

Reserved on : 17.04.2026
Pronounced on : 04.06.2026



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 04TH DAY OF JUNE, 2026

PRESENT

THE HON'BLE MR. JUSTICE D K SINGH

AND

THE HON'BLE MR. JUSTICE T.M.NADAF

WRIT APPEAL NO. 1333 OF 2025 (KLR-RES)

BETWEEN:

1. STATE OF KARNATAKA
REVENUE DEPARTMENT,
M.S. BUILDING,
DR. AMBEDKAR VEEDHI,
BANGALORE-560 001,
REPRESENTED BY ITS SECRETARY.
2. THE DEPUTY COMMISSIONER
MYSURU DISTRICT,
MYSURU-571 129.
3. THE ASSISTANT COMMISSIONER
MYSURU SUB DIVISION,
MYSURU-571 129.
4. THE TAHSILDAR
MYSURU HUNSUR ROAD,
MYSURU-571 105.

(NOW AT NAZARBAD,
MINI VIDHANA SOUDHA,
MYSURU TALUK,
MYSURU-570 010).

...APPELLANTS

(BY SRI.M.N.SUDEV HEGDE, AGA)



AND:

1. SRI. L. N. GOVINDASWAMY
S/O. LATE SRI. RAMA BHOVI,
AGED ABOUT 76 YEARS,
R/AT NO. 90/9,
NAACHANAHALLI PALYA,
J. P. NAGARA,
MYSURU DISTRICT,
MYSURU-570008.
2. MYSORE URBAN DEVELOPMENT AUTHORITY (MUDA)
JHANSI LAXMI BAI ROAD,
MYSURU-570 005,
REPRESENTED BY ITS COMMISSIONER.

...RESPONDENTS

(BY SRI.S.P.SHANKAR, SENIOR ADVOCATE FOR
SRI.MANJUNATH G.KANDEKAR, ADVOCATE FOR R1;
SRI.T.P.VIVEKANANDA, ADVOCATE FOR R2;
SRI.M.B.CHANDRACHOODA, ADVOCATE FOR
PSD R3 TO 7)

THIS WRIT APPEAL IS FILED U/S 4 OF THE KARNATAKA
HIGH COURT ACT PRAYING TO SET ASIDE THE ORDER DATED
27.11.2024 PASSED BY THE LEARNED SINGLE JUDGE IN WP
No-24304/2021 (KLR-RES) BY ALLOWING THIS APPEAL b)
CONSEQUENTLY DISMISS THE WP NO-24304/2021 (KLR-RES)
FILED BY THE 1ST RESPONDENT.

THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR
JUDGMENT, COMING ON FOR PRONOUNCEMENT THIS DAY,
JUDGMENT IS DELIVERED/ PRONOUNCED AS UNDER:

CORAM: HON'BLE MR. JUSTICE D K SINGH
and
HON'BLE MR. JUSTICE T.M.NADAF

CAV JUDGMENT

(PER: HON'BLE MR. JUSTICE T.M NADAF)

This intra court appeal is by the State and its instrumentalities under Section 4 of the Karnataka High Court Act, 1961 challenging the order dated 27.11.2024 passed by the Writ Court in W.P.No.24304/2021.

2. By the impugned order, the Writ Court disposed of the Writ Petition holding that the petitioner acquired title by means of declaration of title by Civil Court which reached up to Supreme court and directed the fourth respondent to enter the name of the petitioner in the revenue records including the RTC extracts to enable the petitioner to get compensation from the fifth respondent for acquisition of lands by it in a time bound manner with further directions.

3. The parties are referred to as per their rankings before the Writ Court.

4. Facts leading to file the present appeal are as under:

- 4.1 The case of the petitioner as put forth by them before the Writ Court was that, one Sheragar Laxma Bhovi was in possession of land bearing Sy.Nos.82, 52 and 61 to an extent of 13 Acres 29 Guntas in Dattagalli Village, Mysore Taluk. It is further stated that land has been granted in favor of said Sheragar Laxma Bhovi as per the Grant Order dated 31.03.1954 (Annexure-B). After the death of Sheragar Laxma Bhovi, the name of the petitioner being the legal representative of said Sheragar Laxma Bhovi came to be entered in the revenue records as per IHR No.4/1983-84 (Annexure-C).
- 4.2 At the earlier point of time, in view of certain disputes by the State Government denying the title of the petitioner, a suit in O.S.No.96/1997 came to be filed against the Government entities viz., State of Karnataka represented by its Chief Secretary, the Assistant Commissioner, Mysore Sub-Division, Mysore and Mysore Urban Development Authority¹.

¹ MUDA, for short

The suit on contest, came to be decreed on 30.07.2001 declaring the petitioner and other plaintiffs as absolute owner of suit schedule property.

- 4.3 The State and other defendants aggrieved by the Judgment and decree stated supra in suit O.S.No.96/1997, filed R.A.No.257/2009 along with an application seeking condonation of delay. The said application came to be allowed after contest. That was the subject matter before the Writ Court in W.P.No.27735/2010 contending that the appeal filed belatedly by five years, and the Appellate Court erroneously allowed the application. The Writ Court vide order dated 30.08.2011 (Annexure-E) allowed the Writ Petition and set-aside the order passed by the Appellate Court in R.A.No.257/2009 allowing the I.A seeking condonation of delay. Consequently, the appeal filed by the State was dismissed. The order in Writ Petition unsuccessfully carried before the Supreme Court in Special Leave Petition.

4.4 It is further stated in the Writ Petition that respondent No.5 has utilized the land belonging to the petitioner without initiating any acquisition proceedings and accordingly, the petitioner presented the Writ Petition before the Writ Court.

4.5 It was contended before the Writ Court that the petitioner acquired his right through his ancestor Sheragar Laxma Bhovi and by means of declaration of the Civil Court, his title to the land declared, the respondent No.5 without initiating any acquisition proceedings utilized the land for the purpose of laying of road. An application was filed seeking compensation which was not considered on the ground that the petitioner's name was not found in the RTC. Accordingly, a representation was filed requesting the State authorities to enter the name of the petitioner and his family members in the RTC records as the request was not favoured and the petition filed seeking relief with further direction against respondent No.5 to grant compensation in

respect of the portion of land utilized belonging to the petitioner.

4.6 This contention of the petitioner was refuted by both the Government as well as MUDA, stating that there is a cloud in so far as title of the property in question and also disputed the grant made in favor of Sheragar Laxma Bhovi.

4.7 Before the Writ Court, learned counsel appearing for the MUDA submitted that in terms of the order passed by the Writ Court dated 29.01.2014 and 12.02.2024, respondent No.5 has deposited Rs.51,50,161/- for the portion of the land utilized belonging to the petitioner and further contended that entire extent of land as claimed by the petitioner has not been acquired in view of the report made by Assistant Director of Land Records produced along with the memo dated 26.02.2024 and sought to dispose of the Writ Petition.

4.8 The Writ Court having considered the rival submissions was of the opinion that the petitioner

acquired title under the Grant Order to Sheragar Laxma Bhovi dated 31.03.1954 as per Annexure-B and the same is confirmed in the suit by declaring title of the petitioner against the Government, which though challenged in R.A.No.257/2009 along with application for delay condonation, which was allowed by the Appellate court and subsequently set-aside by the Writ Court in W.P.No.27735/2010 consequently dismissing the appeal and attained finality and unsuccessfully called before the Supreme Court.

4.9 Further, the Writ Court observed that the Government preferred RSA No.2026/2012 against the Judgment dated 24.11.2011 in R.A.No.257/2009 which came to be dismissed by this Court on the submission made by learned counsel appearing at the bar that portion of land has been utilized by respondent No.5 for the purpose of formation of road and drainage facility and to make way for the general public. In view of the order passed by the competent Civil Court which has attained finality regarding the

right of the petitioner in respect of the land on the basis of Grant order, the Writ Court on the basis of survey report regarding the extent of land which has been utilized by respondent No.5, in terms of direction issued on 12.02.2024, produced report as per memo dated 26.02.2024 stating the position of the land and in the backdrop of these documents, held that respondent No.5 utilized the land belonging to the petitioner for the purpose of formation of road and drainage facility and to make way for the general public, directed respondent No.4 to enter the name of the petitioner in the revenue records including RTC extracts to enable the petitioner to get the compensation from respondent No.5 in a time bound manner. Further, directed the Registry to return the deposit made by respondent No.5 through RTGS with an intimation to the learned counsel for the respondent No.5. Further kept it open for the petitioner to approach respondent No.5 seeking enhancement of compensation if so advised since no acquisition proceedings has been initiated by

respondent No.5. Accordingly, the Writ Petition was disposed of. It is this order passed by the Writ Court is called in question in this Writ Appeal.

5. Heard, Sri.M.N.Sudev Hegde, learned Additional Government Advocate for the appellants, Sri.S.P.Shankar, learned Senior counsel assisted by Sri.Manjunath G.Kandekar, learned counsel for respondent No.1, Sri.T.P.Vivekananda, learned counsel for respondent No.2 and Sri.M.B.Chandrachooda, learned counsel for proposed respondent 3 to 7 on I.A.No.4/2025 for impleading.

6. Sri.M.N.Sudev Hegde, learned AGA placing reliance on the written submission filed on 23.03.2026, copy of which was served on the opponent long back, submits that the land claimed to be granted in favor of Sheragar Laxma Bhovi was in the land classified as Sarkari Kere i.e., Government Lake and the same was also shown and entered in the RTC from 1970-71 as B-Kharab and Sarkari Kere in respect of Sy.No.52, 61 and 82 of Dattagalli Village, Kasaba Hobli, Mysore Taluk and District.

He further stated regarding history of the land in the written submissions, which reads as under:

**II. History of Sy.No.52 of Dattagalli Village,
Kasaba Hobli, Mysore Taluk
and District.**

- Land measures 1 Acre and 34 Guntas.
- RTC extract from 1970-71 shows the land as B-Kharab land or "Kharabu Katte".
- MUDA utilized 34 Guntas for construction of storm water drain for its adjoining layout.
- Remaining 1 acre is occupied by water spread area.
- The said land is never granted to anyone.

**III. History of Sy.No.61 of Dattagalli Village,
Kasaba Hobli, Mysore Taluk
and District.**

- Land measures 1 Acre and 35 Guntas.
- Revenue records from 1970-71 shows the land as "Kharabu Katte".
- Land has never been granted to anyone.

**IV. History of Sy.No.82 of Dattagalli Village,
Kasaba Hobli, Mysore Taluk
and District.**

- Land measures 161 Acres and 10 Guntas.
- It originally measured 168 Acres and 30 Guntas. Out of this extent, a total of 07 Acres and 20 Guntas were bifurcated through Durasti.
- It is classified as "Sarkari Kere" of Government Lake. RTC from the years 1970 to around 1980 shows that the land is classified a Government Tank Bed.
- From the year 1980 onwards, an illegal entry was made in MR No.20/53-54 and RTC stood in the name of Shergar Laxma Bhovi, the late father of the petitioner.
- The illegal entry so made is cancelled vide the order of the Assistant commissioner in case no. Audit.4/85-86 dated 05/08/1989.

- Thereafter, from the year 1994-95, the RTC shows the name "Sarkari Kere" or Government Lake.*
- *Petitioner filed O.S.No.96/1997 for Declaration that he is the owner of the suit schedule property and for permanent injunction. The said suit came to be decreed on 30.07.2001 in favour of the petitioner/plaintiff.*
 - *State Government filed R.A.No.257/2009 (Old No.135/2006). I.A. 1 for condonation of delay was filed to condone the delay of 6 years in filing of the appeal. The said I.A was allowed.*
 - *The petitioner challenged the same before the Hon'ble High Court vide Writ Petition No.27735/2010 (GM-CPC). The said Writ Petition was allowed vide order dated 30.08.2011.*
 - *Based on the said order, the R.A.No.257/2009 stood dismissed.*
 - *The said order of the Hon'ble High court in W.P.No.27735/2010 was challenged before the Hon'ble Apex Court by filing a Civil Appeal No.20866/2012. The same came to be dismissed.*
 - *The State filed RSA No.2026/2012 against the Judgment and Decree passed in R.A.No.257/2009. The said RSA came to be dismissed on 22.04.2012, relying on the order passed in W.P.No.27735/2010."*

6.1 It was further argued by Mr.Hegde, that as per the Government Letter bearing No.RD 86 LGN 2001 dated 08.07.2003, the Deputy Commissioner/Appellant No.2, has issued an Official Memorandum dated 28.08.2003 excluding 25 Acres out of 161 Acres and 10 Guntas in Sy.No.82 and the remaining extent o 136 Acres and 10 Guntas are transferred to

the Forest Department after notifying them as Reserved forest. This action of the Government was the subject matter of the suit in O.S.No.84/2015 filed by the petitioner against the Forest Department. An application seeking temporary injunction-I.A.No.1 in the said suit came to be rejected vide order dated 04.07.2015 and ended unsuccessfully in M.A filed against the said order by means of order passed by the Appellate Court on 19.06.2016. Subsequently, the suit also came to be dismissed.

- 6.2 He further submits that in respect of the same set of land as claimed by the petitioner, another person by name Srinivas filed a suit for declaration, possession and permanent injunction in O.S.No.321/1995. The said suit was a collusive suit as the petitioner herein himself testified and said that the said land belonged to the State and thereafter was granted to one Chinnabhovi, father of Srinivas. The petitioner further stated as a witness that the lands were granted in the 1956 in favor of predecessor of

Srinivas, as such the land remained under the ownership of Srinivas.

6.3 Mr.Sudev Hegde, further submitted that this stance of the petitioner goes against his claim itself staking rights as absolute owner in respect of the very same land which he has sought in the earlier suit stated supra. The suit in O.S.No.321/1995 was decreed, ended in dismissal in R.A and RSA i.e., R.A.No.7/2004 and R.S.A.No.588/2011. The said Judgment was assailed before the Supreme Court in SLP (Civil) Diary No.32076/2018 and the same is pending consideration, wherein the Supreme Court directed both the parties to maintain *status-quo* vide order dated 05.10.2018.

6.4 It is further argued by Mr.Sudev Hegde, that both the R.A and R.S.A filed by the State in respect of suit filed by the petitioner in O.S.No.96/1997 ended in dismissal only on the ground of delay, as such the contentions of fraud taken by the State has not been considered. This fact is also not considered by the

Writ Court. He further submits that mere entry of name of the petitioner in RTC will not confer any right, title in respect of the land. Admittedly, lands are Sarkari Kere i.e., Government Lake, as such comes under B-Kharab land and no grant order can be made in respect of B-Kharab land i.e., Government Lake and submits that the Writ Court has failed to consider these settled principles of law.

6.5 Mr.Hegde, further submitted that the grant order on the basis of which the petitioner got declaration in his favor does not finds place in any of the record, as such the same is fabricated and created and by means of playing fraud on the Court got the decree, as such, the said Judgment and Decree is *non-est* in law.

6.6 Learned AGA in order to support his contention, relied on the Judgment of the Supreme Court in ***HINCH LAL TIWARI VS. KAMALA DEVI AND OTHERS***² to contend that material resources of the

² AIR 2001 SC 3215

community like forests, tanks, ponds, hillock, mountain, etc, are natures bounty and need to be protected for a proper and healthy environment which enables people to enjoy a quality life which is the essence of the guaranteed right under Article 21 of the Constitution and relied on Paragraph No.13 of the said Judgment.

6.7 Further, he has taken support of the Judgment in **JAGPAL SINGH AND OTHERS VS. STATE OF PUNJAB AND OTHERS**³ and relied on Paragraphs No.13, 14 and 23 to contend that merely because unauthorized occupation is subsisting for several years, the same cannot be regularized and the lands should be restored to the Government and illegal occupants should be evicted.

6.8 He further relied on the Judgment in **VISHNU VARDHAN @ VISHNU PRADHAN VS. STATE OF UTTAR PRADEHS AND OTHERS**⁴ to contend that

³ AIR 2011 SC 1123

⁴ 2025 SCC ONLINE SC 1501

fraud unravels everything. Accordingly, learned AGA sought to dismiss the Writ Petition.

7. In contrast, Sri.S.P.Shankar, learned Senior counsel appearing for the contesting respondent/petitioner submits that the Writ Court is right in concluding that the petitioner has perfected his title by means of declaration by the competent Civil Court which attained finality up till Supreme Court. The petitioner has perfected his right by means of Grant order in favor of his ancestor as well as declaration by the competent Civil Court on the basis of subsequent order. Once there is a declaration by the competent Civil Court declaring the rights which has attained finality by means of unsuccessful challenge up till Supreme Court, the State is now estopped from staking any stand on the Grant Order or the title of the petitioner. Once the title has been declared, the revenue authorities are bound under law to effect the name of the petitioner in the RTCs to enable them to claim compensation for the portion of land utilized by respondent No.5. The Grant order was passed in 1954 and till date, the said order has

not been challenged by anyone including the Government Authorities and standing still today and the name of the petitioner finds place in the RTC by means of Mutation in the year 1983-84 and continued, as such the claim by the Government as the lands claimed by the petitioner coming within the survey number which is Government Lake cannot be countenanced, when the same was contended and negated against the State by the Civil Court. Learned Senior counsel further submits that the Judgments relied on by the appellant-Government are not applicable to the facts of the present case, as they are clearly distinguishable on facts and in view of the declaration by competent Civil Court declaring the rights of the petitioner. Accordingly, he sought to dismiss the appeal.

8. Sri.T.P.Vivekananda, learned counsel appearing for the MUDA argued in line with the Government Advocate. However, has stated that the MUDA had already deposited amount in terms of the direction before the Writ Court though ordered to be returned is ready to deposit the amount for the portion of land utilized by it.

9. The impleading applicants herein are the legal representatives Srinivas, who initiated suit in O.S.No.325/1995. They have contended that they are also entitled for the lands in the very same survey number in terms of judicial pronouncements by the competent Civil Court in their favor which has attained finality.

10. Having heard the rival submissions, we have directed the learned AGA to produce the entire records pertaining to the lands claimed by the Government as well as the petitioner and impleading applicants. Accordingly, Sri.M.N.Sudev Hegde, learned AGA produced entire records pertaining to the lands on 17.04.2026 before us. We have perused the original records produced by learned AGA. After careful perusal, nothing is there to reflect the name of the petitioner or their predecessor as grantees of the land in question, the same applies to the impleading applicants also.

11. At this juncture, to the query of the Court regarding the original Grant Order, learned Senior counsel Sri.S.P.Shankar, except showing the order at Annexure-B

which is photocopy of the order, has not produced any original Grant Order. The photocopy produced at Annexure-B and the Certified copy of the same produced by AGA subsequently obtained from the records of the Civil Court in O.S.No.96/1997 are the photocopies of the order and not the original. The documents does not bear the Signature of the competent authority in respect of the order, but shows signed as Amaldar. Nothing has been placed by the petitioner to contend in support of his contention regarding grant of land. However, a feeble attempt is made by producing certain documents such as Copy of FIR, B Report, Copy of Order sheet and other documents, along with affidavit by learned Senior counsel on behalf of Sri.K.Sreedhar, learned counsel for the petitioner, to contend that all the actions taken by the Government ended in favor of the petitioner. As such, the appeal filed by the appellant required to be dismissed.

12. In the absence of original Grant Order, we have made enquiry with the Government Advocate and directed him to produce the entire documents pertaining to the

lands. No corresponding entries are found in the documents produced by the authorities with respect to alleged grant order at Annexure-B. We have perused the entire records pertaining to the lands. Nothing is found to show the names of either the petitioner or his ancestors reflecting their names as grantees of the land in question. Same also applies to impleading applicants. As such the application does not survive to consider and is accordingly, rejected.

13. In the absence of corresponding record by means of register and the corresponding order of grant produced as Annexure-B to this Writ Petition, we have no other option than to accept the contention of the learned AGA that the order produced is a fake, dubious and on the basis of such fake and dubious order by playing fraud on the Civil Court, the decree has been obtained.

14. We find force in the argument of Mr.M.N.Sudev Hegde, learned AGA that fraud unravels everything. The Supreme Court in the case of **VISHNU VARDHAN** supra at Paragraph No.60 has held as under:

"60. Be that as it may, obtaining of the impugned order by Reddy in his favour by playing fraud on the High Court is conspicuous by its presence. Thus, we find Vishnu's core argument to be creditworthy and compelling for us to hold that judicial orders procured by Reddy by subverting the judicial process through fraud and concealment of material facts cannot be permitted to stand."

15. In the said Judgment, the Supreme Court referred to several decisions in Paragraph No.61 and concluded in Paragraph No.64 holding that given the deception involved, the impugned order and the decision of the Court procured are tainted by fraud and thus, lack legal sanctity and validity. The said paragraphs read as under:

"61. In decisions abound, the Courts have consistently nullified orders obtained through fraudulent means. Key excerpts from some of these decisions read thus:

a. In United India Insurance Co. Ltd. v. Rajendra Singh, this Court reiterated that fraud unravels everything:

3. "Fraud and justice never dwell together" (fraus et jus nunquam cohabitant) is a pristine maxim which has never lost its temper over all these centuries. Lord Denning observed in a language without equivocation that "no judgment of a court, no order of a Minister can be allowed to stand if it has been obtained by fraud, for, fraud unravels everything" (Lazarus Estates Ltd. v. Beasley, [[1956] 1 Q.B. 702 : [1956] 1 All ER 341 : [1956] 2 WLR 502 (CA)]).

b. In Shrisht Dhawan (Smt) v. Shaw Bros, it was held:

20. Fraud and collusion vitiate even the most solemn proceedings in any civilised system of

jurisprudence. It is a concept descriptive of human conduct. Michael Levi likens a fraudster to Milton's sorcerer, Comus, who exulted in his ability to, 'wing me into the easy-hearted man and trap him into snares'. It has been defined as an act of trickery or deceit. In Webster's Third New International Dictionary fraud in equity has been defined as an act or omission to act or concealment by which one person obtains an advantage against conscience over another or which equity or public policy forbids as being prejudicial to another. In Black's Legal Dictionary, fraud is defined as an intentional perversion of truth for the purpose of inducing another in reliance upon it to part with some valuable thing belonging to him or surrender a legal right; a false representation of a matter of fact whether by words or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed, which deceives and is intended to deceive another so that he shall act upon it to his legal injury.....

c. In *A.V. Papayya Sastry v. Govt. of A.P.*, this Court held:

21. Now, it is well-settled principle of law that if any judgment or order is obtained by fraud, it cannot be said to be a judgment or order in law. Before three centuries, Chief Justice Edward Coke proclaimed:

"Fraud avoids all judicial acts, ecclesiastical or temporal."

22. It is thus settled proposition of law that a judgment, decree or order obtained by playing fraud on the court, tribunal or authority is a nullity and non est in the eye of the law. Such a judgment, decree or order—by the first court or by the final court—has to be treated as nullity by every court, superior or inferior. It can be challenged in any court, at any time, in appeal, revision, writ or even in collateral proceedings.

23. ***

24. In *Duchess of Kingstone*, Smith's Leading Cases, 13th Edn., p. 644, explaining the nature of fraud, de Grey, C.J. stated that though a judgment would be *res judicata* and not impeachable from within, it might be impeachable from without. In other words, though it is not permissible to show that the court was "mistaken", it might be shown

that it was "misled". There is an essential distinction between mistake and trickery. The clear implication of the distinction is that an action to set aside a judgment cannot be brought on the ground that it has been decided wrongly, namely, that on the merits, the decision was one which should not have been rendered, but it can be set aside, if the court was imposed upon or tricked into giving the judgment.

25. It has been said: fraud and justice never dwell together (fraus et jus nunquam cohabitant); or fraud and deceit ought to benefit none (fraus et dolus nemini patrocinari debent).

- d. The judgment by Denning, L.J. in Lazarus Estates Ltd. (supra), which has since been quoted with approval by this Court in a catena of decisions including Nidhi Kaim (supra), asserted intolerance for fraud in legal proceedings in the following words:*

No court ... will allow a person to keep an advantage which he has obtained by fraud. [...] Fraud unravels everything. The court is careful not to find fraud unless it is distinctly pleaded and proved; but once it is proved, it vitiates judgments, contracts and all transactions whatsoever...

64. *In light of the above discussion, we feel no hesitation to hold that given the deception involved, the impugned order and the decision of this Court dated 5th May, 2022 in Reddy Veerana (supra) procured by Reddy are tainted by fraud and, thus, lack legal sanctity and validity."*

16. The Supreme Court in the case of **MEGHAMALA AND OTHERS VS. G.NARASIMHA REDDY AND OTHERS**⁵, at paragraphs No.28 to 36 has held that the fraud is an intrinsic, collateral act, and fraud of an egregious nature would vitiate the most solemn

⁵ (2010) 8 SCC 383

proceedings of courts of justice. Fraud is an act of deliberate deception with a design to secure something, which is otherwise not due. The said Paragraphs read as under:

"28. It is settled proposition of law that where an applicant gets an order/office by making misrepresentation or playing fraud upon the competent Authority, such order cannot be sustained in the eyes of law.

"Fraud avoids all judicial acts ecclesiastical or temporal." (vide S.P.Chengalvaraya Naidu (dead) by L.Rs. Vs. Jagannath. In Lazarus Estate Ltd. Vs. Besalay, the Court observed without equivocation that "no judgment of a Court, no order of a Minister can be allowed to stand if it has been obtained by fraud, for fraud unravels everything."

29. In Andhra Pradesh State Financial Corporation Vs. M/s. GAR Re-Rolling Mills and State of Maharashtra & Ors. Vs. Prabhu this Court observed that a writ Court, while exercising its equitable jurisdiction, should not act as to prevent perpetration of a legal fraud as the courts are obliged to do justice by promotion of good faith. "Equity is, also, known to prevent the law from the crafty evasions and sub-letties invented to evade law."

30. In Smt. Shrisht Dhawan Vs. M/s. Shaw Brothers. it has been held as under:- (SCC p.553, para 20)

"20. Fraud and collusion vitiate even the most solemn proceedings in any civilised system of jurisprudence. It is a concept descriptive of human conduct."

31. In United India Insurance Co. Ltd. Vs. Rajendra Singh, this Court observed that "Fraud and justice never dwell together" (fraus et jus nunquam cohabitant) and it is a pristine

maxim which has never lost its temper over all these centuries.

32. *The ratio laid down by this Court in various cases is that dishonesty should not be permitted to bear the fruit and benefit to the persons who played fraud or made misrepresentation and in such circumstances the Court should not perpetuate the fraud. (See District Collector & Chairman, Vizianagaram Social Welfare Residential School Society. Vs. M. Tripura Sundari Devi ; Union of India Vs. M. Bhaskaran, Kendriya Vidyalaya Sangathan Vs. Girdharilal Yadav; State of Maharashtra v. Ravi Prakash Babulalsing Parmar ; Himadri Chemicals Industries Ltd. Vs. Coal Tar Refining Company and Mohammed Ibrahim Vs. State of Bihar.*

33. *Fraud is an intrinsic, collateral act, and fraud of an egregious nature would vitiate the most solemn proceedings of courts of justice. Fraud is an act of deliberate deception with a design to secure something, which is otherwise not due. The expression "fraud" involves two elements, deceit and injury to the person deceived. It is a cheating intended to get an advantage. (Vide Dr. Vimla Vs. Delhi Administration, Indian Bank Vs. Satyam Fibres (India) Pvt. Ltd., State of Andhra Pradesh Vs. T.Suryachandra Rao ; K.D. Sharma Vs. SAIL and Central Bank of India Vs. Madhulika Guruprasad Dahir.*

34. *An act of fraud on court is always viewed seriously. A collusion or conspiracy with a view to deprive the rights of the others in relation to a property would render the transaction void ab initio. Fraud and deception are synonymous. Although in a given case a deception may not amount to fraud, fraud is anathema to all equitable principles and any affair tainted with fraud cannot be perpetuated or saved by the application of any equitable doctrine including res judicata. Fraud is proved when it is shown that a false representation has been made (i) knowingly, or (ii) without belief in its truth, or (iii) recklessly, careless whether it be true*

or false. Suppression of a material document would also amount to a fraud on the court. (Vide S.P. Changalvaraya Naidu; Gowrishankar Vs. Joshi Amba Shankar Family Trust. Ram Chandra Singh Vs. Savitri Devi, Roshan Deen Vs. Preeti Lal, Ram Preeti Yadav Vs. U.P. Board of High School & Intermediate Education and Ashok Leyland Ltd. Vs. State of T.N).

35. In kinch Vs. Walcott, it has been held that "....mere constructive fraud is not, at all events after long delay, sufficient but such a judgment will not be set aside upon mere proof that the judgment was obtained by perjury."

Thus, detection/discovery of constructive fraud at a much belated stage may not be sufficient to set aside the judgment procured by perjury.

36. From the above, it is evident that even in judicial proceedings, once a fraud is proved, all advantages gained by playing fraud can be taken away. In such an eventuality the questions of non-executing of the statutory remedies or statutory bars like doctrine of res judicata are not attracted. Suppression of any material fact/document amounts to a fraud on the court. Every court has an inherent power to recall its own order obtained by fraud as the order so obtained is non est."

17. When the law laid down by the Supreme Court in the above two cases and other cases referred by the Supreme Court applied to the case on hand, it becomes empathetically clear that in view of absence of original order of Grant and in the absence of corresponding records in the records maintained by the Government in

respect of the lands wherein the petitioner staking a claim, on the order of Grant produced at Annexure-B required to be stated as dubious, fake and created and fabricated document. The Judgment procured on such a shady document would not stand in law as the same goes to the roots of claim.

18. Learned Senior counsel is unable to counter this aspect of the matter when queried again and again with respect to the document produced at Annexure-B and the documents produced i.e., land records maintained by the concerned authority before this Court. This fact has deceived the Civil Court and the said fact deceived the Writ Court, but nothing deceives more than an obvious fact. In that view of the matter, we are of the view that the Writ Court ignored these aspects of the matter, though the same was pleaded and contended before the Writ Court by the Government and failed to consider the same and held that in view of the declaration of title by the competent Civil Court, the petitioner has perfected his title and as such the revenue authorities are under obligation

to enter the name in the revenue records. In these circumstances, in the absence of grant order, the petitioner has no legs to stand to claim a right over the property.

19. There is one more reason for us to allow this appeal and dismiss the Writ Petition, and that is, the land stated to have been granted even as per the document produced at Annexure-B (which we have already held as false document) stated to be in the land in Survey number which is Government Lake i.e., Sarkari Kere. The point on grant of land in the properties belonging to the Government which are essentially material resources of the community like forests, tanks, ponds, hillock, mountain, etc, are natures bounty and need to be protected for a proper and healthy environment which enables people to enjoy a quality life which is the essence of the guaranteed right under Article 21 of the Constitution is no more *res integra* as no grant be made in respect of natural resource available to the public at large. Our stand gain strength from the Judgment relied on by the learned

AGA in **HINCH LAL TIWARI** supra, wherein the Supreme Court in the concluding paragraph held as under:

"It is important to notice that the material resources of the community like forests, tanks, ponds, hillock, mountain etc. are nature's bounty. They maintain delicate ecological balance. They need to be protected for a proper and healthy environment which enables people to enjoy a quality life which is the essence of the guaranteed right under Article 21 of the Constitution. The Government, including the Revenue Authorities i.e. Respondents 11 to 13, having noticed that a pond is falling in disuse, should have bestowed their attention to develop the same which would, on one hand, have prevented ecological disaster and on the other provided better environment for the benefit of the public at large. Such vigil is the best protection against knavish attempts to seek allotment in non-abadi sites. For the aforementioned reasons, we set aside the order of the High Court, restore the order of the Additional Collector dated 25-2-1999 confirmed by the Commissioner on 12-3-1999. Consequently, Respondents 1 to 10 shall vacate the land, which was allotted to them, within six months from today. They will, however, be permitted to take away the material of the houses which they have constructed on the said land. If Respondents 1 to 10 do not vacate the land within the said period the official respondents i.e. Respondents 11 to 13 shall demolish the construction and get possession of the said land in accordance with law. The State including Respondents 11 to 13 shall restore the pond, develop and maintain the same as a recreational spot which will undoubtedly be in the best interest of the villagers. Further it will also help in maintaining ecological balance and protecting the environment in regard to which this Court has repeatedly expressed its concern. Such measures must begin at the grass-root level if they were to become the nation's pride."

20. In view of the judicial pronouncement stated supra, even if there is a Grant by means of Annexure-B (which we have already held as fake), the Government ought not to have ventured to grant lands out of the lands

reserved for Government Lake i.e., Sarkari Kere. Such an action goes against the statutory mandate of preserving natural sources as held by the Supreme Court in **HINCH LAL TIWARI** supra. The Government is duty bound and obliged to protect and develop the lakes in order to prevent any ecological disaster and to provide better environment for the benefit of the public at large.

21. For the above said reasons, we deem it appropriate to allow the appeal and set-aside the order passed by the Writ Court.

22. We place our appreciation for the able assistance provided by Sri.M.N.Sudev Hegde, learned AGA for his painstaking work in collecting all the records to protect the Government lands from the hands of the persons who are seeking their claims on forged documents. Though we are inclined to impose cost while allowing the appeal, however, considering the financial position of the contesting respondent/petitioner as contended by his counsel, in the interest of justice, we refrain ourselves from imposing any costs on the

contesting respondent/petitioner. With these observations, the Writ Appeal is ***allowed***. The order passed by the Writ Court is set-aside. Consequently, the Writ Petition filed is dismissed.

23. In view of disposal of Writ Appeal, pending interlocutory applications, if any, stand disposed of.

**Sd/-
(D K SINGH)
JUDGE**

**Sd/-
(T.M.NADAF)
JUDGE**

TKN