

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF OCTOBER, 2025

PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE C M JOSHI

WRIT APPEAL NO. 1131 OF 2025 (LR)



BETWEEN:

1. GUDDE NINGAPPA
SINCE DEAD BY HIS LRS,
MANCHAPPA
S/O LATE GUDDE NINGAPPA
AGED ABOUT 56 YEARS
AGRICULTURIST
R/O. CHIKKAVALI VILLAGE
UDRI POST, SORAB TALUK
SHIMOGGA DISTRICT - 577 419.

...APPELLANT

(BY SRI S.V. PRAKASH, ADVOCATE)

AND:

1. STATE OF KARNATAKA
BY ITS SECRETARY
DEPARTMENT OF REVENUE
VIDHANA SOUDHA
BANGALORE - 560 001.
2. THE LAND TRIBUNAL SORABA
BY ITS CHAIRMAN
ASSITANT COMMISSIONER, SAGAR
SORABA
SHIMOGA DISTRICT - 577 419.
3. P LASKHMOJI RAO
SINCE DEAD BY HIS LRS
P.L. KUMAR RAO SINDHE
S/O LATE P LAKSHMOJI RAO



MAJOR
R/O TOWN PANCHAYATH
SORABA TALUK
SHIVAMOGGA TALUK
AND DISTRICT - 577 419.

4. RAJASHEKAR GOWDA
S/O VEERASANGANA GOWDA
AGED ABOUT 67 YEARS
R/O. CHIKKAVALI VILLAGE
UDRI POST
SORABA TALUK
SHIVAOGGA DISTRICT - 577 419.

CHANDRAPPA GOWDA
SINCE DEAD BY HIS LEGAL HEEIRS

5. PREMAMMA
W/O LATE CHANDRAPPA
AGED ABOUT 75 YEARS
HOMEMAKER
R/O CHIKAKBALLI VILLAGE
UDRI POST, SORABA TALUK
SHIVAMOGGA DISTRICT - 577 419.

...RESPONDENTS

(BY SRI K.S. HARISH, GOVERNMENT ADVOCATE FOR R-1 & 2
SRI VEERENDRA R. PATIL, ADVOCATE FOR C/R-4)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE ORDER DATED 17.04.2025 PASSED BY THE LEARNED SINGLE JUDGE OF THIS HON'BLE COURT IN W.P.No.30088/2018 THEREBY SETTING ASIDE THE ORDER DATED 20.03.2018 IN CASE No.T.N.C.V.R 12/76-77, PASSED BY THE SECOND RESPONDENT WHEREIN THE OCCUPANCY RIGHTS IN FAVOUR OF FATHER OF THE APPELLANT WAS CONFERRED IN RESPECT OF THE LAND MEASURING 3 ACRES 11 GUNTAS IN SY.No.1/2 CHIKKAVALLI VILLAGE, KASABA HOBLI, SORABA TALUK BY ALLOWING THIS WRIT APPEAL & ETC.

THIS WRIT APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT, COMING ON FOR PRONOUNCEMENT THIS DAY, JUDGMENT WAS PRONOUNCED AS UNDER:

CORAM: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE
and
HON'BLE MR. JUSTICE C M JOSHI

CAV JUDGMENT

(PER: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE)

1. For the reasons stated in the application-I.A.No.1/2025, the same is allowed. The delay in filing the appeal is condoned.
2. The appellant has filed the present appeal impugning an order dated 17.04.2025 [**impugned order**] passed by the learned Single Judge in W.P.No.30088/2018 (LR) captioned, 'Rajashekar Gowda and another v. State of Karnataka by its Secretary, Department of Revenue and others'.
3. Respondent Nos.4 and 5 [**writ petitioners**] had preferred the said petition impugning an order dated 20.03.2018 passed by respondent No.2 [**the Land Tribunal**] whereby, occupancy rights in respect of the subject land was granted in favour of the appellant. The learned Single Judge had allowed the writ petition and set aside the order dated 20.03.2018, rejecting the appellant's claim for tenancy rights in respect of the land measuring 3 acres 11 guntas, comprising part of the land falling in Survey No.1/2 located in

Chikkavali Village, Kasaba Hobli, Soraba Taluk, Shivamogga District [**the subject land**].

4. The appellant claims that one Mr.P.Lakshmoji Rao, since deceased – who is the father of respondent No.3 – had purchased the subject land from its previous owner, Mr.Maheshwarappa Gowda, on 10.02.1965. According to the appellant, his father was a tenant of late Mr.P.Lakshmoji Rao in respect of the subject land.

5. On 24.09.1976, the father of the appellant (Mr.Gudde Ningappa, S/o.Dyavappa) filed an application, in the prescribed Form No.7, for registering himself as an occupant of the subject land under Section 45 of the Karnataka Land Reforms Act, 1961. He claimed that he had been cultivating the subject land for more than ten years and sought occupancy rights in respect of the subject land. Late Mr.P.Lakshmoji Rao contested the said application and disputed that the applicant, Mr.Gudde Ningappa, was a tenant in respect of the subject land. Both the contesting parties examined witnesses in support of their stands.

6. By an order dated 06.10.1981, the Land Tribunal accepted the application of Mr.Gudde Ningappa and declared him to be the occupant of the subject land. Aggrieved by the same, respondent

No.4 (late Mr.Chandrappa Gowda, S/o.Veerasangana Gowda) challenged the said order by filing a writ petition, being W.P.No.29951/1981, which was allowed.

7. The learned Single Judge found merit in the said petition, that the Land Tribunal had failed to consider the material documents including the Record of Rights [**ROR**] as well as the oral and documentary evidence led by the rival parties. Consequently, by an order dated 30.05.1984, this Court remanded the matter to the Land Tribunal for consideration afresh.

8. The Land Tribunal once again examined the application of late Mr.Gudde Ningappa for declaring him as the occupant of the subject land and passed an order on 20.03.2018 accepting the said application and declared late Mr. Gudde Ningappa as a registered occupant of the subject land.

9. Aggrieved by the same, respondent Nos.4 and 5 filed a writ petition being W.P.No.30088/2018, which was allowed in terms of the impugned order.

10. Late Mr.P.Lakshmoji Rao sold the subject land to Mr. Veera Sangana Gowda, the father of respondent Nos.4 and 5 and conveyed the same by a registered sale deed dated

24.11.1976. According to the appellant, the said sale is void as the subject land vested with the State as on 01.03.1974 and it was held under the tenancy of the appellant's father.

11. The learned Single Judge took note of the fact that ROR did not reflect the name of Shri Gudde Ningappa, as the tenant of the subject land. The relevant extracts of the ROR for the years 1971-72, 1972-73 and 1973-74 produced, clearly reflected the name of Mr.P.Lakshmoji Rao both in Column 9 as well as Column 12. Thus, the land records reflected that Mr.P.Lakshmoji Rao was the owner as well as the cultivator of the subject land.

12. The name of Mr.P.Lakshmoji Rao continued to be reflected in the ROR up to the year 1977-78. However, thereafter, the subject land was mutated in favour of Mr.Veera Sangana Gowda. He had purchased the subject land from Mr.P.Lakshmoji Rao and his name was entered in the revenue records for the year 1978-79.

13. The learned Single Judge found that the Land Tribunal had failed to consider the land records. The Court also noted that the applicant had not produced any rent receipts or any other document to establish that he was cultivating the subject land. Before the Land Tribunal, it was contended that Mr. Veera

Sangana Gowda was cultivating the land and had agreed to purchase the same from late Mr.P.Lakshmoji Rao. It was contended that Mr. Gudde Ningappa, was never in possession of the subject land, but had occupied the lands on the eastern side of the subject land. It was contended that he had approached late Mr.P.Lakshmoji Rao for purchasing the land, but by the time, the same had already been sold to Mr.Veera Sangana Gowda. The writ petitioner claimed that Mr. Gudde Ningappa with a fraudulent intent to claim tenancy rights, had filed Form 7. However, neither he nor his children had cultivated the subject land or paid any rent for the same.

14. The learned Single Judge also examined the evidence led by the parties and found that the evidence led on behalf of late Mr. Gudde Ningappa did not establish that he was a tenant in possession of the subject land. The relevant extract of the impugned order, setting out the reasons and the conclusion that the evidence led on behalf of late Mr. Gudde Ningappa was not credible, is set out below:

"15. As far as reliance on the oral evidence by the Land Tribunal is concerned, the evidence given by the General Power of Attorney holder of the tenant i.e., Kendappa is noticed, it becomes clear that he has stated that he was not even aware as to when Lakshmoji Rao had purchased the property in the year

1965 and he had also admitted that there was no entry in respect of the adjoining lands to show that his father was in possession. He has also stated that there were no rent receipts produced and has also conceded that the entries in the RTCs did not reflect their possession.

16. The evidence of another witness T.K. Kariyappa has deposed that he was not aware as to the total extent of Survey No.1/2 and he was also not aware of its boundaries. He has stated that he is a resident of Chikkavali village and has admitted that he does not own any abutting properties and he was not also aware as to what was the rent that was being paid. It is therefore clear that the evidence of this witness would also be of no value to come to the conclusion that the tenant was in possession.

17. The other witness, Sanna Hanumantappa, has deposed that he was a resident of Elavatta village which was about three kilometers from the land in question. He has also admitted that he had not seen whether the landlord had raised paddy and he has also stated that he is not able to narrate the boundaries of survey No.1/2. He has also stated that he was not aware as to what were the other lands owned by the tenant.

18. This evidence would also therefore indicate that the evidence of this witness would also be not helpful to the tenant nor would it establish that the tenant was in possession of the land in question.

19. The evidence of T.Basavantappa indicates that he was also unaware of the boundaries of survey No.1/2 and he was also unaware of the other lands owned by the applicant/tenant.

20. If a witness is unaware of the extent of the land in respect of an application for tenancy has been filed and he is unable even to state the boundaries of that land, it would be improper to accept his evidence to

come to the conclusion that the tenant was in possession.

21. Similar is the evidence of the other witness, Kariyappa.

22. Therefore, the evidence of these witnesses would really have no credibility to justify the reasoning given by the Land Tribunal."

15. Whilst there is no cavil that the entries in the ROR are not dispositive as to the title or the rights of the parties, however, in terms of Section 133 of the Karnataka Land Revenue Act, 1964, entries made in the ROR are presumed to be correct until the contrary is proved.

16. As noted above, in the present case, the entries in the ROR did not reflect Mr. Gudde Ningappa as the tenant or the cultivator of the subject property for the relevant years. The said entries are presumed to be correct unless contrary is established.

17. According to the appellant, the Land Tribunal had evaluated and accepted the evidence led on behalf of the applicant and it is not open for a Court to evaluate or re-appreciate the evidence, considered by the Land Tribunal. Ordinarily, this Court would not embark on the exercise of re-evaluating or re-appreciating the evidence in proceedings under Article 226 of the Constitution of

India. However, there is no specific bar for a Court to do so if the circumstances, so require. The jurisdiction under Article 226 of the Constitution of India is sufficiently wide to consider all facets of challenge founded on arbitrariness or on violation of legal or constitutional rights.

18. The presumption that the Court is precluded from looking into the evidence on the basis of which the decision under challenge is rendered, is unmerited. However, the scope of evaluation is necessarily restricted and the Court would not supplant its decision in place of that of the concerned authority merely because the Court has a different view. The discretion vested with the authority conferred with the power to render decision, if exercised properly, cannot be interfered with. However, if the Court finds that the decision is not based on relevant consideration and the discretion vested has not been properly exercised, there is no reason for this Court to refrain from exercising its jurisdiction under Article 226 of the Constitution of India.

19. In the present case, the Land Tribunal has disregarded the statutory presumption in favour of the entries in the ROR. The Land Tribunal, has proceeded on the basis that the same are not

credible. However, the order passed by the Land Tribunal does not indicate that the evidence led by the parties was evaluated.

20. In these circumstances, the decision of the learned Single Judge to consider the entries in the ROR as well as the evidence led by the parties, cannot be faulted.

21. The learned counsel for the appellant had submitted that even in cases where it is found that the appreciation of the evidence is not proper, it is incumbent upon the Court to remand the matter to the concerned authority but, the Court cannot examine the evidence.

22. There is merit in the contention that the authority vested with the power to decide the question must necessarily decide the same. The Court exercising the jurisdiction under Article 226 of the Constitution of India would ordinarily refrain from rendering a decision in a dispute, which falls within the jurisdiction of a particular tribunal. However, the said principle is not without exceptions. It is also well settled that the superior Courts should not repeatedly remand the matter for decision to the concerned authorities, which would unduly burden the litigants. In the present case, the matter was remanded to the Land Tribunal on an earlier

occasion for considering afresh. This Court had found that the Land Tribunal had neither examined the ROR nor discussed the evidence. As noted above, even in the proceedings pursuant to the remand, the Land Tribunal has not examined the import of the entries in the ROR. In the circumstances, we find no fault with the decision to not remand the matter to the Land Tribunal for the second time.

23. In view of the above, we find no grounds to interfere with the impugned order. The petition is accordingly dismissed.

24. Pending application stands disposed of.

**Sd/-
(VIBHU BAKHRU)
CHIEF JUSTICE**

**Sd/-
(C M JOSHI)
JUDGE**

KPS