



IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH

DATED THIS THE 31ST DAY OF JANUARY, 2024

BEFORE

THE HON'BLE MR JUSTICE V.SRISHANANDA

CIVIL REVISION PETITION NO.100060 OF 2018

BETWEEN:

SHRI. CHANDURAPPA
S/O. BHEEMAPPA JYOTHI,
DECEASED BY LR'S,

1. SUBHAS S/O. CHANDURAPPA JYOTHI,
AGE: 43 YEARS, OCC: AGRICULTURE,
TQ: YELBURGA, DIST:KOPPAL.

BEERAPPA S/O. BHEEMAPPA JYOTHI,
SINCE DECEASED BY LR'S,
2. DEVAMMA W/O. BEERAPPA JYOTHI,
AGE:76 YEARS, OCC:AGRICULTURE,
R/O. CHANDUR, TQ:YELBURGA, DIST:KOPPAL.
3. HANAMAPPA S/O. BEERAPPA JYOTHI,
AGE:42 YEARS, OCC:AGRICULTURE,
R/O. CHANDUR, TQ:YELBURGA, DIST:KOPPAL.
4. MAHESHA S/O. BEERAPPA JYOTHI,
AGE:40 YEARS, OCC:AGRICULTURE,
R/O. CHANDUR, TQ:YELBURGA, DIST:KOPPAL.
5. MANJAPPA S/O. PARASAPPA,
AGE:43 YEARS, OCC:AGRICULTURE,
R/O. ARKERI, TQ:YELBURGA, DIST:KOPPAL.
6. YAMANOORAPPA S/O. PARASAPPA,
AGE:41 YEARS, OCC:AGRICULTURE,
R/O. ARKERI, TQ:YELBURGA, DIST:KOPPAL.
7. HANAMAVVA W/O. HUCHHAPPA,
AGE:76 YEARS, OCC:AGRICULTURE,
R/O. CHANDUR, TQ:YELBURGA, DIST:KOPPAL.

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8. HANAMAPPA S/O. FAKEERAPPA,
AGE:53 YEARS, OCC:AGRICULTURE,
R/O. CHANDUR, TQ:YELBURGA,DIST:KOPPAL.
...PETITIONERS
(BY SRI. B. SHARANABASAWA, ADVOCATE)

AND:

1. SHRI. SANNAHANAMAPPA S/O. JOYTEPPA,
AGE: 56 YEARS, OCC: AGRICULTURE,
R/O. CHANDUR, TQ: YELBURGA, DIST: KOPPAL.
2. LAO KOPPAL,
TQ AND DIST:KOPPAL.

BHEEMAPPA S/O. KARIYAPPA JYOTHI,
DECEASED BY LR'S,
3. DODDA HANUMAPPA S/O. BHEEMAPPA JYOTHI,
AGE:42 YEARS, OCC:AGRICULTURE,
R/O. CHANDUR, TQ:YELBURGA, DIST:KOPPAL.
4. RENAMMA W/O. KARIYAPPA JYOTHI
AGE: 43 YEARS, OCC:AGRICULTURE,
R/O. HANDRAL, TQ and DSIT:KOPPAL.
5. CHANDURAPPA S/O. BHEEMAPPA JYOTHI,
AGE:40 YEARS, OCC:AGRICULTURE,
R/O. CHANDUR, TQ:YELBURGA, DIST:KOPPAL.
6. NINGAWWA W/O. SHARANAPPA DEVAR,
AGE:56 YEARS, OCC:AGRICULTURE,
R/O. MUDHOL, TQ:YELBURGA,DIST:KOPPAL.
7. HANUMAWWA W/O. NAGAPPA JANGALI,
AGE:51 YEARS, OCC:AGRICULTURE,
R/O. HALAVARTI, TQ AND DIST:KOPPAL.

...RESPONDENTS

(BY SRI. DEEPAK C.MAGANUR, ADVOCATE FOR R1, R3 TO R7;
SRI. PRAVEEN Y.DEVAREDDIYAVAR, ADVOCATE FOR R2)



THIS CIVIL REVISION PETITION IS FILED UNDER SEC.115 OF CPC, AGAINST THE ORDER DATED:19.06.2018 PASSED IN CIVIL MISC.NO.69/2007 ON THE FILE OF THE SENIOR CIVIL JUDGE AND JUDICIAL MAGISTRATE FIRST CLASS, YELBURGA, DISMISSING THE PETITION FILED UNDER SECTION 30 OF LAND ACQUISITION ACT.

THIS CIVIL REVISION PETITION, COMING ON FOR FINAL HEARING, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

Heard Sri.B.Sharanabasawa, learned counsel for the revision petitioners and Sri.Deepak C Maganur and Sri.Praveen Devareddiyavar, learned counsels for respondents.

2. This revision petition is filed challenging the order passed by the learned Senior Civil Judge and JMFC, Yelburga dated 19.06.2018 in Civil Misc. No.69/2007.

3. Facts in brief which are utmost necessary for disposal of this case are as under:

3.1 A reference was made by the Assistant Commissioner, Koppal under Section 30 of the Land Acquisition Act to determine as to the entitlement of proper person to receive compensation for the land which



was acquired by the Land Acquisition Officer, Koppal to the extent of 3 acre 31 guntas in Sy.No.128/5 of Chandur village.

3.2 The revision petitioner and others were notified in the said reference. The petitioners were Chandurappa and others and respondent was Sannahanamappa.

3.3 Notification under Section 4(1) of the Land Acquisition Act came to be issued wrongly according to the petitioners in the name of Sannahanamappa, who is no way connected to the acquired land. Therefore, they claimed that the property belongs to the petitioners therein and sought for directing that award amount be paid to them.

3.4 Respondent therein contended that he is the owner of the property and therefore his name has been rightly notified by the Land Acquisition Officer and sought for payment of award amount in his name.



3.5 Learned Senior Civil Judge after raising necessary points, recorded evidence of parties. After hearing the parties in detail, the learned Senior Civil Judge dismissed the claim petition filed by the petitioners and allowed the claim made by Sannahanamappa and directed that the award amount is to be paid by the Land Acquisition Officer in favour of Sannahanamappa.

4. Being aggrieved by the same, the petitioners are before this Court.

5. Learned counsel for the revision petitioners, Sri.B.Sharanabasawa vehemently contended that the learned Senior Civil Judge has wrongly passed the impugned order and has failed to take note that petitioners were the owners of property as their names were found in 4(1) notification and sought for allowing the revision petition.

6. Per contra, Sri.Deepak Maganur contended that Sannahanamappa is the actual owner of the property and



revenue entries stood in his name which has been rightly appreciated by the trial Judge in the Reference Court and after considering the oral and documentary evidence placed on record in a cumulative manner, the trial Judge allowed the claim of Sannahanamappa and sought for dismissal of revision petition.

7. In view of the rival contentions of the parties, this Court perused the material on record meticulously.

8. After hearing the parties in detail and on perusal of material on record, this Court is of the considered opinion that the petitioners are entitled to establish their right by filing a separate suit for declaration in respect of acquired property.

9. Unless such a title is established by the petitioners, merely on the ground that notification has been made in their name, perhaps wrongly, is not sufficient enough to hold that they are the owners of acquired property.



10. Learned trial Judge in the Reference Court has considered the rival contentions of the parties and has rightly allowed the claim of Sannahanamappa and permitted him to withdraw the award amount with accrued interest.

11. Sri.Sannahanamappa, who was the respondent in Reference is entitled to receive compensation as of now along with accrued interest, subject to condition that he shall give an undertaking that in the event of duly constituted suit being filed by the revision petitioners and decreed in their favour, he would return the entire award amount with accrued interest as on the date of decree. Amount in deposit with accrued interest is to be paid to Sannahanamappa only after taking undertaking in the form of any affidavit.

12. Subject to such observation, the civil revision petition stands disposed of.



13. Further, if the suit is not filed within a year, the amount withdrawn by Sannahanamappa would become absolute.

14. The time spent in the Reference Court shall be excluded for the purpose of limitation.

15. If a fresh suit is filed, all other contentions of the parties are kept open to be urged in the suit.

Sd/-
JUDGE

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List No.: 2 SI No.: 60