

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL No(s). 3928 OF 2017

PUSHPALATHA R. ADYANTHAYA

Appellant(s)

VERSUS

FRANCIS HERALD CRASTA & ORS.

Respondent(s)

O R D E R

1. Heard the learned counsel for the parties.
2. This appeal is directed against the order dated 27.10.2016 passed by the Division Bench of the High Court of Karnataka at Bengaluru, in Writ Appeal No.5880 of 2013 (LR).
3. The Land Tribunal, Mangalore, had passed an order dated 12.07.2002 granting occupancy rights in respect of the lands bearing Survey Nos.43/2A, 43/1A, 239/1A1, 44/1, 44/2, 44/3 and 292/2 of Padavu village measuring 65 cents, 55 cents, 1 acre 60 cents, 1 acre 6 cents, 2 acres 93 cents, 1 acre 46 cents and 5 acres 95 cents respectively, in favour of the private respondents.
4. The appellant herein challenged the said order by filing Writ Petition No.30720 of 2002 before the High Court of Karnataka at Bengaluru.
5. In the writ petition, the appellant had mainly contended that no claim in Form No.7 in respect of the lands in question had been filed by the predecessors of respondents 1 to 5. It was further contended that there was no relationship of landlord

and tenant and that in the absence of Form No.7, the Tribunal had no jurisdiction to consider the claim of respondents 1 to 5 in respect of the lands in question. It was also contended that Survey Nos.43/1A measuring 55 cents, 239/1A1 measuring 1 acre 60 cents, 292/2 measuring 5 acres 95 cents are punja lands which are not cultivable. Several other contentions have also been raised by the appellant in the writ petition.

6. The learned Single Judge, on consideration of the materials placed on record and after hearing learned counsel for the parties, has held that Leo Crasta, the father of respondents 1 to 5, had filed Form No.7. The observations of the learned Single Judge are as under:

"16. The learned counsel for the petitioner contended that Form No.7 has not been filed in respect of the lands in question and therefore, the Tribunal had no jurisdiction. On the other hand, the learned counsel for the respondents 1 to 5 and the learned AGA submitted that form No.7 is available in the records. Perusal the records show that Form No.7 has been filed by Leo Crasta, the father of the respondents 1 to 5. Form No.7 consists of two pages. Occupancy rights have been claimed in respect of several survey numbers under various landlords. There are 9 items. Item Nos. 1 to 8 are in the first page of Form No.7 and item No.9 is in the back page. Upto item Nos. 1 to 7 the details are available in Form No.7. Insofar as item No.8 is concerned, it is torn out. Item No.9 is available on the back page of Form No.7. The Tribunal has issued notice to the parties. In the said notices, all the Survey numbers claimed in Form No.7 are mentioned. It includes the lands in question also i.e., Sy.Nos. 43/2A, 43/1A, 239/1A1, 44/1, 44/2, 44/3 and 292/2. In the village var Register, at Sl. No.774, it is shown that Leo Crasta had filed form No.7 on 20.12.1974. However, in the column meant for survey numbers only two survey numbers are shown. By order dated 16.09.1981 occupancy rights have been granted in favour of the father of respondents 1 to 5 in respect of the lands in question and some other survey numbers. The petitioner has challenged the order dated 16.9.1981 in W.P. No. 10667/1994. The

matter has been remitted for fresh consideration in respect of the lands in question. From the material on record, it can be inferred that Form No.7 was filed in respect of the lands in question."

7. Insofar as other contentions are concerned, the learned Single Judge has remitted the matter back to the Land Tribunal for fresh consideration in the light of the observations made in the order. The Tribunal has made it clear that it is not necessary for the Land Tribunal to go into the question of Form No. 7 in respect of the lands in question.

8. This order of the Land Tribunal has been confirmed by the Division Bench of the High Court.

9. It is clear from the impugned order that the findings of fact recorded by the courts below, is on the basis of appreciation of materials placed on record. We do not find any justification to interfere with the said order.

10. In the result, this appeal fails and it is hereby dismissed without any order as to costs.

.....J.
(S. ABDUL NAZEER)

.....J.
(R. SUBHASH REDDY)

**NEW DELHI;
AUGUST 05, 2019**

ITEM NO.2

COURT NO.15

SECTION IV-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No(s). 3928/2017

PUSHPALATHA R. ADYANTHAYA

Appellant(s)

VERSUS

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Respondent(s)

(ONLY IA NO. 156332/2018 (APPLN. FOR DIRECTIONS) IN CA 3928/20117
 WITH IA 156337/2018 (FOR AMENDMENT IN THE APPEAL) ONLY TO BE
 LISTED BEFORE THE COURT

IA No. 156337/2018 - AMENDMENT OF APPEAL / PETITION / I.A.

IA No. 156332/2018 - APPROPRIATE ORDERS/DIRECTIONS)

Date : 05-08-2019 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S. ABDUL NAZEER
 HON'BLE MR. JUSTICE R. SUBHASH REDDY

For Appellant(s) Mrs. Shubhangi Tuli, AOR

For Respondent(s) Mr. S. N. Bhat, AOR
 Mr. Priyank, Adv.
 Mr. D.P. Chaturvedi, Adv.
 Mr. T. Thakur, Adv.

Mr. V. N. Raghupathy, AOR
 Mr. Manendra Pal Gupta, Adv.

UPON hearing the counsel the Court made the following

O R D E R

The appeal is dismissed in terms of the signed order.

Pending applications, if any, are disposed of.

(NEELAM GULATI)
 COURT MASTER (SH)

(RAJINDER KAUR)
 BRANCH OFFICER

(SIGNED ORDER IS PLACED ON THE FILE)