IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST DAY OF NOVEMBER, 2024

PRESENT

THE HON'BLE MR JUSTICE S.G.PANDIT

AND

THE HON'BLE MR JUSTICE RAMACHANDRA D. HUDDAR

WRIT APPEAL NO. 904 OF 2023 (LB-BMP)

BETWEEN:

1. SMT. ANNAMMA KRUPA
W/O KABILAN,
AGED ABOUT 40 YEARS,
RESIDING AT NO. 9/14,
NEW NO.34,
LLOYDS ROAD, COOKE TOWN,
BENGALURU-560005.

2. SMT. SREE LATHA
W/O M. GABRIEL SANTHOSH KUMAR,
AGED ABOUT 38 YEARS,
RESIDING AT NO.9/14,
NEW NO.34,
LLOYDS ROAD, COOKE TOWN,
BENGALURU - 560005.
(REPRESENTED BY GPA HOLDER BY
APPELLANT NO.1).

...APPELLANTS

(BY SRI. MAHESH H.V., ADV. FOR SRI. V. ANAND, ADV.)

Digitally signed by MARIGANGAIAH PREMAKUMARI
Location: HIGH COURT OF KARNATAKA

AND:

1. SRI. J. S. AUGUSTINE REDDY
S/O LATE MR. SUNDAR J.S.
AGED ABOUT 69 YEARS,
REP. BY HIS POWER OF ATTORNEY HOLDER
SRI. THYAGARA JOSEPH,
S/O LATE THOMOSAPPA,
AGED ABOUT 72 YEARS,
R/AT NO.4/5, 4TH CROSS,
HUTCHINES ROAD,

ST. THOMAS TOWN POST,
BENGALURU-560084.

2. THE COMMISSIONER
BRUHAT BANGALORE MAHANAGARA PALIKE
N.R.SQUARE,
BENGALURU - 560002.

3. THE ASSISTANT REVENUE OFFICER
MARUTHISEVA NAGAR SUB-DIVISION,
WARD NO.59,
BRUHAT BANGALORE MAHANAGARA PALIKE
3RD FLOOR, M.M.ROAD, COX TOWN,
BENGALURU-560005.

…RESPONDENTS

(BY SRI. JANARDHANA G., ADV. FOR R1 (REP. BY GPA HOLDER)
SMT. SINCHANA M.R., ADV. FOR R2 & R3)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO A)SET ASIDE THE ORDER PASSED BY THE LEARNED SINGLE JUDGE IN WP NO.11000/2022 DATED 24/07/2023 AND THEREBY ALLOW THIS WRIT APPEAL; B)GRANT SUCH OTHER RELIEF AND RELIEFS.

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

CORAM: HON'BLE MR JUSTICE S.G.PANDIT
AND
HON'BLE MR JUSTICE RAMACHANDRA D. HUDDAR

ORAL JUDGMENT

(PER: HON'BLE MR JUSTICE S.G.PANDIT)

Heard learned counsel SriMahesh.H.V., for Sri.V.Anand, learned counsel for the appellants, learned counsel Sri.Janardhana.G., for respondent No.1 and

learned counsel Smt.Sinchana.M.R., for respondent Nos.2 and 3. Perused the writ petition papers.

2. Appellants are before this Court under Section 4 of the Karnataka High Court Act, 1961 questioning the correctness of the order of learned Single Judge dated 24.07.2023 in W.P.No.11000/2022 whereunder respondent No.1's writ petition is allowed directing the third respondent herein to restore Khatha of the property in question in favour of petitioner i.e., respondent No.1. Further, it is observed that if the contesting respondents i.e., appellants herein secured any order/declaration at the hands of the competent Civil Court, then they could approach the Assistant Revenue Officer and have their name entered in the Khatha register.

3. Brief facts of the case are that, property in question was standing in the name of respondent No.1 in the records of third respondent herein. Appellants filed P & SC.No.34/2004 before the VI Additional City Civil and Sessions Judge at Bengaluru and under order dated

02.08.2005, got an order to enter their name in the Khatha register by removing the name of respondent No.1 herein. Against which, respondent No.1 is said to have filed Miscellaneous No.438/2008 and the Trial Court by order dated 10.06.2020 allowed the said Miscellaneous petition and recalled the order dated 02.08.2005 by which probate was granted to the appellants. Against the said order dated 10.06.2020, appellants herein filed MFA.No.1880/2021 and the said appeal was dismissed for non-compliance of office objections. I.A.Nos.1/2023 and 2/2023 were filed to re-call the order dismissing the appeal for non-compliance of office objections were also dismissed by order dated 13.06.2023.

4. It is also noticed that O.S.No.7778/1999 filed by respondent No1 herein for possession is also pending consideration before the City Civil Court. On disposal of MFA.No.1880/2021, respondent No.1 approached respondent No.3 to enter his name in the Khatha in respect of property in question. Said request of respondent

No.1 was rejected under Annexure-G, endorsement dated 10.02.2022. Questioning the said endorsement, respondent No.1 was before this Court in W.P.No.11000/2022. This Court noticing the disposal of MFA.No.1880/2021 and as there is no other impediment to continue the name of respondent No.1 in the Khatha register relating to property in question, directed the third respondent herein to restore the Khatha of the property in question in favour of respondent No.1. Learned Single Judge has also made an observation that if the contesting respondents i.e., appellants herein secured any order/declaration at the hands of the competent Civil Court, then they will have a right to approach the Assistant Revenue Officer and have their name entered in the Khatha register i.e., third respondent herein to have their name entered in the Khatha register.

5. We do not find any error in the order passed by the learned Single Judge. It is settled position of law that Revenue Authorities cannot go into the title of the

properties. Admittedly, name of respondent No.1 herein was standing in the Khatha register in respect of property in question. Only on obtaining Probate in P & SC.No.34/2004, names of the appellants were entered in the Khatha Register. When the said Probate was set aside subsequently, respondent No.1 has a right to seek continuation of his name in the Khatha register in respect of the property in question.

6. There is no merit in the appeal and accordingly, writ appeal stands rejected.

Sd/-
(S.G.PANDIT)
JUDGE

Sd/-
(RAMACHANDRA D. HUDDAR)
JUDGE

NC
CT:bms
List No.: 1 Sl No.: 11