NC: 2024:KHC:1728
WP No. 17347 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 12TH DAY OF JANUARY, 2024

BEFORE

THE HON'BLE MR JUSTICE R DEVDAS

WRIT PETITION NO. 17347 OF 2023 (LR)

BETWEEN:

1. SMT. RAJALAKSHMI
   W/O LATE SRI K. L. SRIHARI
   AGED ABOUT 77 YEARS
   R/AT NO. 9, SHESHADRI ROAD,
   BENGALURU - 560 009.

2. SRI K. H. GURUNATH
   S/O LATE SRI K. L. SRIHARI
   AGED ABOUT 59 YEARS
   R/AT NO. 9, SHESHADRI ROAD
   BENGALURU- 560 009.

3. SRI K. H. SRINIVAS
   S/O LATE SRI K. L. SRIHARI
   AGED ABOUT 55 YEARS
   R/AT NO. 9, SHESHADRI ROAD
   BENGALURU - 560 009.

4. SRI K. H. RADHESHYAM
   S/O LATE SRI. K. L. SRIHARI,
   AGED ABOUT 53 YEARS
   R/AT NO 9, SHESHADRI ROAD

...PETITIONERS

(BY SRI. SHIVARAMA BHAT O., ADVOCATE)

Digitally signed by VINUTHA B S
Location: HIGH COURT OF KARNATAKA

AND:

1. THE STATE OF KARNATAKA
   REP BY ITS REVENUE SECRETARY
   M. S. BUILDINGS, DR. AMBEDKAR ROAD,
   BENGALURU - 560 001.

2. ASSISTANT COMMISSIONER
   PANDAVAPURA SUB - DIVISION

PANDAVAPURA TALUK, PANDAVAPURA
MANDYA DISTRICT- 571 434.

3. THE TAHSILDAR
PANDAVAPURA TALUK
MANDYA DISTRICT-571434.

…RESPONDENTS

(BY SRI. C.N. MAHADESHWARAN, AGA)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE ORDER DTD 11.05.2015 PASSED BY THE ASSISTANT COMMISSIONER, PANDAVAPURA SUB-DIVISION, THE R2 HEREIN VIDE ANNEXURE-A.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

R.DEVDAS J., (ORAL):

The petitioners are aggrieved by the order dated 11.05.2015 passed by the Assistant Commissioner, Pandavapura Sub-Division, Pandavapura, Mandya District under the provisions of Section 83 for violation of the provisions in Sections 79-A and 79-B of the Karnataka Land Reforms Act, 1961.

2. Learned Counsel for the petitioners submits that this is a case where the impugned order of forfeiture has been passed by the Assistant Commissioner without notice

to the petitioners. It is further submitted that under similar circumstances, a co-ordinate Bench of this Court in W.P.No.7821/2021 has passed an order dated 16.08.2021 remanding the matter back to the Assistant Commissioner for fresh consideration after affording an opportunity of hearing to the aggrieved person.

3. Learned Additional Government Advocate points out from the impugned order that notice was indeed issued to the petitioners and in spite of notice having been issued, the petitioners did not appear before the Assistant Commissioner.

4. It is the contention of the learned Additional Government Advocate that even as per the materials available on record, after forfeiture, the excess lands have been granted by the State Government to third parties. The Assistant Commissioner is therefore required to ascertain, whether the forfeited lands still remain with the State Government or has been granted to third parties. If the lands have been granted to third party, then sub-

section (1) of Section 12 of the Amending Act will apply to say that the proceedings have reached finality. Or otherwise, sub-section (2) of Section 12 of the Amending Act will apply and all further proceedings shall be declared as abated by the Assistant Commissioner.

5. Having considered the submission of the learned Counsels and on perusing the judgment of the co-ordinate Bench in W.P.No.7821/2021, this Court finds that facts and circumstances in both these matters are quite similar and therefore, the benefit of the decision of the co-ordinate Bench should also enure to the petitioners herein.

6. Consequently, the writ petition is allowed. The impugned order dated 11.05.2015 passed in case No. ಭೂಸು: ಪರಿಶೀಲನೆ:124/11-12 is hereby quashed and set aside. The matter is remitted back to the respondent-Assistant Commissioner to consider the case of the petitioners including the consequences of the subsequent amendment brought to the provisions of Sections 79-A and 79-B of the

Karnataka Land Reforms Act in Karnataka Amendment No.56 of 2020.

7. The petitioners shall appear before the respondent-Assistant Commissioner on **08th February 2024**, without waiting for further notice from the Assistant Commissioner.

Ordered accordingly.

Sd/-
JUDGE

NS
CT:TSM
List No.: 1 Sl No.: 33