

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF JULY, 2025

BEFORE

THE HON'BLE MR JUSTICE ANANT RAMANATH HEGDE

WRIT PETITION NO.18806 OF 2018 (KVOA)

C/W

WRIT PETITION NO.49589 OF 2014 (KVOA)

IN WP NO.18806/2018:

BETWEEN:

SRI N RAVI,
S/O NARAYANA REDDY,
AGED ABOUT 59 YEARS,
R/AT ADIGONDANAHALLI VILLAGE,
ATTIBELE HOBLI, ANEKAL TALUK,
BANGALORE DISTRICT.

...PETITIONER

(BY SRI G A VISWANATHA REDDY, ADVOCATE)

AND:

1. THE TAHSILDAR,
ANEKAL TALUK, ANEKAL - 562104,
BANGALORE DISTRICT.
2. SRI N VENKATASWAMY,
S/O LATE NANJAPPA,
AGED ABOUT 56 YEARS,
3. SRI RAJAPPA M,
S/O LATE MUNIYAPPA,
AGED ABOUT 48 YEARS,
4. SRI MANJUNATHA

S/O LATE MUNIYAPPA,
AGED ABOUT 46 YEARS,

5. SMT MUNIYAMMA
W/O LATE MUNIYAPPA,
AGED ABOUT 68 YEARS,
6. SMT JAYAMMA
W/O LATE NARAYANAPPA,
AGED ABOUT 60 YEARS,
THE RESPONDENTS 2 TO 6
ARE R/AT ADIGONDANAHALLI VILLAGE,
ATTIBELE HOBLI, ANEKAL TALUK -
562104,
BANGALORE DISTRICT.
7. SRI LACHAPPA,
S/O YELLAPPA,AGED ABOUT 60 YEARS,
R/AT JANATHA COLONY,
ATTIBELE ANEKAL TALUK - 562104,
BANGALORE DISTRICT.
8. SRI NARAYANAPPA,
S/O YELLAPPA,AGED ABOUT 58 YEARS,
R/AT KALENA AGRAHARA VILLAGE,
BANGALORE SOUTH TALUK - 560079,
BANGALORE DISTRICT.
9. SRI MUNIYAPPA,
S/O YELLAPPA,AGED ABOUT 54 YEARS,
10. SRI CHIKKA BYALAPPA
DEAD BY HIS LRS,
 - a. SMT GULLAMMA,
DEAD HER LEGAL REPRESENTATIVE IS
10(b)
 - b. SRI A.C.VENKATSWAMY,

S/O LATE CHIKKA BYALAPPA,
AGED ABOUT 55 YEARS,

11. SRI MUNIYAPPA
DEAD BY HIS LRS,
 - a. SMT.RAMAKKA,
DEAD HER LEGAL REPRESENTATIVE IS
11(b)
 - b. SRI ANNAYAPPA
S/O LATE MUNIYAPPA,
AGED ABOUT 50 YEARS,
12. SRI NAGAPPA
S/O LATE GULLAPPA,
AGED ABOUT 60 YEARS,
(DIED HIS BROTHERS ARE ALREADY ON RECORD
AMENDMENT CARRIED OUT AS PER THE COURT ORDER DT
09.01.2025)
13. SMT RAMAKKA
DEAD BY HER LRS,
 - a. SMT PUTTAMMA,
D/O LATE RAMAKKA,
AGED ABOUT 50 YEARS,
14. SRI CHINNAPPA,
DEAD BY HIS LRS,
 - a. SMT PAPAMMA,
W/O LATE CHINNAPPA,
AGED ABOUT 40 YEARS,
15. SRI CHINNAPPA
S/O GONAPPA, DEAD BY HIS LRS,
 - a. SMT PAPAMMA,
W/O CHINNAPPA,
AGED ABOUT 65 YEARS,

- b. SRI MUNIRAJU
S/O LATE CHINNAPPA,
AGED ABOUT 58 YEARS,
- c. SRI KRISHNAPPA
S/O LATE CHINNAPPA,
AGED ABOUT 53 YEARS,
- 16. SRI DODDA BYALAPPA,
DEAD BY HIS LRS,
- a. SRI KRISHNAPPA,
S/O LATE DODDA BYALAPPA,
AGED ABOUT 65 YEARS,
- 17. SRI CHINNAPPA,
S/O GURAPPA,DEAD BY HIS LRS,
- a. SRI MUNIRAJAPPA,
S/O LATE CHINNAPPA,
AGED ABOUT 60 YEARS.
- b. SRI NARAYANAPPA
S/O LATE CHINNAPPA,
AGED ABOUT 49 YEARS,
- c. SRI RAMAPPA,
S/O LATE CHINNAPPA,
AGED ABOUT 55 YEARS,

THE RESPONDENTS 9 TO 17 (a) to (c)
ALL ARE R/AT ADIGONDANAHALLI
VILLAGE,ATTIBELE HOBLI,
ANEKAL TALUK - 562104,
BANGALORE DISTRICT.

..RESPONDENTS

(BY SRI UDAY HOLLA, SENIOR COUNSEL A/W
SRI VIVEK HOLLA, ADVOCATE FOR R2 TO R6,

SRI PRINCE ISAAC, AGA FOR R1 R9, R10(B),
 R11(B) R13(A), R14(A), R15(A) TO R15(C),
 R16(A), R17(A) TO R17(C) ARE SERVED AND
 UNREPRESENTED,
 SRI M Y LOKESH, ADVOCATE FOR R7 AND R8,
 V/O/DT: 19.09.2024, R10(B) IS TREATED AS LRS OF
 R10(A) AND R11(B) IS TREATED AS LRS DECEASED
 R11(A))

THIS WRIT PETITION IS FILED UNDER ARTICLES 226
 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO
 QUASH THE ORDER DTD 22.01.2018 PASSED BY THE
 COURT OF THE THIRD ADDITIONAL DISTRICT AND
 SESSIONS JUDGE, BANGALORE RURAL DISTRICT SIT AT
 ANEKAL IN M.A.NO.90/2011 VIDE ANNEX-A.

IN WP NO.49589 OF 2014:

BETWEEN:

1. SRI LACHAPPA,
 S/O YELLAPPA,
 AGED ABOUT 63 YEARS,
 R/AT JANATHA COLONY,
 ATTIBELE, ANEKAL TALUK,
 BANGALORE DISTRICT,
 PIN - 562106.
2. SHRI NARAYANAPPA,
 S/O YELLAPPA,
 AGED ABOUT 58 YEARS,
 R/AT KALYANA AGRAHARA,
 BANGALORE SOUTH TALUK,
 PIN - 562106.
3. SMT MUNIYAMMA
 W/O ANNAYYAPPA
 AGED ABOUT 63 YEARS
4. SMT GULLAMMA,

W/O LATE CHIKKA BYLAPPA,
AGED ABOUT 83 YEARS,

5. SHRI A C VENKATASWAMY,
S/O LATE CHIKKA BYLAPPA,
AGED ABOUT 55 YEARS,
6. SMT PUTTAMMA,
D/O SWATHAPPA & RAMAKKA,
AGED ABOUT 63 YEARS,
7. SHRI ANNAYYAPPA,
S/O LATE MUNIYAPPA,
AGED ABOUT 53 YEARS,
8. SMT PAPAMMA,
W/O LATE CHINNAPPA,
AGED ABOUT 72 YEARS,
9. SHRI MUNIRAJU,
S/O LATE CHINNAPPA,
AGED ABOUT 53 YEARS,
10. SHRI KRISHNAPPA,
S/O LATE CHINNAPPA,
AGED ABOUT 48 YEARS,
11. SHRI KRISHNAPPA,
S/O LATE DODDA BYLAPPA,
AGED ABOUT 61 YEARS,
12. SHRI MUNIRAJAPPA,
S/O LATE CHINNAPPA,
AGED ABOUT 45 YEARS,
13. SHRI NARAYANAPPA,
S/O LATE CHINNAPPA,
AGED ABOUT 43 YEARS,
14. SHRI RAMAPPA,

S/O LATE CHINNAPPA,
 AGED ABOUT 41 YEARS,
 PETITIONER NO.3 TO 14 ARE ALL
 R/AT ADIGONDANAHALLI VILLAGE,
 ATTIBELE HOBLI, ANEKAL TALUK,
 BANGALORE DISTRICT,
 PIN - 562106.

...PETITIONERS

(BY SRI K SEENAPPA, ADVOCATE FOR P1 TO P3,
 SRI M Y LOKESHA, ADVOCATE FOR P4 TO P14)

AND:

1. THE THASILDAR,
 ANEKAL TALUK, ANEKAL,
 BANGALORE DISTRICT, PIN - 562106.
2. THE SPECIAL LAND ACQUISITION OFFICER,
 KARNATAKA HOUSING BOARD,
 CAVEARY BHAVAN, BANGALORE .
3. SHRI N VENKATASWAMY,
 S/O LATE NANJAPPA,
 AGED ABOUT 43 YEARS,
4. SHRI M RAJAPPA,
 S/O LATE MUNIYAPPA,
 AGED ABOUT 33 YEARS,
- 5 . SHRI MANJUNATH,
 S/O LATE MUNIYAPPA,
 AGED ABOUT 28 YEARS,
6. SMT MUNIYAMMA,
 W/O LATE MUNIYAPPA,
 AGED ABOUT 68 YEARS,

RESPONDENT NO.3 TO 6 ARE ALL
 R/AT ADIGONDANAHALLI VILLAGE,
 ATTIBELE HOBLI, ANEKAL TALUK,

BANGALORE DISTRICT, PIN - 562106.

7. SMT JAYAMMA,
W/O LATE NARAYANAPPA,
AGED ABOUT 63 YEARS,
R/AT 10TH CROSS, WILSON GARDEN,
BANGALORE-560027.

8. SRI MUNIYAPPA,
W/O LATE YELLAPPA,
AGED ABOUT 53 YEARS,
ADIGONDANAHALLI VILLAGE,
ATTIBELE HOBLI, ANEKAL TALUK,
BANGALORE DISTRICT - 562106

...RESPONDENTS

(BY SRI PRINCE ISAAC, AGA FOR R1,
SRI H G VASANTHA KUMAR, ADVOCATE FOR R2,
SRI UDAY HOLLA, SENIOR COUNSEL A/W
SRI VIVEK HOLLA, ADVOCATE FOR R3 TO R7,
R8 - IS SERVED AND UNREPRESENTED)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226
AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO
QUASH THE ORDER DTD.23.7.2014 IN MISC.APPEAL
NO.72/2011 PASSED BY THE COURT OF THE III ADDL.
DISTRICT AND SESSIONS JUDGE, BANGALORE RURAL
DISTRICT, SIT AT ANKEAL VIDE ANNEX-A AND ETC.

THESE PETITIONS HAVING BEEN HEARD AND
RESERVED FOR ORDERS ON 11TH JUNE, 2025 AND
COMING ON FOR PRONOUNCEMENT THIS DAY, THE
COURT PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR JUSTICE ANANT RAMANATH HEGDE

CAV ORDER

Writ petition No.49589/2014 is filed assailing the order
dated 10.05.2011 in proceeding No.V.O.A.E.V.R.127/80-81

before Tahasildar, Anekal. The Tahasildar, Anekal in terms of the impugned, acting under the provisions of the Karnataka Village Offices Abolition Act, 1961 (for short 'Act, 1961) has regranted seven properties, having distinct survey numbers, in favour of respondents No.3 to 7.

2. The District Judge, the Appellate Authority under the Act, 1961, has dismissed the appeal in M.A. No.72/2011 vide order dated 23.07.2014 confirming the order passed by the Tahsildar.

3. Assailing the said order passed by Tahasildar, and order passed by the District Judge in M.A.No.72/2011 confirming the Tahasildar's order, one more petition is filed in W.P.No.18806/2018. Said petition is filed by the son of the purchaser of the land bearing Survey No.93, measuring 35 guntas, which is one of seven properties, in dispute in the connected Writ Petition. The petitioner in the second petition prays that his father purchased 35 guntas under registered sale deed dated 05.11.1969. Neither his father nor he was party to the proceeding No. V.O.A.E.V.R.127/80-81 before the Tahasildar, as such, the matter be remanded to the

Tahasildar to afford an opportunity to the petitioner to participate in the proceeding.

4. The dispute is relating to the regrant of seven survey numbers in Adigondanahalli Village, Anekal Taluk. All seven lands were once attached to the Village Office. The Act, 1961 abolished the Village Offices. Under the said Act, 1961, the person who was holding the Village Office as on appointed day is entitled to apply for regrant of the land attached to the village office, as emoluments. The person who seeks regrant, must establish that he was holding the Village Office as on the date of the appointed day under the Act, 1961 and that the land was attached to the village office.

5. Subject lands were Thoti Inam Lands. In other words, the persons carrying out Thoti work are entitled to claim regrant subject to the proof that the lands were conferred on such persons, as emoluments for carrying Thoti work.

6. Petitioners in first petition, claim that ancestors of petitioners and respondents were doing Thoti work and were

in possession of the lands in question. Thus both petitioners and contesting respondents are entitled to regrant to the extent of respective holdings, though extent of respective holding is not specified by the petitioners.

7. The contesting respondents contend that the petitioners are unconcerned to the subject lands and the Thoti work was done by their ancestors and as on the appointed day, A.K.Pillaiah, their grandfather was doing Thoti work. On this premise, the contesting respondents claim exclusive right over the subject lands and prayed for dismissal of the petitions.

8. Learned counsel for the petitioners in W.P. No.49589/2014 would submit that in an application dated 23.03.1991 filed before the Deputy Commissioner, seeking modification of the regrant order passed in 1986, the predecessors of respondents (children of A.K. Pillaiah) have admitted that the present petitioners' predecessors were cultivating the property jointly along with the predecessors of the contesting respondents. Though the contention in this regard was raised before the Tahsildar, the document in support of it was not produced before the Tahasildar and

same is now produced before this Court as additional document.

9. It is urged that in the application dated 23.03.1991, the ancestors of contesting respondents (children of A.K.Pillaiah) sought modification of earlier grant order of 1986, jointly granting the subject lands in favour of 5 children of Thoti Guruva (ancestor of the petitioners) and children of A.K. Pillaiah. In the said application, children of A.K.Pillaiah claimed only half share and stated that remaining half share belongs to the persons who are beneficiaries under the order dated 03.02.1986.

10. Referring to one more document produced as additional evidence i.e., the memorandum of Miscellaneous Appeal No.103/1995 filed by children of A.K.Pillaiah, it is urged that, in the said appeal, a reference is made to the application of the year 1991 submitted before the Deputy Commissioner.

11. Learned counsel submits that the documents now sought to be produced by way of additional documents were not with the petitioners as the documents were executed by

the contesting respondents' predecessors. Contesting respondents and their predecessors have suppressed these documents and the petitioners seek indulgence of the Court to produce additional documents.

12. Learned counsel would also contend that the impugned orders are passed based on the alleged admission in the cross examination of one of the petitioners. It is urged that alleged admission is now shown to be wrong from the contents of additional documents where petitioners' right is admitted in explicit terms.

13. Learned Senior counsel Sri Udaya Holla appearing for the contesting respondents would contend that the admission before the Tahasildar is unambiguous and explicit and there is no room for any further interpretation to contend that the admission is either stray admission or by mistake.

14. It is also urged by learned Senior counsel that impugned orders are not passed based only on admission but also the documentary evidence viz., Ex.P.4, the order granting monthly salary to Sri A.K.Pillaiah as Act, 1961 which

abolished Village Office, provided for compensation in the form of monthly salary to the holder of the Village Office. It is urged that the impugned orders based on the admission in cross examination as well as documentary evidence, need to be given the limited scope for interference in such order under Article 227 of the Constitution of India.

15. Learned Senior counsel would also contend that no reasons are made out to allow production of additional documents at this juncture. The matter was before this Court on earlier occasion. It was remanded on two occasions by the learned District Judge and the documents were not produced on earlier occasions and only on the ground of delay, the application has to be rejected, is the submission.

16. Learned Senior counsel would also point out that two different dates found in the said application viz., 28.09.1995 and 23.03.1991 raise serious doubts as to the authenticity of the alleged application for modification of the interim order and it is more than sufficient to reject the document.

17. It is also urged that, assuming that the application is submitted by children of A.K.Pillaiah before the Deputy Commissioner, same has to be construed as an application filed by children of A.K.Pillaiah for redistributing the properties among three children of A.K.Pillaiah and not the petitioners.

18. Referring to the Memorandum of Appeal in M.A.No.103/1995, learned Senior counsel would urge that the contesting respondents are not parties to the said appeal and the contents of the Memorandum of Appeal do not bind the said respondents.

19. In so far as the Writ Petition filed by the son of the purchaser of Sy.No.93, it is urged that vendor through whom the purchaser is claiming title under the sale deed of the year 1969, did not have the title. Thus alleged purchaser or his son, the petitioner in W.P.No.18806/2018 is not necessary party to any of the proceedings. It is urged that the vendor has participated in the proceeding and contested the matter and no prejudice is caused to the petitioner.

20. Learned counsel appearing for the petitioners by way of reply would refer to the regrant order at Annexure-C passed in the year 1986 and would urge that the said order is based on the joint application filed by the parties. The impugned orders could not have been passed without reference to the admission in the joint applications.

21. This Court has considered the contentions raised at the bar and perused the records.

2. Section 3(1) of Act, 1961 reads as under:

3. Powers of Deputy Commissioner to decide certain questions and appeals: (1)
If any question arises, -

- (a) whether any land was granted or continued in respect of or annexed to a village office by the State, or*
- (b) whether any person is a holder of a village officer, or*
- (c) whether any person is an authorised holder, or*
- (d) whether any person is an unauthorised holder,*

the Deputy Commissioner shall, after giving the party affected an opportunity to be heard

and after holding an enquiry in the prescribed manner decide the question. "

22. Said provision contains 4 different aspects. As far as first aspect is concerned, there is no dispute that all lands in dispute are Thoti service lands.

23. Next question is whether the persons claiming regrant are holders of village office?

24. The expression "**village office**" is defined in Section 2(1)(n) of Act, 1961. Same reads as under:

*2(1)(n). "**Village office**" means every village office, to which emoluments have been attached and which was **held hereditarily before the commencement of the Constitution under an existing law relating to a village office, for the performance of duties connected with administration or collection of the revenue or with the maintenance of order or with the settlement of boundaries or other matter of civil administration of a village**, whether the services originally appertaining to the office continue or have ceased to the performed or demanded and by whatsoever designation the office may be locally known.*

(emphasis supplied)

25. On a reading of the provision, it is evident that "**village office**" means **every village office** to which emoluments are attached and which was **held hereditarily**. It is also relevant to notice that the village office must have been held under the law prevailing prior to the Constitution of India.

26. As noticed, under Section 3(1)(b) of Act, 1961 the authority under the Act, 1961 is required to decide as to whether the applicant is a holder of village office or not.

27. Section 2(1)(g) of Act, 1961 reads as under:

2(1)(g) "Holder of a village office" or "Holder" means a person having an interest in a village office under an existing law relating to such office:

Provided that where any village office has been entered in a registered or record under an existing law relating to such village office, as held by the whole body of persons having interest in the village office, the whole of such body shall be deemed to be the holder;"

28. On a reading of the aforementioned definition of a "holder of a village office" or "holder", it is noticed that

holder of a village office need not be necessarily an individual, but it can be a whole body of individuals having interest in the village office. The *proviso* also indicates if whole body of individuals as is entered in the records as holder of a village office, then such whole body will be the holder of village office.

29. There is no provision in the Act, 1961 which mandates the a particular kind or mode of proof relating to village office by the person who claims regrant. However, to consider whether the person was holding the village office, the authority ideally will look into the revenue records or village office registers.

30. In the absence of such records, the authority may have to rely upon other circumstances and any other evidence if available to find out as to the applicant was holding the village office or not. Entry in the property records or entry in the records like register of Barawardar, or inam register relating to village office would be credible evidence if such entries are made by following the procedure. However, the proof need not be based only on these two categories of records.

31. Admittedly, in these petitions, both parties have failed to produce any specific order and entry in the Barawardar, or inam register to hold that a particular person is registered as village office holder. This is the finding in the impugned order passed by the Tahasildar.

32. Both parties to the proceeding are claiming to be the holders of **hereditary Thoti village office**, on the premise that their ancestors did Thoti work. (It is relevant to mention here that the application under the Act, 1961 does not insist for detailed pleading and such plea is not found in the applications filed by parties). Both parties are claiming hereditary right as can be seen from the evidence led.

33. The State has not disputed that the subject lands were service inam lands. Thus, this Court, in the absence of records relating to village office, would proceed to consider as to whether any other acceptable materials are produced by the parties for the consideration of the Authority under the Act, 1961.

34. Both Tahasildar and learned District judge have come to the conclusion that A.K.Pillaiah (ancestor of

contesting respondents) was the village office holder on the appointed day. The basis for such finding is Ex-P4 (wrongly mentioned as Ex.P5 in the impugned order). Said document is dated 23-11-1982. This document reveals that A.K. Pillaiah was paid Rs.75 per month as salary, towards compensation payable under Act, 1961 for having abolished the village office and Ex-P4 reveals that the salary is payable with effect from 01.04.1982.

35. This document is not disputed by the petitioners. Petitioners contend that A.K.Pillaiah used to collect monthly salary on behalf of petitioners as well. The question is, does Ex.-P4 demolish the claim of the petitioners and establishes the claim of the contesting respondents.

36. Before considering whether the petitioners' claim is demolished or not established, the respondents' claim, who are regranted the subject lands be discussed and considered.

37. Ex-P4 order does not indicate that same is passed in recognition of Thoti service with reference to any particular survey number. There is nothing on record to

suggest that said order is based on any adjudication or any entry in the public documents. Extent of land in the name of A.K. Pillaiah as holder of village office is not forthcoming. Thus, based only on Ex.P4, one cannot conclude that A.K. Pillaiah was Thoti service holder for all the subject lands. Nevertheless, it is quite possible that A.K. Pillaiah may be or may not be the holder of village office attached to subject lands. Or he may be the holder of part of the subject lands. Based on Ex.P4, one can only draw an inference that A.K. Pillaiah may have held a village office and nothing more. Since, the petitioners also admit that A.K. Pillaiah's ancestors were doing Thoti work, this Court can conclude that he was the holder of the village office and based on Ex-P4, one cannot jump to the conclusion that he held subject lands as village office emoluments.

38. In the impugned order, Tahasildar has primarily proceeded to pass regrant order based on Ex.P4. Tahasildar also observed said document was the basis of regrant in favour of all the applicants, in terms of regrant order in the year 1986. It is to be noticed that order of 1986 was set aside. Last paragraph in page No. 6 of the impugned order,

passed by the Tahasildar, refers to previously set aside regrant order of the year 1986 to come to the conclusion that A.K. Pillaiah was village office holder based on Ex-P4.

39. Coming to the petitioners' claim, it is noticed that Tahasildar has held that no records are produced to hold that petitioners or their predecessors held village office. It is also held by Tahasildar that petitioners have not placed materials to show that they belong to the family of A.K. Pillaiah. In the cross examination, it is stated that family of Guruva (petitioners' ancestor) is different from family of Parendiga, the ancestor of respondents, though in the examination in chief, petitioners asserted that Guruva was the ancestor of petitioners and contesting respondents.

40. This Court is also of the view that before the Tahasildar and District Judge, petitioners have not placed cogent materials to accept their claim.

41. However, before this Court as already noticed, petitioners have placed additional documents discussed above. Before considering those documents, it is necessary

to look into the applications filed before Tahasildar seeking regrant.

42. This Court has secured the original records from the office of Tahasildar. Original file would reveal that there are multiple applications seeking regrant.

43. Two separate applications were filed by one of his sons namely Nanjappa, ***not individually, but along with predecessors of the petitioners.*** Extent of lands claimed by each of the joint applicants is not mentioned in both joint applications. Both applications are filed for 7 survey numbers.

44. In both applications, Nanjappa, one of the sons of A.K. Pillaiah has signed. One application is in handwriting (page No. 86 of the original file) and another, (in page Nos. 29 to 31 of original file), in a typed format and part of it contains entries in handwriting. These applications also bear the signature of Nanjappa. Both applications do not bear the date.

45. In addition, quite a few individual applications are filed, but not by children of A.K.Pillaiah.

46. After the remand of the matter by the learned District Judge in the year 2007, legal heirs of children of A.K.Pillaiah/contesting respondents of this petition, filed application dated 15.04.2008 under Section 5(1) of Act, 1961 to regrant **full extent** of 7 survey numbers.

47. It is relevant to notice that A.K. Pillaiah had died in the year 1986, did not file application seeking regrant. Other than Nanjappa, his two children did not file any application to claim regrant of land. The application seeking regrant in respect of entire lands (exclusively) was filed only by legal heirs of three children of A.K. Pillaiah in the year 2008.

48. Though learned counsel for the petitioners would urge that the application filed in the year 2008 is time barred, Sri Udaya Holla, the learned Senior counsel pointed out that no time is fixed under the Act, 1961 to file application seeking regrant.

49. The plea of limitation urged by the learned counsel appearing for the petitioner with reference to Form No.7 under the Karnataka Land Reforms Act is not applicable

to application seeking regrant under Act, 1961. Thus, the contention that the application filed in the year 2008 is time barred has to be rejected.

50. However, the manner in which the application is filed in 2008 has to be considered with a bit of circumspection. The reason is, this application is of the year 2008 seeks larger extent of lands than what was claimed earlier in the joint applications submitted by Nanjappa, along with others. Though the joint applications filed by Nanjappa and others appear to recognize the rights of several persons namely the petitioners' ancestors, the application filed in the year 2008, was filed claiming exclusive right over the subject lands.

51. The application filed in the year 2008, to the aforementioned extent contradicts with the claim made in the joint applications referred to above. The application filed in 2008, if is considered carefully, does not contain a statement that the propositus A.K.Pillaiah or earlier applicant Nanjappa have mistakenly omitted to file an application seeking regrant for the entire extent of subject lands. The application does not say as to why the earlier applications

were filed jointly admitting the Thoti work carried out by predecessors of the joint applicants who are the ancestors of the petitioners.

52. What is further relevant to notice is after the order which was passed in 1981, three sons of A.K. Pillaiah namely Nanjappa, Muniyappa and Narayanappa filed an appeal before the District Judge in M.A.No.103/1995 invoking Section 3(2) of Act, 1961. In the said appeal memorandum, the appellants who are the sons of A.K. Pillaiah contended that their predecessor (grandfather) Muninandanappa, the father of A.K. Pillaiah was in possession of **half portion** in the subject lands in dispute.

53. Paragraph No.13 of the said appeal memorandum reads as under:

*"13. The appellants has also filed **an application in the year 1991 for modification of the earlier order** on coming to know the regrant order, but the first respondent has not considered and not given any opportunity of being heard and passed the impugned order. On this ground also the impugned order are liable to be set-aside."*

(emphasis supplied)

54. From the aforementioned ground No.13, it is evident that appellants (children of A.K. Pillaiah) claim to have filed an application in the year 1991 for *modification* of the earlier regrant order (of 1986). The ground does not indicate that the appellants therein claimed exclusive right over the subject lands.

55. Further grounds No.6, 10 and 13 which are extracted below also indicate the same.

*"6). The first respondent has not inspected the spot and not drawn any mahazar **without knowing the realities and possession of the respective parties**, the impugned order came to be passed. Hence, the same liable to be set-aside.*

*10). Though the respondents No.1 and 2 are not entitled for the **regrant to the extent regranted** by the first respondent, first respondent had passed the regrant order and the same is liable to be set aside.*

*13). **The appellants have also filed an application in the year 1991 for modification of the earlier order on coming to know the regrant order**, but the first respondent has not considered and not given any opportunity of being heard and passed the impugned order."*

(emphasis supplied)

56. The prayer in the said appeal also assumes importance. The prayer reads as under:

"Wherefore the appellants pray that this Hon'ble Court be pleased to call for the records and set aside the impugned order passed by the first respondent in VOA/EVR/127/1980-81 dated 3/2/1986 and regrant the lands bearing survey No. in favour of the appellants.

3/2, measuring 1 1/2 guntas

Sy.No.16, measuring 23 guntas

Survey No.36, measuring 2 1/2 guntas,

Survey No.49, measuring 2 acres 04 guntas

Survey No.54, measuring 1 acre 07 guntas

Survey No.82, measuring 1 acre 04 guntas

all are situated at Adigondanahalli Village, Attibele Hobli, Anekal Taluk, by allowing this appeal with costs, in the interest of justice and equity."

57. On going through the said grounds extracted above and the prayer, it is evident that the appellants in the said appeal claimed only half share in the subject properties.

58. The said appeal in M.A.No.103/1995 came to be dismissed for non prosecution vide order dated 17.08.1988.

59. However, one more appeal is filed in 2006 challenging the original regrant order which was subject matter of challenge in M.A.No.103/1995 (probably

suppressing the fact that miscellaneous appeal No.103/1995 was dismissed for non prosecution) in Miscellaneous Appeal No.118/2006.

60. Said appeal is filed by legal heirs of children of A.K. Pillaiah. The appeal memorandum in the said appeal does not disclose the dismissal of M.A.No.103/1995. Probably it was also not brought to the notice of the Appellate Court in M.A.No.118/2006 that Miscellaneous Appeal No.103/1995 challenging the regrant of order of 1986 is dismissed for non prosecution. Nevertheless, the appeal is allowed and the matter was remitted to the Tahsildar for fresh consideration.

61. After the remand, the Tahsildar considered the case afresh and said order was called in question in M.A.No.29/2010 by the present petitioners as the Tahasildar regranted the properties in favour of contesting respondents of this petition. M.A.No.29/2010 was allowed and matter was remanded to the Tahasildar for fresh consideration. In terms of impugned order, again the properties were regranted to the contesting respondents No.3 to 7.

62. In page No.6 of the impugned order dated 10.05.2011, the petitioners' contention that children of A.K. Pillaiah, namely Nanjappa, Muniyappa and Narayanappa filed an application before the Deputy Commissioner making a claim that half share in the properties are exclusively cultivated by them and the contention based on M.A. No.103/1995 are noticed. However its implications are not considered, probably for want of records as the Memorandum of Appeal in M.A.No.103/1995 or the application said to have been filed in the year 1991 before the Deputy Commissioner are not placed before the Tahasildar.

63. It is noticed from the cross examination, that the contesting respondents have put a suggestion to the petitioner's witness stating that no application is filed for modification. In the examination in chief, the petitioners have stated about the dismissal of M.A.No.103/1995. There is no cross examination on the said document.

64. The additional document (application said to have been filed before the Deputy Commissioner) ***if proved*** speaks about exclusive possession of half share by three

children of A.K. Pillaiah and remaining half share by the remaining parties to the proceeding before the Tahasildar. Said document ***if proved*** and read along with the appeal memorandum in M.A.No.103/1995, one can come to the conclusion that three children of A.K. Pillaiah filed an application for modification of the regrant order passed in the year 1986.

65. However, as urged by Sri Udaya Holla, the learned Senior Counsel, the discrepancy in the date in the second page of the document creates some doubt about the authenticity of the document which the petitioners have to explain.

66. At the same time, even if the said disputed application is not accepted at this stage, for want of proper explanation and evidence relating to its proof, the appeal memorandum refers to an application said to have been filed in the year 1991. To substantiate the contention that the application filed in the year 1991, which is referred to in the appeal memorandum, is different from the application which is produced by the petitioners, the respondents have not placed any other document.

67. The contents of appeal memorandum indicates (subject to proper explanation by contesting respondents) that children of A.K. Pillaiah did not make a claim in excess of half portion of the survey numbers involved in the present petition.

68. The prayer in the said appeal itself was to regrant half portion and not the entire portion of the subject lands. The appeal was filed challenging the regrant order wherein the grant is made jointly in favour of all the parties to the proceedings. The appellants in the said appeal were only aggrieved by the joint regrant in respect of the half portion of the lands, which according to them were in their exclusive possession.

69. The Tahsildar has not taken into consideration this aspect though there is a reference in the impugned order to the contention raised by the present petitioners before the Tahsildar. Even before the learned District Judge, there is no reference to these contentions. The reason is that the documents were not placed before the Tahsildar though the contention was raised.

70. Since the documents are placed before this Court, for the first time, notwithstanding the fact that these documents are not produced earlier before the Authority, considering the fact that one of the documents namely the appeal memorandum in M.A. No.103/1995 is filed by the children of A.K.Pillaiah, grandfather of contesting respondents, notwithstanding the delay in producing the document, the appeal memorandum deserves consideration. The reason is simple. The contesting respondents suppressed the said appeal, through out all the proceedings that have taken place since 1995. And the delay in producing the document has to be condoned as the proceeding in M.A.No.103/1995 is already referred to in the evidence before the Tahasildar, though the document is not produced. Since a reference is made to the said proceeding, the contesting respondents in all fairness should have produced the said document and offered their explanation to the said document. However, it is not done.

71. Since this Court is of the view that the documents have to be considered in accordance with law, the contesting respondents should be given an opportunity to explain the

contents of appeal memorandum. The contesting respondents should also be given the opportunity and to contest the application said to have been filed before the Deputy Commissioner, the execution of which is disputed. The petitioners should be given an opportunity to prove the application said to have been made before the Deputy Commissioner which bears two different dates namely 23.03.1991 and 28.09.1995.

72. Learned Senior Counsel Sri.Udaya Holla, appearing for the contesting respondents has placed reliance on the following judgments:

- (i) *Sri. Shivaji Balaram Haibatti vs. Sri.Avinash MaruthiPawar*¹
- (ii) *Ponnayal @ Lakshmi vs. Karuppannan dead by legal representatives and another*²
- (iii) *Union of India and others vs. Dinesh Prasad*³
- (iv) *State (N.C.T. of Delhi) vs. Navjot Sandhu @ Afsan Guru and others*⁴
- (v) *M/s Essen Deinki vs. Rajiv Kumar*⁵
- (vi) *Estralla Rubber vs. Dass Estate (Private) Ltd.*⁶
- (vii) *Shalini Shyam Shetty & Another vs. Rajendra Shankar Patil*⁷

¹ (2018) 11 SCC 652

² (2019) 11 SCC 800

³ (2012) 12 SCC 63

⁴ (2003) 6 SCC 641

⁵ (2002) 8 SCC 400

⁶ (2001) 8 SCC 97

- (viii) *State of Orissa & Another vs. Murlidhar Jena*⁸
- (ix) *J.P. Sinha vs. Indian Telephone Industries Ltd.* ⁹
- (x) *Union of India and others vs. P.Gunashekaran*¹⁰
- (xi) *Ramji Dayawala & Sons (P) Ltd. Vs. Invest Import*¹¹
- (xii) *Avtar Singh & Others vs. Gurdial Singhand others*¹²
- (xiii) *G V Subba Rao vs. Tahsildar and another*¹³
- (xiv) *Patel Veerabasappa vs. Basamma*¹⁴
- (xv) *Thirumagaral Muralidar vs. Muruga Pilla* ¹⁵
- (xvi) *Anand Prakash and another Vs. Assistant Registrar, Co-operative Societies and others*¹⁶

73. This Court has noted the principles laid down therein. As far as the jurisdiction of the High Court in Article 227 of Constitution of India is concerned, the law is well-settled. Said Article does not vest the unlimited jurisdiction on High Court to correct all orders.

74. The basic principle is in a proceeding of this nature, the Court has to look into the decision making process rather than the decision. However, it is equally well-settled that the orders passed in ignoring the vital evidence

⁷ (2010) 8 SCC 329

⁸ AIR 1963 SCC 404

⁹ ILR 1992 Kar 538

¹⁰ (2015) 2 SCC 610

¹¹ (1981) 1 SCC 80

¹² (2006) 12 SCC 552

¹³ ILR 1998 Kar 2371

¹⁴ ILR 1996 Kar 1435

¹⁵ AIR 1960 Mad 55

¹⁶ AIR 1968 ALL 22

or passed without any evidence cannot be sustained and the High Court would certainly step in the exercise of jurisdiction under Article 227 of Constitution of India to set aside such orders.

75. In the instant case, what is required to be noticed is there is no discussion on the joint applications and averments in the said applications. One of the joint applications contains a statement that all joint applicants are the holders of Thoti service lands, which Thoti work carried out since their ancestors. In the absence of the revenue records showing the names of either of the parties' predecessors as holder of village office, the statement in the joint application assumes importance more so in the light of the grounds in appeal memorandum confining claim only to 50% of total extent. In this background, the contents of the joint applications which are not disputed, are to be considered by the Tahasildar and the learned District Judge.

76. The fact is that an appeal was filed in the year 1995 in M.A.No.103/1995 was suppressed by the contesting respondents. Assuming that it was filed by the father of the contesting respondents and not by the contesting

respondents, they were under obligation to make a statement explaining the circumstances after going through the records in the said appeal. This is one of the additional reasons why this Court has to step in, to interfere with the order passed by Tahasildar as well as the District Judge who did not have the benefit of going through the said appeal memorandum in M.A.No.103/1995.

77. Though the joint application filed by Nanjappa was available on record, Tahasildar and the District Judge have committed a serious error in not noticing the implication of joint application and the application filed in the year 2008 which does not make any reference to the earlier joint application and which does not speak anything about the omission to include entire extent of land on earlier occasion.

78. For the aforementioned reasons, this Court is of the view that even the decision making process is erroneous and case is made out to interference in exercise of Article 227 of the Constitution of India.

79. As far as the contention that the High Court cannot re appreciate the evidence on the findings recorded by the Tribunal is concerned, this Court has to hold that it is a peculiar case where the contesting respondents suppressed the material facts relating to their lesser claim made earlier, and thereafter made a claim for larger extent without explaining anything as to the omission made earlier in seeking regrant to the whole extent of the lands in dispute. Moreover the additional documents produced require consideration.

80. For this reason, the Court has to direct the learned District Judge to consider the case afresh by taking into consideration all the relevant factors and two additional documents. The document which is said to be the application submitted to the Deputy commissioner has to be read in evidence ***if its execution is proved***. However, the memorandum of appeal in M.A.No.103/1995 has to be treated as evidence. What it means or signifies is to be decided in the light of other evidence on record or to be adduced by the parties after the remand.

81. As far as the contention that the petitioners have admitted in the cross-examination that they do not belong to the family of Parendiga is concerned, this Court has noticed that there is one sentence in the cross-examination where the witness has stated that the petitioners who are claiming under Guruva do not belong to the family of Parendiga and respondents belong to the family of Parendiga. Though this admission seems to be unambiguous, it is also well-settled position of law that the admission by itself is not a conclusive proof. The admissions can be explained.

82. More than anything else, in the joint application, there appears a statement that all the applicants or their predecessors were doing Thoti work. Even if the relationship is not established, the claim made in the light of the joint applications are required to be considered and which consideration has certainly escaped the attention of Tahasildar as well as learned District Judge.

83. This being the position, one cannot without reference to contents of joint application seeking regrant and contents of memorandum of appeal in M.A.No.103/1995 conclude that the said admission demolishes the petitioners'

claim and conclude that the petitioners are totally unconcerned with the lands in question.

84. If one goes through the evidence led by the petitioners, their claim is that they too did Thoti service and their ancestors did Thoti service and they were holding village office. The definition of 'village office' in the Act of 1961 speaks that it is a **hereditary office**. Thus, the petitioners claim that they inherited village office, has to be tested in the light of the contents of the joint applications and the contentions in the appeal memorandum which is made 13 years prior to larger claim made by the respondents in their application filed in 2008.

85. Though learned Senior counsel by referring to the judgment of this Court would contend that assuming that the petitioners are in possession of some of the properties and the contesting respondents are not in possession of some of the properties (without prejudice to the contentions that respondents are in exclusive possession) and possession is not the criterion to claim regrant, and contesting respondents' exclusive claim over the properties, in the light of the pending two joint applications could not have been

decided without reference to the joint applications. Thus this Court is of the view that the very decision making process adopted by Tahsildar and learned District Judge is erroneous.

86. Tahasildar as well as the District Judge have proceeded to negative the case of the petitioners by arriving at a conclusion that Ex.P4- the order for payment of salary in favour of A.K.Pillaiah establishes the case of the contesting respondents which in the opinion of this Court does not appear to be a proper approach.

87. It is also relevant to notice that in W.P.No.18806/2018, the petitioner who claims to be the son of the purchaser of Sy.No.93 to the extent of 35 guntas, from one of the predecessors of one of the petitioners in W.P.No.49589/2014, is before this Court on the premise that though his father purchased the property in the year 1969, is not made a party to any of the proceedings which commenced in the year 1980.

88. It is indeed true that the purchaser of a land attached to village office before the regrantee will acquire right over the property only if the vendor is regranted the land. It

is noticed that the vendor is a party to the proceeding before the Tahasildar though the purchaser is not made a party. Thus, the defense of the vendor could be a defense of the purchaser.

89. It is also noticed that when the property was sold in the year 1969, there was no proceeding pending in relation to the property purchased by the father of the petitioner in W.P.No.18806/2018. In that sense, doctrine of *lis pendens* has no application. In any event, if the vendor or his predecessors do not prosecute or defend the proceeding before the District Judge probably the purchaser or his successor may have to face the consequence. Keeping this in mind, the petitioner in W.P.No.18806/2018 is also permitted to lead evidence if any, in support of his claim.

90. This Court is conscious of the fact that the matter technically has to go back to the Tahasildar for fresh adjudication in the light of the finding that the documents which are referred to by this Court are not considered by the Tahasildar as they were not placed before the Tahasildar. However the matter is remitted to the learned District Judge given the fact that the matter is pending since 1981 and the

matter has been remanded to the Tahasildar on two occasions earlier.

91. It is also noticed that in the impugned order passed by the Tahasildar, the Tahasildar has relaxed 15 years non alienation clause while regranteeing the property to respondents No.3 to 7. The provisions of Act, 1961 do not enable the Tahasildar to relax non alienation period. Tahasildar grossly erred in passing such order.

92. Before parting, this Court has to observe that certain documents referred to above have been discussed in detail and also a reference is made to the provisions of Act, 1961 just to invite the attention of the District Court on the matters to be considered at the time of hearing. This Court is of the view that relevant aspects of the matter are not considered despite the matter was heard by the District Court on two occasions earlier.

93. It is also made clear that the observations made in this order should not be construed as a finding on the rights of the petitioners or contesting respondents.

94. At the same time, it is also made clear that findings on the production and admissibility of the documents filed along with application for production of documents filed by the petitioners binds the parties and the learned District Court. The finding that the application seeking regrant in the year 2008 is in time also binds the parties.

95. Hence, the following:

ORDER

- (i) Writ Petition No.49589/2014 and Writ Petition No.18806/2018 are ***allowed in-part.***
- (ii) The Order dated 23.07.2014 in M.A.No.72/2011 on the file of III Additional District Judge, Bangalore Rural District, Bangalore sitting at Anekal is set aside.
- (iii) The order dated 22.01.2018 in M.A.No.90/2011 on the file of III Additional District Judge, Bangalore Rural District, Bangalore sitting at Anekal is set aside.
- (iv) The impugned order dated 10.05.2011 passed by Tahsildar is set-aside.

- (v) The matter is remitted to First Appellate Court for fresh consideration by permitting the parties to lead evidence in support of their respective claims.
- (vi) The appeal memorandum in M.A.No.103/1995 shall be read in evidence. However, the parties are permitted to adduce any additional evidence for or against the said documents subject to just exceptions in law.
- (vii) The application dated 23.03.1991 (also dated 28.09.1995) can be considered *only if the document is proved to be valid*.
- (viii) The parties shall appear before First Appellate Court on **18.08.2025**.
- (ix) Since the dispute is pending for over four decades, all the parties shall co-operate for early disposal.
- (x) The observations if any made in this order relating to possession over the properties are tentative and nothing is decided on the rights of the parties and all contentions on the rights of the parties are kept open to be decided by the learned District Judge.

- (xi) Registry to send the Trial Court Records to First Appellate Court forthwith.

**Sd/-
(ANANT RAMANATH HEGDE)
JUDGE**

CHS/brn