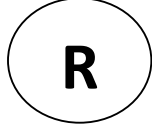




CNR: KAHC010166692025

NC: 2026:KHC:44644-DB
WA No. 442 of 2025



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19TH DAY OF AUGUST, 2026

PRESENT

THE HON'BLE MR. JUSTICE D K SINGH

AND

THE HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN

WRIT APPEAL NO. 442 OF 2025 (KLR-RES)

BETWEEN:

1. THE SPECIAL TAHSILDAR,
YELAHANKA TALUK,
MINI VIDHANA SOUDHA,
YELAHANKA, BENGALURU 560 064.
 2. THE ASSISTANT DIRECTOR OF LAND RECORDS,
YELAHANKA TALUK, MINI VIDHANA SOUDHA,
1ST FLOOR, YELAHANKA,
BENGALURU 560 064.
 3. THE LAND SURVEYOR,
OFFICE OF ASSISTANT DIRECTOR
LAND RECORDS,
YELAHANKA TALUK, MINI VIDHANA SOUDHA,
1ST MAIN, YELAHANKA, BENGALURU 560 064.
- ...APPELLANTS
- (BY SRI. B.RAVINDRANATH, AGA)

AND:

1. SRI KRISHNADEVARAYA EDUCATIONAL TRUST
HAVING ITS OFFICE AT NO.16,
BELLARY ROAD, SADASHIVANAGAR,
BENGALURU 560 080,
REPRESENTED BY ITS PRESIDENT,
AC CHANDRASHEKAR RAJU,
A TRUST REGISTERED UNDER
THE INDIAN TRUST ACT, 1882,





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2. A T SRINIVAS MURTHY,
S/O LATE THIPPALAH,
AGED ABOUT 78 YEARS,
NO.9/2, APEKSHA, 3RD CROSS,
NEAR NATIONAL COLLEGE,
SHANKARPURA, BASAVANAGUDI,
BENGALURU 560 004.
3. PADMALATHA VENKATARAM
W/O LATE VENKATRAM,
AGED ABOUT 62 YEARS,
NO.513, PRAMA, 47TH CROSS, 5TH BLOCK,
JAYANAGAR, BENGALURU 560 041.
4. A T RANJINI NARASIMHA MURTHY,
D/O LATE THIPPAIAH,
AGED ABOUT 63 YEARS,
NO.125, 3RD MAIN ROAD, BENGALURU
INTERNATIONAL SCHOOL, BHCS LAYOUT,
UTTARAHALLI MAIN ROAD, CHIKKALASANDRA,
BENGALURU 560 061.
5. SUBBA RAO CHUDANATH RAO
BALEKAI,
S/O LATE CHUDANATH RAO,
AGED ABOUT 63 YEARS,
A 105, VICTORY HARMONY,
12TH , 4TH CROSS SSA ROAD,
BENGALURU 560 061.
6. NAGARATHNA RAGHURAM.
DO LATE RAMA RAO,
AGED ABOUT 80 YEARS,
S VYASA UNIVERSITY, VIVEKANANDA ROAD,
KALLUBALLI POST, JIGANI,
ANEKAL, BENGALURU 560 105.
7. B K NAGENDRA,
S/O LATE KRISHNA RAO BALEKAI,
AGED ABOUT 78 YEARS,
NO.2036, 26TH CROSS,



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BANASHANKARI 2ND STAGE,
BENGALURU 560 070.

8. SOWBHAGYA R,
D/O LATE CHUDANATH RAO,
AGED ABOUT 66 YEARS,
NO.113, 6TH CROSS, 3RD MAIN,
HIG HOUSES, RMV 2ND STAGE,
BENGALURU 560 094.
9. A T VINUTHA,
D/O LATE THIPPALAH,
AGED ABOUT 74 YEARS,
NO.101, VAASTU RESIDENCY,
KANAKAPURA ROAD, YELECHENAHALLI,
BENGALURU 560 078.
10. AGARA THIPPAIAH SUMANGALA,
D/O LATE THIPPAIAH,
AGED ABOUT 80 YEARS,
NO.37, AKANSHA, 3RD CROSS,
SBM COLONY EXTENSION, MATHIKERE,
BENGALURU 560 054.

...RESPONDENTS

(BY SRI. G.L.VISHWANATH, SENIOR ADVOCATE FOR
SMT. MANASA.M.B, ADVOCATE FOR R1;
SRI. BIJOY.K, ADVOCATE FOR R2;
SRI. K.S.RAGHURAM, ADVOCATE FOR R3 TO R10)

THIS WRIT APPEAL FILED U/S 4 OF THE KARNATAKA
HIGH COURT ACT PRAYING TO A)CALL FOR RECORDS IN WP
NO.9668/2023, SET ASIDE THE ORDER DATED 29/02/2024 IN
WP NO.9668/2023, THE SAID WRIT PETITION BE DISMISSED
AND B) GRANT SUCH OTHER ORDER OR ORDERS.

THIS APPEAL, COMING ON FOR FINAL DISPOSAL, THIS
DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE D K SINGH
AND
HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN



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ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN)

The present appeal has been filed by Sri.Krishnadevaraya Educational Trust, impugning the judgment and order dated 29.02.2024 passed by the learned Single Judge in W.P.No.9668/2023 (KLR-RES).

2. Parties shall be referred to as per their ranking before the learned Single Judge.

3. The petitioner-Sri.Krishnadevaraya Educational Trust has approached this Court questioning the notices dated 17.04.2023 issued by the Assistant Director of Land Records, Yelahanka Taluk, proposing to conduct a survey in respect of Sy.No.45 of Nellukunte Village, Jala Hobli, Devanahalli Taluk. According to the petitioner, the notices were issued at the instance of the private respondents for the purpose of identifying and measuring an extent of 33 acres and 33 guntas and furnishing a report along with the boundaries. The petitioner asserts that the land originally



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belonged to one Sri.Krishna Rao L. Balekai and that Smt.Saraswathamma Balekai, who claimed rights under the settlement deed dated 28.11.1961, subsequently executed six sale deeds in favour of the petitioner-Trust, conveying an aggregate extent of nearly 140 acres in Sy.No.45.

4. The principal grievance of the petitioner is that the private respondents, having no subsisting right or interest reflected in the revenue records, could not have approached the Survey Authorities for identification of the land merely on the basis of their claim. It is contended that the respondents had entered into an agreement of sale dated 22.12.2022 in respect of 33 acres and 33 guntas and thereafter sought to have the land identified through the revenue machinery. According to the petitioner, the question whether Smt.Saraswathamma had the authority to convey more than 101 acres and 37 guntas is essentially a disputed question of title and can be adjudicated only by a competent Civil Court. The



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Revenue or Survey Authorities, therefore, could not have assumed jurisdiction to undertake the survey on the basis of such a disputed claim.

5. The private respondents, on the other hand, questioned the maintainability of the writ petition on the ground that the impugned notices were issued by statutory authorities in the course of their official functions and that a writ petition ought not to be entertained against a mere notice. On merits, they contended that the entire extent of 101 acres and 37 guntas in Sy.No.45 had been settled by Sri Krishna Rao L. Balekai in favour of his wife, Smt.Saraswathamma, under the settlement deed dated 28.11.1961. Their specific contention is that Smt.Saraswathamma could not have conveyed any extent beyond what had been settled in her favour. Since the petitioner claims to have acquired nearly 140 acres under six sale deeds executed by Smt.Saraswathamma, the respondents contend that the validity and extent of such conveyance requires consideration.



6. The respondents further submitted that they had filed applications in Form No.4 seeking registration of occupancy rights in respect of 33 acres and 33 guntas under the Karnataka Certain Inams Abolition Act, 1977 ('the Act of 1977' for brevity). Since the identification of the land was necessary for pursuing those applications, they approached the Tahsildar and the Assistant Director of Land Records for conducting a survey. According to them, the impugned notices were issued only for the limited purpose of identifying the land and did not amount to any adjudication of title. They, therefore, contended that the Survey Authorities ought to be permitted to complete the exercise and that the petitioner could raise all its objections before the competent authority dealing with the applications under the Act of 1977.

7. Having considered the rival submissions, the learned Single Judge of this Court found that the private respondents had not been able to establish, from the existing records, any subsisting right, title or interest over



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the land in question. The material on record showed that Smt.Saraswathamma had executed six sale deeds in favour of the petitioner-Trust conveying nearly 140 acres in Sy.No.45. If the contention of the private respondents was that the settlement deed conferred upon Smt.Saraswathamma is only 101 acres and 37 guntas and that she consequently had no authority to convey the remaining extent, such a contention necessarily raised a disputed question of title. The learned Single Judge held that such a question could not be adjudicated by the revenue or survey and settlement authorities and that the respondents, if so advised, would have to approach the competent civil court for a declaration regarding the validity of the sale deeds.

8. The learned Single Judge further observed that the applications filed by the private respondents under the Act of 1977, had not even been considered by the competent authority. Therefore, at that stage, the private respondents could not have independently approached the



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Assistant Director of Land Records for conducting a survey and identifying 33 acres and 33 guntas. However, the Court clarified that if the competent authority, while considering the applications under the Act, subsequently finds that identification of the land is necessary, appropriate directions may be issued in accordance with law. The petitioner was also permitted to file objections before the competent authority and was required to be heard before any order was passed. Consequently, the writ petition was allowed and the impugned notices were quashed and set aside.

9. Aggrieved by the order passed by the learned Single Judge, the respondents/State have preferred the present intra-court appeal. It is contended that the petitioner had encroached upon approximately 20 acres and 7 guntas in the survey number in question and that the encroached portion was taken back by the authorities on 24.12.2016. It is further submitted that, pursuant to a spot inspection conducted by the Village Accountant and



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the Revenue Inspector, a report was prepared recording the encroachment and the Tahsildar also brought the matter to the notice of the concerned authorities. Thereafter, a notice was issued calling upon the petitioner to appear on 14.12.2016 along with the relevant documents. Instead of appearing before the concerned authority and placing the documents in support of its claim, the petitioner approached this Court and challenged the said proceedings before the learned Single Judge. According to the respondents, a survey sketch had also been prepared clearly indicating the alleged encroachment, but the petitioner suppressed this material fact and succeeded in obtaining an order from the learned Single Judge.

10. It is the further contention of the respondents that the learned Single Judge failed to appreciate that the petitioner was required to establish the extent of right of Smt.Saraswathamma i.e., 101 acres 37 guntas of land and could not claim any right over an extent greater than what



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had been settled in her favour. It is, therefore, submitted that the petitioner was attempting to obstruct the proceedings relating to regularisation and was seeking to assert a claim over Government land. The respondents contend that the authorities had already taken possession of the encroached portion and had also erected a board indicating the Government's claim over the said land. It is further submitted that it is the primary responsibility of the Government to protect its property and ensure its proper utilisation. The respondents also contend that the writ petition itself was premature and not maintainable, since no final decision had been taken by the survey authorities pursuant to the impugned notices. Even assuming that a survey was conducted, the same by itself would not confer or extinguish any right in favour of either party. On these grounds, the respondents sought interference with the order of the learned Single Judge and prayed that the intra-court appeal be allowed.



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11. We have heard Sri.B.Ravindranath, learned Additional Government Advocate for the respondents/State, Sri.G.L.Vishwanath, learned Senior Counsel on behalf of the petitioner, Sri.K.Bijoy and Sri.K.S.Raghuram, learned counsel for other respondents and perused the material on record.

12. Having heard the rival submissions, the question that, therefore, arises for our consideration is:

Whether, in the facts and circumstances of the case, the order passed by the learned Single Judge calls for interference by this Court in exercise of its intra-court appellate jurisdiction and if so, what order would serve the ends of justice?

13. According to Karnataka Land Revenue Rules, 1966 ('the Rules of 1966' for brevity), the meaning appended to Kharab (a) land and Kharab (b) land. According to the Rules of 1966, "Kharab land" is, *"any piece of open land which cannot be used for framing or*



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cultivation when the land survey was conducted" again classified as Kharab land. Karnataka Government has ownership and authority over such lands and can use kharab land for public purpose.

14. Generally, this type of land classified into two i.e., 'A' Kharab and 'B' Kharab land. The meaning of 'A' kharab land is explained under Section 21(2)(i)(a) of the Rules of 1966.

15. Rule 21(2)(i) defines 'A' *Kharab* land. 'A' Kharab land form buildings which are unsuitable for farming at the time of surveys. 'A' Kharab can be consolidated and transformed and land owners possess all the property related rights for land revenue.

16. Rule 21(2)(ii) defines 'B' *Kharab* land. 'B' Kharab land belongs to the government and cannot be converted by a private party. These lands are used for public purposes such as, burial grounds, parks, foot paths, tanks and streams or such other categories as described in Section 67 and 71 of the Karnataka Land Revenue Act,



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1964 ('the KLR Act' for short). The government holds all property related rights exempted from land revenue assessment.

17. Section 67 of the KLR Act reads thus:

"67. Public roads, etc., and all lands which are not the property of others belong to the Government.-(1) All public roads, streets, lanes and paths, bridges, ditches, dikes and fences, on or beside the same, the bed of the sea and of harbours and creeks below high water mark and of rivers, streams, nallas, lakes and tanks and all canals and water-courses and all standing and flowing waters, and all lands wherever situated which are not the property of individuals or of aggregate of persons legally capable of holding property, and except in so far as any rights of such persons may be established, in or over the same, and except as may be otherwise provided in any law for the time being in force, are and are hereby declared to be with all rights in or over the same or appertaining thereto, the property of the State Government.

Explanation. - In this section, "high-water mark" means the highest point reached by ordinary spring tides at any season of the year.

(2) Where any property or any right in or over any property is claimed by or on behalf of the State Government or by any



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person as against the State Government, it shall be lawful for the Deputy Commissioner or a Survey Officer not lower in rank than a Deputy Commissioner, after formal inquiry to pass an order deciding the claim.

(3) Such order shall be treated as an original order and shall be appealable only to the jurisdictional Deputy Commissioner, within a period of sixty days under clause (b) of Section 49:

Provided that the order of the Deputy Commissioner shall be final and power of revision of the same within the meaning of Section 56 of the Act shall lie only with the Revenue Commissioner."

18. The land classified as 'B' Kharab is Government land and therefore, does not form part of the private holding available for alienation. Such land cannot be converted, conveyed or otherwise dealt with by a private individual, as no transferable right can be claimed therein.

19. Consequently, any alleged sale, transfer or conveyance of 'B' Kharab land by a private party would not confer any valid right, title or interest upon the transferee. The said land continues to vest in the Government and



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remains subject to the control and protection of the competent authorities.

20. Having considered the rival contentions and the material placed on record, we are of the considered view that the order passed by the learned Single Judge calls for interference.

21. The settlement deed dated 28.11.1961 clearly indicates that an extent of 101 acres and 37 guntas in Sy.No.45 of Nellukunte Village was settled by Sri Krishna Rao L.Balekai in favour of his wife, Smt.Saraswathamma Balekai. Therefore, the authority of Smt.Saraswathamma to convey the property could extend only to the extent of the right vested in her under the settlement deed. However, the material on record indicates that she executed six sale deeds conveying an aggregate extent of about 133 acres and 33 guntas, which, according to the petitioner itself, included 31 acres and 36 guntas of Kharab land. Thus, the petitioner cannot, merely on the strength of the said sale deeds, claim a valid title over an extent



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greater than what was settled in favour of Smt.Saraswathamma/vendor. The existence of such sale deeds and the subsequent revenue entries, cannot by themselves confer title upon the petitioner to an extent which the vendor herself did not possess. The fact that the Revenue Authorities had earlier effected mutation would also not conclude the question of title or validate a conveyance beyond the extent of the vendor's lawful interest.

22. The records further disclose that the private respondents had entered into a registered agreement of sale dated 22.12.2022 in respect of 33 acres and 33 guntas in Sy.No.45 and had sought registration of occupancy rights by filing applications in Form No.4. It was, in that background, the competent Survey Authorities issued the notices dated 17.04.2023 proposing to conduct a survey and identify the extent of occupation, together with the boundaries, so that the claim of the private respondents could be considered by the competent



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authority. The petitioner, however, sought to prevent the survey by contending that the entire extent had already been conveyed to it. Significantly, the material placed before us also indicates that the revenue authorities had, as early as in December 2016, conducted a spot inspection, prepared a survey sketch indicating the alleged encroachment and called upon the petitioner to appear with the relevant documents. The petitioner, instead of participating in the proceedings before the competent authorities, approached this Court.

23. The learned Government Advocate has placed reliance upon Annexure-H, the RTC extract pertaining to Sy.No.45, which clearly indicates that the total extent of land in the said survey number is 133 acres and 33 guntas, out of which, 31 acres and 36 guntas is specifically classified and shown as 'B' Kharab. The said revenue entry, therefore, makes it clear that the entire extent reflected in the sale deeds could not have been treated as private land capable of being conveyed by the vendor. In



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any view of the matter, the vendor had title and right only in respect of 101 acres 37 guntas. She had no right, title or interest in respect of 31 acres and 36 guntas 'B' Kharab land. The vendor could not have transferred better right and title than she herself had over the land. Therefore, merely by mentioning in the sale deed area of land as 133 acres 33 guntas, the writ petitioner would not become the owner of 31 acres 36 guntas 'B' Kharab land.

24. In these circumstances, the learned Single Judge, in our considered view, ought to have taken into account the material relating to the alleged encroachment and the fact that the petitioner was claiming an extent substantially in excess of what was settled in favour of its vendor.

25. It is also relevant to note that the private respondents had specifically sought identification of 33 acres and 33 guntas, whereas the petitioner claims rights over an extent of about 133 acres and 33 guntas. The



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question, therefore, is not merely one of a private dispute between the parties, but also concerns the identification and protection of Government land. The authorities cannot be faulted for seeking to identify and demarcate the land so as to enable the competent authority to consider the applications filed by the private respondents.

26. The survey, by itself, does not amount to an adjudication of title in favour of either party, nor does it take away any right which may otherwise be established before the competent forum. What the authorities are required to do is only to ascertain the factual position on the ground, demarcate the respective extents and place the material before the competent authority. Therefore, the mere fact that the impugned notice was issued at the stage of survey could not have been a ground to interdicted the statutory authorities from carrying out an exercise which was necessary for identifying the land in question.



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27. We are also of the view that the learned Single Judge proceeded on the premise that the dispute necessarily involved adjudication of title and therefore, the survey itself could not be undertaken. Such an approach, in the facts of the present case, would result in permitting a disputed claim over the land to remain unverified. The authorities are not being directed to adjudicate the title of the parties; they are only required to identify and demarcate the extent of land which, according to the records and the material available, falls within the extent of 101 acres and 37 guntas settled in favour of Smt.Saraswathamma and the further extent of 33 acres and 33 guntas claimed by the private respondents.

28. If either party asserts a title contrary to the records, such party would remain at liberty to establish the same before the competent forum. The State, however, cannot be expected to remain a silent spectator where Government land is alleged to have been encroached upon or dealt with by private parties.



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29. In the circumstances, we are of the considered opinion that the notices issued by the survey authorities for conducting the survey and identifying the land cannot be held to be without jurisdiction.

30. The writ petition, at the stage when no final determination of title had been made by the competent authority, ought not to have resulted in quashing the survey proceedings altogether. The appropriate course would be to direct the authorities to undertake the survey after issuing notice to all concerned parties, including the petitioner and thereafter demarcate the land on the basis of the available records and the physical features at the site.

31. The survey and demarcation shall, however, be understood only as an identification exercise and shall not amount to an adjudication of the title of any of the parties.

Accordingly, the Writ Appeal is **allowed**. The order passed by the learned Single Judge is set aside and the impugned notices are restored.



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The respondent-authorities shall issue fresh notice to the petitioner as well as respondent Nos.4 to 12 and after affording all concerned parties an opportunity to produce the relevant documents and raise their objections, conduct the survey and demarcate the extent of 101 acres and 37 guntas and identify the further extent of 33 acres and 33 guntas 'B' Kharab in Sy.No.45 of Nellukunte Village, Jala Hobli, Devanahalli Taluk.

A proper sketch shall be prepared showing the demarcation. Upon identification and demarcation of said extent of 33 acres and 33 guntas as 'B' Kharab Government land, the authorities shall make appropriate entries in the revenue records reflecting its classification as such.

The said land shall thereafter be protected and utilised only for the purpose for which Government 'B Kharab' land is legally required to be utilised for public purposes only. This exercise shall be undertaken expeditiously and strictly in accordance with law within a



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period of 3 months from the date of receipt of the notice, without prejudice to the right of any party to establish its title before the competent forum.

In compliance with the aforesaid order and upon completion of the survey and demarcation of the land, the State shall file an affidavit before this Court undertaking that the said land shall not be allotted, alienated or otherwise made available to any builder, developer or private entity for any real estate or commercial activity. The State shall ensure that the land so identified and classified as 'B' Kharab is duly protected and retained as Government land for public purposes.

The State shall further undertake that the said land shall be utilised strictly for the purposes permissible under the 'B' Kharab classification and shall not be diverted or put to any other use contrary to law. The concerned authorities shall accordingly maintain the necessary revenue entries and take appropriate measures to ensure



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that the land is preserved and utilised only for the purpose
for which 'B' Kharab land is legally intended.

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

**Sd/-
(H.SHANTHI BHUSHAN)
JUDGE**

KNM
List No.: 2 Sl No.: 6