



NC: 2025:KHC:53722
WP No. 6398 of 2018
C/W WP No. 27436 of 2017
WP No. 27438 of 2017
AND 1 OTHER

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF DECEMBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE RAJESH RAI K

WRIT PETITION NO. 6398 OF 2018 (GM-CPC)

C/W

WRIT PETITION NO. 27436 OF 2017

WRIT PETITION NO. 27438 OF 2017

WRIT PETITION NO. 6397 OF 2018 (GM-CPC)

IN WP No. 6398/2018

BETWEEN:

1. SRI THINGALE VIKRAMARJUNA HEGDE
S/O SRI THINGALE RAVINDRA HEGDE,
AGED ABOUT 50 YEARS,
RESIDENT OF THINGALE CHAVADI HOUSE,
NADAVUPADU VILLAGE,
AJIKKARU HOBLI,
KARKALA TALUK574 104.
2. MS SPOORTHI RAI
D/O SRI PRADEEP RAI,
AGED ABOUT 30 YEARS,
RESIDENT OF ANANTHANAGAR,
SONI CLINIC ROAD,
MANIPAL POST-576 104,
UDUPI TALUK & DISTRICT.



THE PETITIONER NO.2 IS
REPRESENTED BY PETITIONER NO.1
AS GENEREA POWER OF ATTORNEY HOLDER
SRI THINGALE VIKRAMARJUNA HEGDE,
S/O SRI THINGALE RAVINDRA HEGDE,
AGED ABOUT 50 YEARS,



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C/W WP No. 27436 of 2017
WP No. 27438 of 2017
AND 1 OTHER

RESIDENT OF THINGALE CHAVADI HOUSE,
NADAVUPADU VILLAGE-574 104,
AJIKKARU HOBLI, KARKALA TALUK.

...PETITIONERS

(BY SRI. D.R. RAVISHANKAR, SENIOR COUNSEL FOR
SRI. SUYOG HERELE, ADVOCATE FOR P1 & P2)

AND:

1. SMT MANORAMA S SHETTY
D/O LATE SEETHAMMA HEGGADTHI,
AGED ABOUT 46 YEARS,
RESIDENT OF THINGALE CHAVADIMANE,
IN MADAVUPADU VILLAGE,
KARKALA-574 104.
2. DR P KARUNAKARA HEGDE
S/O LATE SEETHAMMA HEGGADTHI,
AGED ABOUT 55 YEARS,
RESIDENT OF B1,
VIKRAM BAHG,
BARODA - 390 002
GUJARATH STATE.
3. T SHARITHA
D/O MANORAMA S SHETTY,
AGED ABOUT 23 YEARS,
RESIDENT OF THINGALE CHAVADIMANE,
IN MADAVUPADU VILLAGE,
KARAKALA-574 102.

...RESPONDENTS

(BY SMT. VAISHALI HEGDE, ADVOCATE FOR R1 & R3,
VIDE ORDER DATED 19.11.2018, R2 - DELETED)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF
THE CONSTITUTION OF INDIA PRAYING TO QUASH / SET
ASIDE THE ORDER DATED 31.01.2018 IN INTERLOCUTORY
APPLICATION NO. XXIX IN O.S.16/2005 ON THE FILE OF THE
SR. CIVIL JUDGE AND ADDL. CHIEF JUDICIAL MAGISTRATE,



KARKALA THEREBY REJECTING THE APPLICATIONS FILED BY THE PETITIONERS VIDE ANNEX-A AND ETC.

IN WP NO. 27436/2017

BETWEEN:

1. SMT. ASHA MALLIKARJUNA HEGDE
W/O LATE MALLIKARJUNA HEGDE
AGED ABOUT 50 YEARS
R/O THINGALE CHAVADI HOUSE,
NADVUPALU VILLAGE,
AJEKKARU HOBLI-574 104,
KARKALA TALUK, UDUPI DISTRICT
2. SRI. SHASHWATH MALLIKARJUNA HEGDE
S/O LATE MALLIKARJUNA HEGDE
AGED ABOUT 30 YEARS
R/O THINGALE CHAVADI HOUSE,
NADVUPALU VILLAGE,
AJEKKARU HOBLI-574 104,
KARKALA TALUK, UDUPI DISTRICT
3. SRI. SATHWIK MALLIKARJUNA HEGDE
S/O LATE MALLIKARJUNA HEGDE
AGED ABOUT 29 YEARS
R/O THINGALE CHAVADI HOUSE,
NADVUPALU VILLAGE,
AJEKKARU HOBLI-574 104,
KARKALA TALUK, UDUPI DISTRICT
4. SMT. SUCHARITHA S SHETTY
W/O SRI. SHANKAR S SHETTY
AGED ABOUT 50 YEARS
R/O THINGALE CHAVADI HOUSE,
NADVUPALU VILLAGE,
AJEKKARU HOBLI-574 104,
KARKALA TALUK, UDUPI DISTRICT
5. SMT. SUCHETHA P RAI
W/O SRI PRADEEP RAI KUDOOR



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SINCE DEAD BY LR(DIED ON 02/01/2012)
LR - KUM. SUPRUTHI P RAI
D/O SRI SRI PRADEEP RAI
AGED ABOUT 48 YEARS
R/O THINGALE CHAVADI HOUSE,
NADVUPALU VILLAGE,
AJEKKARU HOBLI-574 104,
KARKALA TALUK, UDUPI DISTRICT

6. SRI. THINGALE VIKRAMARJUNA HEGDE
S/O LATE THINGALE RAVINDRA HEGDE
AGED ABOUT 49 YEARS
R/O THINGALE CHAVADI HOUSE,
NADVUPALU VILLAGE,
AJEKKARU HOBLI-574 104,
KARKALA TALUK, UDUPI DISTRICT
NOTE: PETITIONER NO.1 TO 5 REPRESENTED BY
THE GPA HOLDER TO PETITIONER NO.6

...PETITIONERS

(BY SRI. D.R. RAVISHANKAR, SENIOR COUNSEL FOR
SRI. SUYOG HERELE, ADVOCATE AND
SRI. NISHANTH S ADVOCATE, FOR P1 TO P6
(P1-P5 ARE REPRESENTED BY GPA HOLDER P6))

AND:

1. THE AUTHORISED OFFICER AND THE
ADDITIONAL DEPUTY COMMISSIONER
UDUPI DISTRICT, UDUPI - 576 101
2. SMT SARITHA BHANDARI
W/O SRI PRAHLAD BHANDARI
AGED ABOUT 37 YEARS
R/O MYSORE CLINIC
THURUVEKERE - 572 221
TUMKURU DISTRICT
3. SMT SAROJINI HEGDE
W/O LATE DR K T M HEGDE
AGED MAJOR,



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WP No. 27438 of 2017
AND 1 OTHER

NO 9, KASTURBHA LANE,
BARODA UNIVERSITY CAMPUS
VADODARA
GUJARATH - 391 110
SINCE DEAD BY LR

3A) DR. SAJAN K HEGDE
AGED ABOUT 68 YEARS
S/O LATE PROF.KTM HEGDE
R/AT 102, ONE CREST
34 NUNGAMBAKKAM HIGH ROAD
CHENNAI-600 034

3B) DR. HARSHAVARDHAN HEGDE
AGED ABOUT 64 YEARS
S/O PROF K.T.M HEGDE
R/A B105, GROUND FLOOR
GULMOHAR PARK
NEW DELHI-110 049

3C) SRI ADARSH HEGDE
AGED ABOUT 63 YEARS
S/O LATE PROF KTM HEGDE
R/A 1079, E WINE MAPLE LEAF
RAHEJA VIHAR
POWAI, MUMBAI-400 072

4. SMT MANORAMA S SHETTY
W/O DR B SHEKAR SHETTY
AGED ABOUT 56 YEARS
R/O MYSORE CLINIC
THURUVEKERE - 572 221
TUMKURU DISTRICT

...RESPONDENTS

(BY SRI. RAHUL CARIAPPA K.S, AGA FOR R1,
SMT. VAISHALI HEGDE, ADVOCATE FOR R2-R4 & ALSO
PROPOSED LR'S OF DECEASED R3)

THIS W.P IS FILED UNDER ARTICLES 226 AND 227 OF
THE CONSTITUTION OF INDIA PRAYING TO QUASH OF THE
ORDER DTD:15.7.2011 PASSED BY THE RESPONDENT NO.1



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WP No. 27438 of 2017
AND 1 OTHER

IN LRY:7A 1197/2006-07, WHICH IS PRODUCED AT ANNEXURE-A AND ETC.

IN WP NO. 27438/2017

BETWEEN:

SRI. THINGALE VIKRAMARJUNA HEGDE,
S/O LATE THINGALE RAVINDRA HEGDE,
AGED ABOUT 49 YEARS,
R/O THINGALE CHAVADI HOUSE,
NADVUPLALU VILLAGE,
AJEKKARU HOBLI,
KARKALA TALUK-574 104
UDUPI DISTRICT

...PETITIONER

(BY SRI. D.R. RAVI SHANKAR, SENIOR COUNSEL FOR
SRI. SUYOG HERELE E, ADVOCATE AND
SRI. NISHANTH S ADVOCATE FOR P1)

AND:

1. THE AUTHORISED OFFICER AND THE ADDITIONAL DEPUTY COMMISSIONER UDUPI DISTRICT, UDUPI-576 101
2. SMT SARITHA BHANDARI
W/O SRI PRAHLAD BHANDARI,
AGED ABOUT 37 YEARS,
R/O MYSORE CLINIC,
THURUVEKERE-572 221
TUMKURU DISTRICT
3. SMT SAROJINI K HEGDE
W/O LATE DR K T M HEGDE,
AGED MAJOR,
NO.9, KASTURBA LANE
BARODA UNIVERSITY CAMPUS
VADODARA
GUJARATH-391 110
SINCE DEAD BY LRS



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WP No. 6398 of 2018
C/W WP No. 27436 of 2017
WP No. 27438 of 2017
AND 1 OTHER**

3A) DR. SAJAN K HEGDE
AGED ABOUT 68 YEARS
S/O LATE PROF.KTM HEGDE
R/AT 102, ONE CREST
34 NUNGAMBAKKAM HIGH ROAD
CHENNAI-600 034

3B) DR. HARSHAVARDHAN HEGDE
AGED ABOUT 64 YEARS
S/O PROF K.T.M HEGDE
R/A B105, GROUND FLOOR
GULMOHAR PARK
NEW DELHI-110 049

3C) SRI ADARSH HEGDE
AGED ABOUT 63 YEARS
S/O LATE PROF KTM HEGDE
R/A 1079, E WINE MAPLE LEAF
RAHEJA VIHAR
POWAI, MUMBAI-400 072
(AMENDED VIDE ORDER DATED 03.10.2025)

4. SMT MANORAMA S SHETTY
W/O DR B SHEKAR SHETTY
AGED ABOUT 56 YEARS,
R/O MYSORE CLINIC
THURUVEKERE-572 221
TUMKURU DISTRICT

...RESPONDENTS

(BY SRI. RAHUL CARIAPPA, AGA FOR R1,
SMT. VAISHALI HEGDE, ADVOCATE FOR R2-R4)

THIS W.P IS FILED UNDER ARTICLES 226 AND 227 OF
THE CONSTITUTION OF INDIA PRAYING TO QUASH OF THE
ORDER DTD:15.7.2011 PASSED BY THE RESPONDENT NO.1
IN LRY:7A 1197/2006-07, WHICH IS PRODUCED AT
ANNEXURE-A AND ETC.



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WP No. 27438 of 2017
AND 1 OTHER**

IN WP NO. 6397/2018

BETWEEN:

1. SRI THINGALE VIKRAMARJUNA HEGDE
S/O SRI THINGALE RAVINDRA HEGDE,
AGED ABOUT 50 YEARS,
RESIDENT OF THINGALE CHAVADI HOUSE,
NADAVUPADU VILLAGE,
AJIKKARU HOBLI,
KARKALA TALUK-574 104.
2. MS. SPOORTHI RAI
D/O SRI PRADEEP RAI,
AGED ABOUT 30 YEARS,
RESIDENT OF ANANTHANAGAR,
SONI CLINIC ROAD,
MANIPAL POST-576 104,
UDUPI TALUK & DISTRICT.

THE PETITIONER NO.2 IS
REPRESENTED BY PETITIONER NO.1
AS GENERAL POWER OF ATTORNEY HOLDER
SRI THINGALE VIKRAMARJUNA HEGDE,
S/O SRI THINGALE RAVINDRA HEGDE,
AGED ABOUT 50 YEARS,
RESIDENT OF THINGALE CHAVADI HOUSE,
NADAVUPADU VILLAGE-574 104,
AJIKKARU HOBLI, KARKALA TALUK.

...PETITIONERS

(BY SRI. D.R. RAVISHANKAR, SENIOR COUNSEL FOR
SRI. SUYOG HERELE E, ADVOCATE AND
SRI. NISHANTH S.K, ADVOCATE FOR P1 & P2)

AND:

SMT SARITHA P BHANDARY
W/O PRAHLAD BHANDARY,
AGED ABOUT 29 YEARS,
RESIDING AT 2260,



HOUSE NO.1, II FLOOR,
I MAIN, 4TH 'A' CROSS,
RPC LAYOUT,
VIJAYANAGAR,
BENGALURU - 560 040.

...RESPONDENT

(BY SMT. VAISHALI HEGDE, ADVOCATE)

THIS WP IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH / SET ASIDE THE ORDER DATED 31.01.2018 IN INTERLOCUTORY APPLICATION NO. XXXIV IN O.S.13/2005 ON THE FILE OF THE SR. CIVIL JUDGE AND ADDL. CHIEF JUDICIAL MAGISTRATE, KARKALA THEREBY REJECTING THE APPLICATIONS FILED BY THE BY THE PETITIONERS VIDE ANNEX-A AND ETC.

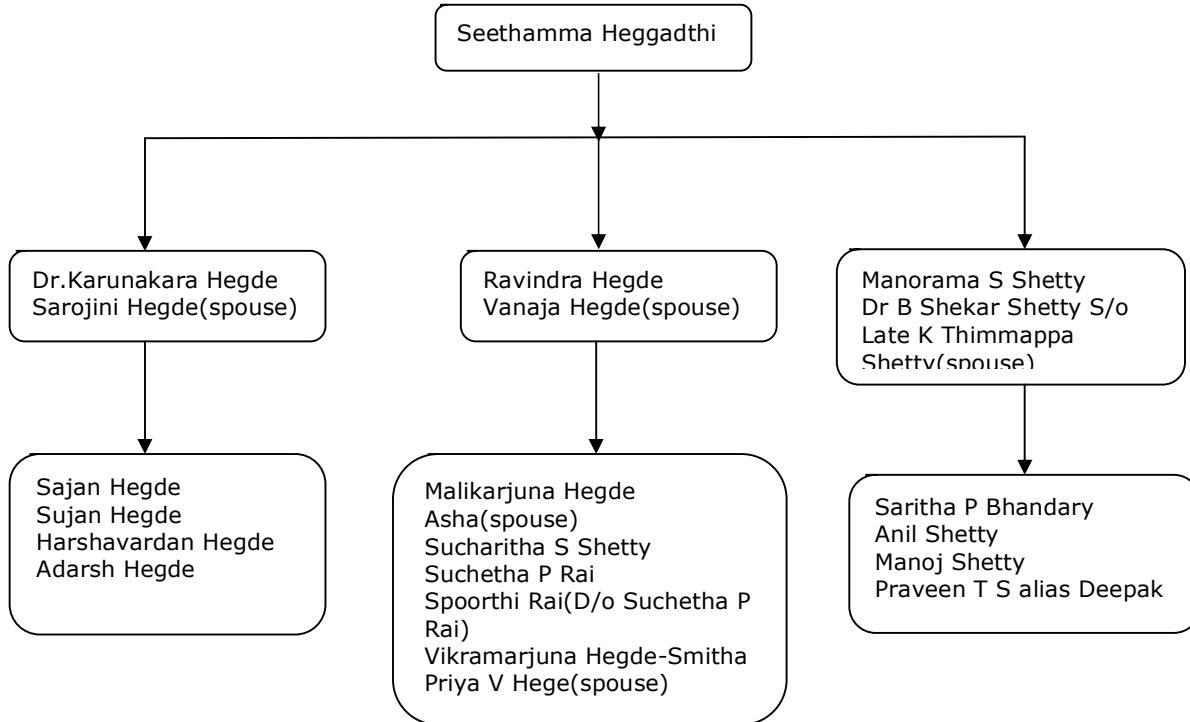
THESE PETITIONS HAVING BEEN RESERVED FOR ORDERS ON 10.12.2025 COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE RAJESH RAI K

CAV ORDER

'**Fraud**' is an act of deliberate deception with the design of securing something by taking unfair advantage of another. In fraud, one gains at the loss and the cost of another. The instant case is one of such kind.

2. The petitioners and the contesting respondents are the family members. Their interse relationship is as under:



3. WP.No.27436/2017 is by Asha Mallikarjuna Hegde (daughter-in-law of Vanaja Ravindra Hegde) and others against Saritha Bhandary (daughter of Manorama Shetty), Sarojini Hegde (wife of Dr.Karunakara Hegde) and Manorama Shetty seeking quashing of order dated 15.07.2011 passed by the Land Tribunal in LRY:7A 1197/2006-07 and order dated 23.01.2016 passed in Appeal No.714/2011 and order dated 27.05.2017 passed in Review Petition No.3/2016.

4. WP.No.27438/2017 is by Thingale Vikramarjuna Hegde against Saritha Bhandary (daughter of Manorama Shetty),



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Sarojini Hegde (wife of Dr.Karunakara Hegde) and Manorama Shetty seeking quashing of order dated 15.07.2011 passed by the Land Tribunal in LRY:7A 1197/2006-07 and order dated 23.01.2016 passed in Appeal No.864/2011 and order dated 27.05.2017 passed in Review Petition No.4/2016.

5. WP.No.6397/2018 is by Thingale Vikramarjuna Hegde and Spoorthi Rai (daughter of Suchetha P.Rai) against Saritha Bhandary seeking quashing of order dated 31.01.2018 passed on I.A.No.34 filed seeking framing of additional issues in O.S.No.13/2005 and order dated 31.01.2018 passed on I.A.No.35 filed seeking stay of further proceedings in O.S.No.13/2005 till the disposal of WP.Nos.27436 and 27438/2017.

6. WP.No.6398/2018 is by Thingale Vikramarjuna Hegde and Spoorthi Rai against Manorama Shetty seeking quashing of order 31.01.2018 passed on I.A.No.29 filed seeking framing of additional issues in O.S.No.16/2005 and order dated 31.01.2018 passed on I.A.No.30 filed seeking stay of further proceedings in O.S.No.16/2005 till the disposal of WP.Nos.27436 and 27438/2017.



7. The case of Thingale Vikramarjuna Hegde is that lands he has filed Form No.7A on 03.12.1998 claiming occupancy right in respect of Sy.No.75/11 measuring 4.18 acres, 75/3 measuring 1.58 acres, 75/11 measuring 0.65 acres, 75/6 measuring 0.34 acres, 75/5 measuring 1.06 acres, 75/10 measuring 0.71 acres, 75/4 measuring 3.23 acres, 75/12 measuring 1.13 acres, 109/3A measuring 3.87 acres and 109/6 measuring 0.58 under the landlords namely Raghunath Hegde and Sridhar Hegde.

8. It is the case of Asha Mallikarjuna Hegde (daughter-in-law of Vanaja Ravindra Hegde) and others that Vanaja Ravindra Hegde has filed Form No.7A on 02.12.1998 claiming occupancy right in respect of Sy.No.75/6 measuring 0.34 acres, 75/10 measuring 0.71 acres, 75/6 measuring 1.06 acres, 75/3 measuring 4.46 acres and 75/93 measuring 0.89 acres under the landlord namely Manorama Shetty.

9. The Land Tribunal, after detailed enquiry, rejected their applications vide order dated 15.07.2011 in LRY:7A-1197/2006-07. Aggrieved by which, they filed appeals in Appeal No.864 and 714/2011 before the Karnataka Appellate



Tribunal ("KAT"), which came to be dismissed on 23.01.2016. Against which, they filed Review Petition No.3 and 4/2016, which came to be rejected vide order dated 27.05.2017. Challenging the aforesaid order, they are before this Court in WP.Nos.27436 and 27438/2017.

10. Further, Saritha Bhandary filed O.S.No.13/2005 against Thingale Vikramarjuna Hegde, Manorama Shetty, Suchetha P.Rai, Dr.Karunaka Hegde and others seeking declaration that she is the absolute owner on mooli right in respect of properties (which were claimed by Thingale Vikramarjuna Hegde in aforesaid Form No.7A) by virtue of registered Will dated 28.12.1974 executed by K.Thimmappa Shetty (her paternal grandfather, who got the said properties from Raghunatha Hegde, Sridhara Hegde and Sadashiva Hegde, who are children of Lakshmi Heggadthi). In the said suit, Thingale Vikramarjuna Hegde has filed I.A.No.34 seeking framing of additional issues and I.A.No.35 seeking stay of further proceedings in O.S.No.13/2005 till the disposal of WP.Nos.27436 and 27438/2017, which came to be rejected vide order dated



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31.01.2018. Against which, he along with Spoorthi Rai are before this Court in WP.No.6397/2018.

11. Further, Manorama Shetty and others filed O.S.No.16/2005 against legal heirs of Vanaja Ravindra Hegde seeking declaration that she is the absolute owner of residence in property bearing No.75/12 measuring 1 acre 13 cents and permanent injunction in respect of properties bearing Sy.No.75/3 - 2 acres 62 cents, Sy.No.75/9 - 1 acre, Sy.No.75/11 - 0.60 cents, Sy.No.75/11 - 0.60 cents. In the said suit, legal heirs of Vanaja Ravindra Hegde have filed I.A.No.29 seeking framing of additional issues and I.A.No.30 seeking stay of further proceedings in O.S.No.16/2005 till the disposal of WP.Nos.27436 and 27438/2017, which came to be rejected vide order dated 31.01.2018. Against which, Thingala Vikramarjuna Hegde and Spoorthi Rai are before this Court in WP.No.6398/2018.

12. I have heard Sri. D.R.Ravishankar, learned Senior Counsel for Sri Suyog Herele and Sri Nishanth S.K., learned counsel for the legal heirs Vanaja Ravindra Hegde; Smt.Vaishali Hegde, learned counsel for contesting respondents and



Sri Rahul Cariappa, learned Additional Government Advocate for respondent-State.

13. The primary contention of the learned Senior Counsel for the petitioners - legal heirs of Vanaja Ravindra Hegde is that the Authorised Officer/Additional Deputy Commissioner has passed the impugned order dated 15.07.2011 without considering the documents produced by the petitioners by affording them an opportunity to lead evidence, without following the procedure as contemplated under Rule 26(c) of the Karnataka Land Reform (Amendment) Rules, 1998 (for brevity, "**the KLR Rules**") and without conducting an enquiry as contemplated under Section 48-A of the Karnataka Land Reforms Act (for brevity, "**the KLR Act**").

14. He further contended that undisputedly the petitioners are in possession of the lands claimed by them before and as on 01.03.1974 as a tenant under the respondent-landlords and continued to be in possession. The said aspect is fortified in view of the suit filed by Saritha Bhandary for declaration and possession against the petitioners in O.S.No.13/2005.



15. He further contended that the Authorised Officer has failed to delve into the ingredients of Section 77A of the KLR Act, which contemplates three basic ingredients i.e., (1) the possession and cultivation of the applicant as on 01.03.1974, (2) the applicant has failed to apply for registration under Section 48-A within the period specified and (3) whether the applicant continued to be in actual possession and cultivation. According to the learned Senior Counsel, all these ingredients have been fulfilled by the petitioners by placing sufficient documents. To prove the possession and tenancy, the petitioners produced the geni chits, record of right, receipt of payment of assessment etc. Further, the petitioners have filed Form No.7A in time and they also proved that they are in continuous possession of the land claimed by them in view of the declaration suit filed by Saritha Bhandary. Despite placing all these *prima facie* evidence, the Authorised Officer has failed to grant the land claimed by them.

16. He also contended that the contention of the contesting respondents that the geni chit and other documents have been forged and there is a truth lab report cannot be accepted for



the reason that these documents were never the part of the original proceedings and petitioners never had an opportunity to disprove the allegation of forgery by cross-examining the witness or author of such report.

17. He further contended that the reasoning of the Authorised Officer that there existed no landlord and tenant relationship in view of the relationship between the petitioners and contesting respondents and the petitioners possessing excess land as contemplated under Clause (ii) of Section 77-A (1) of KLR Act is totally misread. On the other hand, the petitioners proved their possession over lands claimed by them by placing RTC and the said aspect has been admitted by the contesting respondents.

18. The spot inspection conducted by the Land Tribunal and passing of the impugned order based on such report is totally without jurisdiction in view of the limited enquiry as contemplated under Rule 26(c) of KLR Rules. With these submissions, he prays to allow the writ petition. To buttress his argument, he relied on the following judgments:

- i) Bheemappa Basappa Athani Vs. The Land Tribunal, Jamkhandi - 1977 SCC Online Kar 128.



ii) Yeribasavana Gouda & Others Vs. State of Karnataka - 2006 SCC Online Kar 83.

iii) B.Somanatha Rao Vs. Karmil D'Souza & Others - 2006 SCC Online Kar 978.

iv) Lokayya Poojary & Another Vs. State of Karnataka & Others - 2011 SCC Online Kar 27.

19. *Per contra*, the learned counsel for the contesting respondents contended that the Authorised Officer and the KAT have rightly rejected the claim of the petitioners under Section 77A of the KLR Act for the reason that the petitioners claimed occupancy right as tenants against family members in respect of property purchased by way of Sale Deed, Partition Deed and the Will.

20. Further, the petitioners have failed to produce any iota of evidence to prove that they were cultivating lands claimed by them as tenants prior to 01.03.1974 and post 1974.

21. The geni chits produced by the petitioners are totally concocted and forged as per the report submitted by the Truth Lab. According to the learned counsel, there was a partition



between the brothers and sister i.e., Ravindra Hegde, Dr.Karunakara Hegde and Manorama Shetty by way of a registered Partition Deed dated 01.06.1972.

22. It is submitted that as per the Partition Deed, Ravindra Hegde had continued to stay in the ancestral house along with other family members of Karunkara Hegde and Manorama Shetty even after the partition till his demise, with absolutely no rights over the same and after his demise, the said ancestral house had reverted solely to the share and possession of family members of Manorama Shetty. She further contended that Manorama Shetty thereafter was in peaceful possession and cultivation of lands.

23. The petitioners immediately on completion of the 13th day ceremony, along with his henchmen got the contesting respondents evicted from the house and the lands claimed by them. As such, the action of the petitioners was in clear and total violation of the terms of the Partition Deed between the family members. She further contended that, in light of highhanded and unlawful activities of the petitioners, Manorama Shetty was constrained to file O.S.No.315/1986



renumbered as O.S.No.16/2005 against the petitioners seeking declaration of title and consequentially, possession of the properties along with mesne profits. Saritha Bhandary has also filed O.S.No.190/1989 which was renumbered as O.S.No.13/2005 seeking a declaratory decree, declaring that she was the absolute owner on Mooli right in respect of lands claimed by Thingale Vikramarjuna Hegde in Form-7A by virtue of registered Will dated 28.12.1974 executed by K.Thimmappa Shetty (her paternal grandfather) and for consequential relief of possession.

24. She further contended that the lands claimed by the petitioners for grant of occupancy right by filing Form No.7A dated 02.12.1998 and 03.12.1998 under Section 77-A of the KLR Act are the self-acquired and the ancestral joint family properties inherited by Manorama Shetty and Saritha Bhandary. The lands bearing Sy.Nos.75/6, 75/10, 75/3 and 75/98 were the joint family properties which fell to the share of Kamala Heggadthi, the aunt of Saritha Bhandary by way of partition. Thereafter, Saritha Bhandary by way of registered Sale Deed dated 20.12.1972 purchased the above stated lands



from Kamala Heggadthi. Till the time of sale, the said lands were being cultivated by Kamala Heggadthi, thereafter from 1972 till 1986, Saritha Bhandary cultivated the said lands personally. Therefore, the above stated lands being the self-acquired properties of Saritha Bhandary, the petitioners have no right whatsoever over the said lands.

25. She also contended that, the petitioner – Thingale Vikramarjuna Hegde who claimed tenancy on the ground that he was in possession and cultivation of the lands claimed by him since 1972, cannot be believed at any stretch of imagination, as while filing Form-7A in the year 1998, he mentioned his age as 31 years. As such, a six year old boy cannot be expected to cultivate the lands in the year 1972. In such circumstance, it is obvious the entire claim of the petitioners is only to knock off the lands claimed by them by placing false and concocted documents. With these submissions, she prays to dismiss the writ petitions. To buttress her argument she relied on the following judgments:

i) Hosabayya Nagappa Naik & Others Vs.

State of Karnataka & Others - ILR 2002 KAR 1342.



ii) Aboobakkar Vs. The Authorised Officer -
2007 (2) KCCR 817.

iii) Lokayya Poojary & Another Vs. State of
Karnataka & Others - ILR 2012 Kar 4345.

26. I have given my anxious consideration to the contentions of the learned counsel for the respective parties, so also perused the materials on record.

27. As could be gathered from records, writ petition Nos.27436/2017 and 27438/2017 are filed by the daughter-in-law (Asha Mallikarjuna Hegde) claiming under Vanaja Ravindra Hegde and son of late Thingale Ravindra Hegde (Thingale Vikramarjuna Hegde) respectively, who are the claimants before the Authorised Officer by claiming occupancy rights in respect of aforesaid lands in Form No.7A under Section 77A of the KLR Act. According to them, originally lands claimed by them along with other lands were being cultivated by Thingale Ravindra Hegde as tenant under one Raghunatha Hegde and Sridhara Hegde, children of Lakshmi Heggadathi. However, he



could not file any application in Form No.7 till his life time and died in the year 1986. Thereafter, Thingale Vikramarjuna Hegde and Vanaja Ravindra Hegde continued in possession and cultivation of the lands claimed by them under the landlords namely Raghunath Hegde & Sridhara Hegde, and Manorama Shetty respectively.

28. According to the petitioners, a Geni chit has been issued by the landlords – Raghunath Hegde & Sridhara Hegde to Ravindra Hegde (father of Thingale Vikramarjuna Hegde) on 04.06.1973, and Manorama Shetty to Vanaja Ravindra Hegde on 04.10.1972 in respect of lands claimed by them by receiving the geni/rent.

29. Further, as observed by the Tribunal, Thingale Vikramarjuna Hegde had filed Form No.7A in the year 1998 stating that he was cultivating the land since 1972 and his age was mentioned as 31 years as on 1998. As such, his age as on 1972 would be six years and a six year old boy cannot be expected to cultivate the lands. Thus, the cultivation of lands claimed by Thingale Vikramarjuna Hegde cannot be believed at any stretch of imagination.



30. On careful perusal of Form No.7A filed by Vanaja Ravindra Hegde i.e., mother-in-law of the petitioner in W.P.No.27436/2017, it is stated that she was cultivating the said land since 1972 under Manorama Shetty. As a matter of fact, she was 30 years at that point of time and her husband Ravindra Hegde was very much alive. It is pertinent to state here that the geni chit produced by Vanaja Ravindra Hegde clearly states that she had claimed tenancy under Manorama Shetty, who is none other than her own sister-in-law. Thus, she being the family member cannot be said to be the landlord, as such, there is no relationship of tenant and landlord between Vanaja Ravindra Hegde and Manorama Shetty. Thus, the claim in WP.No.27436/2017 is also far from truth. As such, both the petitioners have miserably failed to prove their landlord and tenant relationship in respect of lands claimed by them in their respective Form-7A.

31. It is the specific case of the contesting respondent i.e., Saritha Bhandary that the lands bearing Sy.Nos.75/6, 75/10, 75/3 and 75/98 were the joint family properties which fell to the share of Kamala Heggadthi, the aunt of Saritha Bhandary



by way of partition as per Aliyasanthana Law prevalent among the Bunt Committees in South Canara District. Thereafter, Saritha Bhandary by way of registered Sale Deed dated 20.12.1972 purchased the above stated lands from Kamala Heggadthi.

32. As far as lands fell into the share of Manorama S Shetty by way inheritance from her mother Seethamma Heggadath (propositus), the same is not seriously disputed by the petitioners.

33. The next aspect of the matter is that, whether an application filed in Form No.7A under Section 77A of the KLR Act envisages an enquiry as contemplated under Section 48-A of the KLR Act as argued by the learned Senior Counsel for the petitioners or a limited enquiry under Rule 26(c) of the KLR Rules. The Division Bench of this Court in the case of ***HOSABAYYA NAGAPPA NAIK & OTHERS Vs. STATE OF KARNATAKA - ILR 2002 KAR 1342*** in paragraphs 7 and 8 has held as under:

"7. Having indicated the sweep and the extent of Rule 26C let us now consider the scope of the Rule.



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Sub-Rule 5 of the Rule is only to be understood in the context of Section 77A and this is where the main provision of Section 77A takes control of the situation. The procedure envisaged under Rule 26C for the purposes of granting of land under Section 77A of the Act cannot go beyond the purpose for which the section is provided for. As noticed earlier the object of the section is to provide an opportunity to those who might have been truly and lawfully tenants of the land, who were in possession and cultivation and continued to be in possession and cultivation, who might have missed the bus by not making an application within the stipulated period which in fact had come to be extended from time to time and to ensure that their possession and cultivation is continued without being disturbed any further. It is very essential to point out that an application under Section 77A is not the same as an application under Section 45, and the enquiry contemplated under Section 77A cannot be the same as an enquiry conducted by the Land Tribunal under Section 48A of the Act. Whereas on an application under Section 45, enquiry by the Land Tribunal is for grant of conferment of occupancy rights, an application under Section 77A to the Deputy Commissioner or other Officer authorised by the State Government is for the purpose of grant of land. The provisions of Section 77A is for the purpose of granting of land on satisfaction of certain conditions namely three conditions mentioned therein. It is to be noticed that



conditions (1) and (2) are conditions which should have been satisfied and foregone in respect of the land. It is not an enquiry to ascertain whether a person can be granted land being a tenant as on the appointed date; such an enquiry was within the scope of Section 48A and not for the purpose of condition (1) of Section 77A. Here the enquiry is only for a limited purpose to find out the accomplished fact as to whether the person was in actual possession and cultivation of the land on the appointed date. It is not as though the authorities are to hold an enquiry for the purpose of conferment of occupancy rights on the premise that the applicants were lawful tenants on the appointed date and the enquiry was for such purpose. The factum of the applicants being a lawful tenant on the appointed date and was in cultivation as on the appointed date is not to be established now in the present enquiry, but it should have been a concluded fact and the scope of the present enquiry is to let in evidence to satisfy or prove the existence of such a concluded fact. It is for the applicant to show that it was an undisputed fact and on record and that without anything further more he was a tenant lawfully in possession and cultivation of the land on the appointed date. The second condition is also of significance and importance in the context of considering the application i.e., the land should have been vested in the State Government as on the appointed date as it was a tenanted land. This again is an event which should have already taken place and



as such the evidence that is required to be placed by the applicant to show that this is an event that has taken place already. Obviously it should find a place in some official record, as vesting of the land is in favour of the State Government. In the absence of any such record it again becomes a disputed fact which again is not within the scope of an enquiry under Section 77A of the Act. If these two conditions are fulfilled then there is the necessity and scope for inquiring with regard to the third condition namely as to whether the applicant has continued to be in possession and cultivation of such land as on the date of the commencement of the amending Act i.e., 1.11.1998.

8. We say this for yet another reason namely that the last date for filing of application under Section 45 in Form No.7 had been extended from time to time. If the scope of enquiry contemplated under Section 77A of the Act was to be the same as an enquiry under Section 48A of the Act then it would have been the simplest thing for the Legislature to extend such date instead of providing for a separate provision as under Section 77A. On the other hand the Legislature has advisedly provided for an enquiry under the Section and two very important distinguishing features have to be noticed. One is that the authority to whom the application under Section 77A is to be made is the Deputy Commissioner or any other Officer authorised by the State Government in this behalf and not the Land Tribunal which is the



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inquiring authority under Section 48 A of the Act and secondly that the application in Form No.7A is for grant of land whereas an application under Form No.7 of the Rules and filed under Section 45 of the Act was for grant of occupancy rights. Having regard to these distinctions we are of the view that the scope of enquiry under Section 26C is to be understood for this purpose and not as though it is an enquiry as contemplated under Section 48A of the Act though for enquiry under either section, Section 48A or 77A, it is mentioned to be a summary enquiry as contemplated under Section 34 of the Karnataka Land Revenue Act. Though the procedure mentioned under Rule 17 or Rule 26C of the Rules is the same procedure as the one contemplated under Section 34 of the Karnataka Land Revenue Act, one should not lose sight of the fact that the enquiry under Rule 26C is for the purposes of Section 77A for ascertaining fulfillment of the three conditions enumerated therein. As such the interpretation placed in the context of an enquiry under Rule 17 though is as provided under Section 34 of the Karnataka Land Revenue Act, cannot be very apt in the context of the provisions of Section 77A and Rule 26C. There cannot be any dispute about the fundamental requirements of one observing the principles of natural justice, recording the summary of evidence of the witnesses examined, for offering the witness examined in chief for cross examination by the opposite side, affording sufficient opportunity to each party to present their case and passing of



reasoned order ultimately on examination of the evidence on record. But in a situation where there is no scope for observance of these aspects as in the instant case where the documents on record doesn't indicate anything positive with regard to compliance of the first two conditions enumerated in Section 77A, the question of offering the respondents for cross examination or even shutting out the applicants from examining the witnesses for the purposes of proving the existence of the first two conditions doesn't arise. What is not in existence and is not borne out on record in respect of an accomplished fact and of a past event cannot be made good by means of oral evidence at the time of an enquiry for the purposes of Section 77A of the Act.

Thus, it is clear that the enquiry contemplated under Rules 26(c) of the KLR Rules is a limited enquiry which has been complied by the Authorised Officer. As such, the contention of the learned Senior Counsel that, the Authorised Officer has passed the impugned order without affording any opportunity to the petitioners to lead evidence and to cross- examine the witnesses to test the veracity of their claim and the documents placed by them, does not hold much water.



34. As a matter of fact, the impugned order clearly depicts that, a spot inspection has been conducted by the Revenue Inspector in respect of the lands claimed by them and the documents were perused in detail, which revealed that there was no landlord and tenant relationship between the petitioners and respondents and no relevant documents were placed by the petitioners to prove their tenancy and cultivation of the lands claimed by them. Further, it is also revealed that the petitioners were possessing excess land than the ceiling limit as contemplated under proviso to Section 77-A (2) of the KLR Act.

35. The contention of the learned counsel for the petitioners that to disprove the allegation of forgery of geni chits and other documents produced by the petitioners, an opportunity ought to have been extended to the petitioners by way of cross-examination of author of the report does not hold much water for the reasons discussed supra that Form No.7A itself discloses that the claim of the petitioners are false and for unlawful gain and in view of the limited enquiry under Rule 26 (c) of the KLR Rules. Nonetheless, the Truth Lab Report in respect of the alleged geni chits relied by the petitioners, produced before the



KAT by the respondents, clearly reveals that, the signatures were forged and concocted as examined by the KAT. The Hon'ble Apex Court in the case of **MURARI LAL Vs. STATE OF MADHYA PRADESH - (1980) 1 SCC 704**, has held that in cases where the reasons for the opinion are convincing and there is no reliable evidence throwing a doubt, the uncorroborated testimony of an handwriting expert may be accepted in view of Section 45 of the Indian Evidence Act.

36. In the instant case, Form No.7A filed by Thingale Vikramarjuna Hegde has been rejected on the ground that he has falsely stated that he was cultivating the land as tenant since 1972, though he was six years old as on 1972, and Form No.7A filed by Vanaja Ravindra Hegde has been rejected on the ground that Manorama Shetty, under whom she claimed to be the tenant, being a family member, there is no relationship of tenant and landlord between them. As such, the Authorised Officer and the KAT have rightly accepted the same and passed the impugned orders.

37. It is also pertinent to state here that in the Written Statement filed by Thingale Vikramarjuna Hegde in



O.S.No.13/2005 (OS.No.190/1989), he claimed right over the lands by way of adverse possession, whereas in Form No.7A, he claimed right over the lands as a tenant. Thus, the same are mutually destructive pleas, which clearly establish that he was not in possession of the lands claimed by him as a tenant at any point of time. This aspect further strengthens the plea of the respondents and the report of Truth Lab that the petitioners were not the tenants under the respondents and they were not paying geni/rent to the respondents.

38. The next contention raised by the learned counsel for the contesting respondents is that the petitioners are not entitled for grant of land in view of the proviso to Section 77-A (2) of the KLR Act, as they crossed the ceiling limit of 2 hectares of land. The said aspect has been clearly depicted in the RTCs of the land possessed by the petitioners that they own large extent of land than the ceiling limit. In order to maintain an application under Section 77-A of the KLR Act, the petitioners have to prove that they are not holding more than 2 hectares of land. On that count also, the petitioners are not entitled for the grant of lands as claimed by them.



39. It is pertinent to state here that the factum of possession and status of the applicant as on the appointed date should be an undisputed fact. Under Section 48-A of the KLR Act, if a land is tenanted, it gets vested with the State and only on application of the tenant in Form No.7, occupancy right can be granted. Whereas, the condition prescribed in respect of Section 77-A of the KLR Act is that the lands which were already vested with the State alone can be brought within the purview of Section 77-A of the Act. However, in this case, the petitioners have failed to prove that the lands were already vested with the State since the lands claimed by them were not tenanted lands and that they have also failed to prove their actual possession and cultivation as on 01.03.1974 and their continuous possession and cultivation of lands thereafter.

40. In view of the above discussions, I am of the considered view that the impugned orders do not call for any interference at the hands of this Court.

41. Thus, it is clear from the above discussions, the petitioners had filed Form No.7A against their own close family members, that too in respect of the self acquired and inherited



property of contesting respondents, playing fraud on them by producing forged geni chits, though they were not cultivating the lands as tenants as claimed by them and thus, failed to prove that the land vested with the State Government and that they continued to be in possession and cultivation of lands claimed by them under Form-7A. That apart, they were holding the land more than the ceiling limit. Hence, it is clear that they filed Form-7A only for unlawful gain by playing fraud on their own family members.

42. As held by the Apex Court in ***K.D. Sharma Vs. Steel Authority of India Limited - (2008) 12 SCC 481***, the Court defined 'fraud' as an act of deliberate deception with the design of securing something by taking unfair advantage of another. In fraud, one gains at the loss and the cost of another. Even the most solemn proceedings stand vitiated if they are actuated by fraud.

43. Further, the petitioners dragged the dispute for more than decades in one or the other manner. This conduct of the petitioners has to be deprecated as they not only dragged the contesting respondents before this Court by filing multiple



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frivolous litigations, but also wasted the precious time of the Courts.

44. In the instant case, the petitioners want to gain at the loss and the cost of the respondents, who are none other than the family members. Thus, the said conduct of the petitioners has to be dealt with iron hands by imposing costs. Hence, writ petitions are **dismissed** with costs of Rs.1,00,000/- each payable by the petitioners.

45. The costs shall be payable to **Karnataka Legal Services Authority**, within a period of one month, failing which, the registry is directed to take necessary action.

SD/-
(RAJESH RAI K)
JUDGE

PKS
List No.: 2 SI No.: 3