bench has further held that this land had lost the characteristic of agricultural land decades back. In such a situation, question of making any investigation with regard to the nature of land as a tenanted land or not does not arise.

Therefore, the order passed by the Tribunal deserves to be set aside.

5. Respondent No.2 – the Assistant Director of Land Records is directed to carry out necessary entries in the enquiry register pertaining to the property in question by deleting the entries found in column Nos.7A and 9 in the light of the observations made above.

Writ petitions are, accordingly, disposed of.

**Sd/-
JUDGE**

VP