NC: 2024:KHC-D:17867-DB
WA No. 100492 of 2023

IN THE HIGH COURT OF KARNATAKA,

DHARWAD BENCH

DATED THIS THE 4TH DAY OF DECEMBER, 2024

PRESENT

THE HON'BLE MR. JUSTICE H.T.NARENDRA PRASAD

AND

THE HON'BLE MR. JUSTICE VENKATESH NAIK T

WRIT APPEAL NO. 100492 OF 2023 (LR)

BETWEEN:

IRAPPA S/O. MALLESHAPPA GODIKATTI,
AGED ABOUT 74 YEARS, OCC. AGRICULTURE,
R/O. MADIHAL LAT STOP, DHARWAD 580001,
DIST. DHARWAD

...APPELLANT

(BY SMT. SURABHI KULKARNI, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA,
REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF REVENUE,
VIDHAN SOUDHA, BENGALURU-560001.

2. THE LAND TRIBUNAL, DHARWAD,
REPRESENTED BY ITS CHAIRMAN, DHARWAD.

CHANDRASHEKHARAPPA
S/O. VEERUPAKSHAPPA GOVANKOPPA @ SAVADATTI,
SINCE DECEASED BY HIS LRS.

NEELAVVA W/O. LATE CHANDRASHEKARAPPA
GOVANKOPPA @ SAVADATTI,
SINCE DECEASED BY HER LRS.

3. BASAVARAJ S/O. LATE CHANDRASHEKARAPPA
GOVANKOPPA @ SAVADDATTI,
AGE: 66 YEARS, OCC: AGRICULTURE & BUSINESS,
R/O. TOTAGERA ONI, MADIHAL, DHARWAD-580001.

Digitally signed by JAGADISH T R
Location: High Court of Karnataka, Dharwad Bench

4. SHIVANAND S/O. LATE CHANDRASHEKARAPPA
GOVANKOPPA @ SAVADATTI,
AGE: 66 YEARS, OCC: AGRICULTURE & BUSINESS,
R/O. TOTAGERA ONI, MADIHAL, DHARWAD-580001.

5. VIJAYALAXMI W/O. GURUPUTRAPPA ANGADI,
AGE: 36 YEARS, OCC: AGRICULTURE & HOUSEHOLD
WORK, R/O. SUTAGATTI-591126,
TQ: SAUNDATTI, DIST: BELGUAM.

6. RATNA W/O. SURAJ PATIL,
AGE: 30 YEARS, OCC: AGRICULTURE & HOUSEHOLD
WORK, R/O. SAMBRA-591124, TAL: DIST: BELGAUM.

DATTATRAYA S/O. NARASING UDUPA
SINCE DEAD BY HIS LRS.

7. LEELABAI W/O. DATTATRAYA UDUPA
AGE: MAJOR, OCC: PRIVATE SERVICE.

8. MADAN S/O. DATTATRAYA UDUPA
AGE: MAJOR, OCC: PRIVATE SERVICE.

9. MOHAN S/O. DATTATRAYA UDUPA
AGE: MAJOR, OCC: PRIVATE SERVICE,
RESPONDENT NO.7 TO 9 ARE
R/O. UDUPI ONI, HOSAYALLAPUR-580001,
TAL AND DIST. DHARWAD.

(RESPONDENT NO.7 TO 9 ARE DELETED FROM
THE ARRAY OF PARTIES, V.O.D 14.03.2024).

MALLESHAPPA S/O. MALLAPPA GODIKATTI,
SINCE DEAD BY HIS LRS.

NAGAVVA W/O. MALLESHAPPA GODIKATTI,
SINCE DECEASED BY HER LRS.
SHANKREPPA S/O. MALLESHAPPA GODIKATTI,
SINCE DECEASED BY HIS LRS.

BASAVARAJ S/O. SHANKARAPPA
SINCE DECEASED BY HIS LRS.

10. CHANNAVVA W/O. LATE BASAVARAJ GODIKATTI,
AGE: MAJOR, OCC: AGRICULTURE,
R/O. MADIHAL LAST CROSS, DHARWAD
(LAST BUS STOP), TAL & DIST. DHARWAD-580001.

11. IRAPPA @ IRANNA S/O. LATE BASAVARAJ GODIKATTI,
AGE: 24 YEARS, OCC: AGRICULTURE,
R/O. MADIHAL LAST CROSS, DHARWAD,
(LAST BUS STOP), TAL & DIST. DHARWAD-580001.

12 ANJALI @ APEKSHA D/O. LATE BASAVARAJ GODIKATTI,
AGE: 21 YEARS, OCC: HOUSEHOLD WORK,
R/O. MADIHAL LAST CROSS, DHARWAD,
(LAST BUS STOP), TAL & DIST. DHARWAD-580001.

SHIVAPPA S/O. MALLESHAPPA GODIKATTI,
DIED UNMARRIED.

CHANDRASHEKHARAPPA S/O. MALLESHAPPA
GODIKATTI, DIED UNMARRIED.

BASAVARAJ S/O. MALLESHAPPA GODIKATTI,
SINCE DECEASED BY HIS LRS.

13. MALLIKARJUN S/O. BASAVARAJ GODIKATTI,
AGE: 38 YEARS, OCC: AGRICULTURE,
R/O. ANJANEYA NAGAR, KELAGERI, DHARWAD.

14. MANJUNATH S/O. BASAVARAJ GODIKATTI,
AGE: 36 YEARS, OCC: AGRICULTURE,
R/O. ANJANEYA NAGAR, KELAGERI, DHARWAD.

15. MALLAVVA W/O. BASAVARAJ GODIKATTI,
AGE: MAJOR, OCC: HOUSEHOLD WORK,
R/O. ANJANEYA NAGAR, KELAGERI, DHARWAD.

16. SAVITREVVA W/O. GANAPATEPPA HIPPARAGI,
AGE: MAJOR, OCC: HOUSEHOLD WORK,
R/O. MRUTYUNJAYA NAGAR, DHARWAD,
DIST: DHARWAD.

17. FAKKIRAVVA W/O. GANGAPPA HARIKOPPA,
AGE: MAJOR, OCC: HOUSEHOLD WORK,
R/O. MRUTYUNJAYA NAGAR, DHARWAD,
DIST: DHARWAD.

18. GANGAWWA W/O. MALLESHAPPA GODIKATTI,
AGE: MAJOR, OCC: HOUSEHOLD WORK.

MRUTYUNJAYA S/O. MALLESHAPPA GODIKATTI,

SINCE DEAD BY HIS LRS.

19. PARVATEVVA W/O. MRUTYUNJAYA GODIKATTI,
AGE: MAJOR, OCC: HOUSEHOLD WORK.

20. MALLIKARJUN S/O. MRUTYUNJAYA GODIKATTI,
AGE: MAJOR, OCC: NIL.

21. RAVI S/O. MRUTYUNJAYA GODIKATTI,
AGE: MAJOR, OCC: NIL.

22. SANTOSH S/O. MRUTYUNJAYA GODIKATTI,
AGE: MAJOR, OCC: NIL.

23. MAHANTESH S/O. MALLESHAPPA GODIKATTI,
AGE: MAJOR, OCC: COOLI.

24. NEELLAVVA D/O. MALLESHAPPA GODIKATTI,
AGE: MAJOR, OCC: HOUSEHOLD WORK,
RESPONDENTS NO.18 TO 24 ARE
R/O. SAIDAPUR, DHARWAD,
HANUMAN TEMPLE, BACKSIDE GULAGANJIKOPPA,
TAL AND DIST: DHARWAD.

(RESPONDENT NO. 18 TO 24 ARE DELETED FROM
THE ARRAY OF PARTIES V.O.D. 14.03.2024.

…RESPONDENTS

(BY SRI. SHARAD V. MAGADUM, AGA FOR R1 & R2;
SRI. RAJESH MAHALE, SR. COUNSEL FOR
SRI. IRFAN JALGAR & SRI VIJAY S. CHINIWAR, ADV FOR R3 TO R6;
R7 TO R9 & R18 TO R24 ARE DELETED;
SRI. SOURABH A. SONDUR, ADV. FOR R10 TO R17)

THIS WRIT APPEAL IS FILED U/S.4 OF KARNATAKA HIGH COURT ACT, 1961, PRAYING TO SET ASIDE THE ORDER DATED 07.07.2023 PASSED IN W.P.NO.66807/2009 BY THE LEARNED SINGLE JUDGE, INSOFAR AS ALLOWING THE WRIT PETITION IN PART AND QUASHING THE ORDER DATED 30.11.2009 PASSED BY THE RESPONDENT NO.2-LAND TRIBUNAL, DHARWAD GRANTING OCCUPANCY RIGHTS TO THE APPELLANT AND PREDECESSORS OF RESPONDENTS NO.9 TO 14 AND RESPONDENTS NO.15 AND 16, IN THE INTEREST OF JUSTICE AND EQUITY.

THIS APPEAL, COMING ON FOR FINAL HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: THE HON'BLE MR. JUSTICE H.T.NARENDRA PRASAD
AND
THE HON'BLE MR. JUSTICE VENKATESH NAIK T

ORAL JUDGMENT

(PER: THE HON'BLE MR. JUSTICE H.T.NARENDRA PRASAD)

This appeal is filed by the tenants challenging the order dated 7.7.2023 passed by the learned Single Judge of this Court in WP No.66807/2009, whereby occupancy right granted by the Land Tribunal by order dated 30.11.2009 has been quashed.

2. Learned counsel for the parties submitted that the appellant and respondents are rival claimants in respect of agricultural property bearing Block No.1 measuring 14 acres 24 guntas situated at Madihal in Dharwad, originally belongs to one Dattatraya S/o Narasingarao Udupa. The Land Tribunal by order dated 30.11.2009 granted occupancy right in favour of the appellant. Being aggrieved by the same, the respondents/rival tenants have filed writ petition before this Court. This Court by order dated 7.7.2023 in WP No.66807/2009, allowed the writ petition and the occupancy right granted in favour of the appellant by order dated

30.11.2009 has been set-aside. Being aggrieved by the same, they have filed this appeal.

3. After service of notice, the respondents/rival tenants appeared through their counsel. The parties have filed compromise petition, by which, they have shared the property. The appellant and respondents 10 to 17 are entitled to 9 acres and 30 guntas and respondents No.3 to 6 are entitled to 4 acres 34 guntas out of 14 acres 24 guntas of land situated at Madihal in Dharwad. With such conditions, they have filed compromise petition under Order XXIII Rule 3 of CPC.

4. The parties are present before the Court and they are duly identified by their respective counsel. All the parties have signed the compromise petition dated 4.12.2024 and they have submitted that they are agreeable with the conditions mentioned in the compromise petition. We have gone through the terms and conditions of the compromise petition and we have satisfied with the same. The said compromise petition is taken on record. The terms and conditions of the compromise are extracted below:

> *"The Appellant and the Respondents No. 3 to 6 and 10 to 17 humbly submit as under:*

1. It is submitted that the present appeal is filed seeking to set aside the order dated 07.07.2023 passed in W.P.No.66807/2009 by the learned Single Judge, insofar as allowing the writ petition in part and quashing the Order dated 30.11.2009 passed by the Respondent No.2 - Land Tribunal, Dharwad granting occupancy rights to the Appellant and predecessors of Respondents No.10 to 17.

2. It is submitted that the subject matter of the present appeal is the agricultural land bearing Block No.1 measuring 14 Acres 24 Guntas, situated at Madihal in Dharwad.

3. It is submitted that the Appellant and Respondents No.10 to 17 are the legal heirs of one Malleshappa S/ Mallappa Godikatti and the Respondents No. 3 to 6 are the legal heirs of one Chandrashekarappa Virupaxuppa Govankoppa. The Respondents No.7 to 9 are the legal heirs of Dattatraya S/o Narasingarao Udupa who was the land lord of the subject matter land. The Respondents No. 18 to 24 claim to be the second wife and children of late Malleshappa Godikatti.

4. Both Malleshappa Godikatti and Chandrashekarappa Govankoppa had filed Form No.7 claiming to be the tenants of the subject matter land. On 31.12.1981, the Land Tribunal was pleased to grant occupancy rights in favour of legal heirs of Malleshappa Godikatti. Aggrieved by the same, Chandrashekarappa Govankoppa filed writ petition in WP No. 3440/1982. The land lord Dattatraya S/o Narasingarao Udupa has not challenged the order of the Land Tribunal and has accepted the same. It is submitted that WP No. 3440/1982 was transferred to the Land Reforms Appellate Tribunal and renumbered as LRA No.266/1986. After Land Reforms Appellate Tribunal was abolished, the matter was again transferred to this Hon'ble Court and was renumbered as WP No.28789/1991 which was allowed and the matter was remitted back to the Land Tribunal for fresh hearing.

5. It is submitted that after remand, the Land Tribunal, Dharwad granted occupancy rights in favour of the Appellant and predecessors of Respondents No. 10 to 17 by its Order dated 30.11.2009 and rejected the application of Chandrashekarappa Govankoppa.

6. It is submitted that aggrieved by the order of the Land Tribunal dated 30.11.2009, the Respondents No.3 to 6 and their predecessors had filed the writ petition in WP No. 66807/2009.

7. It is submitted that the Learned Single Judge was pleased to allow WP No.66807/2009 in part, and quash the Order of Land Tribunal to the extent of granting occupancy rights to the legal heirs of Malleshappa Godikatti, by order dated 07.07.2023. Aggrieved by the said order, the Appellant herein has filed the present appeal.

8. It is submitted that the Appellant, Respondents No.10 to 17 and Respondents No.3 to 6 have now amicably settled the matter with the intervention of elders, family members and well wishers, on the following terms:

a. The Respondents No.3 to 6 admit that the Appellant and Respondents No.10 to 17 are the tenants in possession of the subject matter land to an extent of 9 Acres 30 Guntas towards the western side shown by the letters "ABCD" in the hand sketch annexed to the present compromise.

b. The Appellant and Respondents No.10 to 17 admit that the Respondents No.3 to 6 are the tenants in possession of the subject matter land to an extent of 4 Acres 34 Guntas towards the eastern side shown by the letters "CDEF" in the hand sketch annexed to the present application.

c. The Respondents No.3 to 6 shall have no claim, whatsoever, in respect of the "ABCD" area as shown in the hand sketch annexed which is in

possession of the Appellant and Respondents No. 10 to 17.

d. The Appellant and Respondents No.10 to 17 shall have no claim, whatsoever, in "CDEF" area as shown in the hand sketch annexed, which is in the possession of Respondents No.3 to 6.

e. Both the parties to the compromise shall have no objection to get their names entered or to seek changes in the revenue records, to the extent as shown above, pursuant to this compromise.

f. The Appellant and Respondents No.10 to 17 on one hand, and the Respondents No.3 to 6 on the other, agree that they shall retain the possession of the land to the extent of their share, and further agree that they shall not cause any obstruction and interference in the peaceful enjoyment of property of the other, in any manner.

g. The Appellant and Respondents No.10 to 17 on one hand, and the Respondents No.3 to 6 on the other, agree to withdraw all pending litigations filed by them in respect of the subject matter land.

h. The hand sketch annexed to the present application shall be treated as part and parcel of the present application.

9. It is submitted that the land lord Dattatreya Narasingarao Udupi and his legal heirs - Respondents No. 7 to 9 never disputed that the subject matter land was a tenanted land and have accepted the order passed by the Land Tribunal dated 31.12.1981. Therefore, the Respondents No. 7 to 9 are not necessary parties to the present compromise.

10. It is submitted that the Respondents No.18 to 24 claimed that they were the legal heirs of Malleshappa Godikatti. The Land Tribunal by its

Order dated 30.11.2009 has rejected to grant occupancy rights in favour of Respondents No. 18 to 24 and the said order has not been challenged by them and the same has attained finality insofar as Respondents No.18 to 24 are concerned. Therefore, the Respondents No. 18 to 24 are not necessary parties to the present compromise.

11. The present case is a case of rival tenancy, hence the rights of the State Government will not be affected as this compromise is not in violation of any provisions of the law and is legally valid.

12. The Appellant, Respondents No.10 to 17 and the Respondents No.3 to 6 submit that this compromise is binding on them, their legal heirs and the persons representing or claiming through them. The Respondent No.11 has signed this compromise for himself and on behalf of Respondent No.12 as her power of attorney holder.

13. The parties have entered into this compromise out of their free will and wish and without any coercion, or undue influence.

WHEREFORE, it is most humbly prayed that Hon'ble Court may be pleased to modify the order dated 07.07.2023 passed in W.P.No.66807/2009 by the learned Single Judge, and direct the Respondent No.2 Land Tribunal to grant occupancy rights to the Appellant and Respondents No.10 to 17 in the subject matter land to an extent of 9 Acres 30 Guntas out of 14 Acres 24 Guntas, towards the western side shown by the letters "ABCD" in the hand sketch, and to grant occupancy rights to the Respondents No.3 to 6 in the subject matter land to en extent of 4 Acres 34 Guntas out of 14 Acres 24 Guntas, towards the eastern side shown by the letters "CDEF" in the hand sketch, in the interests of justice and equity."

5. Accordingly, this writ appeal is ***disposed off*** in terms of the compromise petition.

Sd/-
(H.T.NARENDRA PRASAD)
JUDGE

Sd/-
(VENKATESH NAIK T)
JUDGE

JTR/ct-an
List No.: 1 Sl No.: 59