

(2026) 02 KAR CK 0988
In the Karnataka High Court, Principal Bench
Case No : Writ Appeal No. 233 Of 2023 (KLR-RES)

Bhadrappa

APPELLANT

Vs

State Of Karnataka & Ors

RESPONDENT

Date of Decision : 20-02-2026

Acts Referred:

Karnataka High Court Act, 1961 — Section 4
Karnataka Land Revenue Act, 1964 — Section 94A

Citation : (2026) 02 KAR CK 0988

Hon'ble Judges : Anu Sivaraman, J;Vijaykumar A. Patil, J

Bench : Division Bench

Advocate : Jayakumar S. Patil, Pramodhini Kishan, P V Chandrashekar

Final Decision : Allowed

Judgement

Vijaykumar A. Patil, J

1. This appeal is filed by the appellant under Section 4 of the Karnataka High Court Act, 1961 challenging the order dated 30.03.2022 passed in WP.No.5466/2021 (KLR-RES) by the learned Single Judge.

2. Sri.Jayakumar S. Patil, learned Senior Counsel appearing for the appellant submits that the appellant had filed an application seeking regularization of his land and issuance of a grant certificate. The committee for regularization, after conducting an enquiry, passed a resolution on 18.12.1992 along with other applicants and ordered to issue Form No.52. It is submitted that thereafter, number of proceedings were conducted by the committee and finally on 12.05.1997, the order came to be passed rejecting the application. However, the said order was passed without providing any opportunity to the appellant and the said order was never communicated to him. It is only when endorsement dated 24.06.2019 was issued to one Sri.Mariyappa, the appellant inquired and found that his application was rejected on the ground that the land sought for grant falls within a 5 kms radius of the City. It is further submitted that the action of

the authority was challenged before the Assistant Commissioner, Shivamogga, who confirmed the order of the committee vide order dated 07.11.2020. The said order was thereafter assailed in a writ petition. It is also submitted that the learned Single Judge has not adjudicated with regard to the correctness of the orders of the regularization committee and the Assistant Commissioner as the application for regularization was filed on 06.07.1988. The Committee as well as the Assistant Commissioner failed to consider the fact that the relevant date would be the date of filing of an application and on the said date, the bar of 5 kms would not have been attracted. It is contended that this Court in the case of Mahadeva and Others v. State of Karnataka and Others WP.No.19474-19479/2016 dated 01.07.2016 held that the law applicable as on the date of filing of the application has to be taken into account for consideration of an application for regularization of unauthorized occupation. It is further contended that the learned Single Judge in the case of Sri.B.R.Balakrishna and Others v. State of Karnataka WP.No.18208/2021 dated 29.03.2022 considered similar issue and matter was remanded back to the competent authority to reconsider the issue. Hence, he seeks to allow the appeal by directing the committee for regularization to reconsider the issue on merits.

3. Smt.Pramodini Kishan, learned AGA and Sri.P.V.Chandrashekar, learned counsel appearing for the respondent-State and respondent No.5 respectively support the impugned order of the learned Single Judge and submits that the application of the appellant was placed before the committee on 18.12.1992, however, the committee did not consider the application and no order was passed for regularization. The same was again placed before the committee on 12.05.1997 and the committee rejected the said application on the ground that the land in question falls within a distance of 5kms from the limits of the Shivamogga City Municipal Corporation. It is submitted that the appellate authority and the learned Single Judge have categorically held that the committee for regularization had rejected the application filed by the appellant and no rights have been fructified in favour of the appellant in respect of the land concerned, which does not call for any interference. It is also submitted that the appellant has received compensation as per the government order dated 19.07.2007, hence, his right to seek consideration of his application for regularization would not arise and the said aspect has been suppressed in the writ petition as well as the writ appeal. Hence, he seeks to dismiss the appeal.

4. We have heard the arguments advanced by the learned Senior Counsel appearing for the appellant, the learned AGA appearing for the respondent-State, the learned counsel appearing for respondent No.5 and perused the material available on record. We have given our anxious consideration to the submissions advanced on both the sides.

5. The case of the appellant is that he has been in possession and enjoyment of the land in Sy.No.120 of Sogane Village, Nidege Hobli, Shivamogga Taluk and District for several decades. The appellant filed an application seeking

regularization of his occupation on the ground that he has been in possession and cultivation of the land for many years. The regularization committee considered the applications of the appellant and the other occupants and found that the application of the appellant is eligible as per the proceedings dated 18.12.1992 and ordered to issue Form No.52. It is averred that the appellant deposited the required fee as per the fee receipts produced at Annexures-D1 to D3. It is further averred that though the payment of required fee was paid, the grant certificate was not issued, hence, the appellant and others filed writ petition in WP.No.35590-35617/2000. The writ petition came to be disposed of on 13.11.2000 with a direction to the Secretary of the committee to place the applications of the appellant and others before the committee to dispose of the applications within a period of six months. Thereafter, further proceedings were conducted before the committee on various dates. Ultimately, the application of the appellant came to be rejected on 12.05.1997 as is evident from Annexure-R2 appended to the statement of objections filed by the State Government. There is no material placed on record by the government to indicate that the order of the committee dated 12.05.1997 was communicated to the appellant. The appellant came to know about the rejection of the application by virtue of an endorsement dated 24.06.2019 produced at Annexure-L. Though the said endorsement is addressed to Sri.Mariyappa and Sri.Ramappa, in the said endorsement a reference is made with regard to the decision of the committee dated 12.05.1997. The records further indicate that the appellant assailed the decision of the committee before respondent No.3-Assistant Commissioner. The respondent No.3-Assistant Commissioner rejected the appeal on 07.11.2020 as is evident from Annexure-Q. The perusal of the order indicates that the rejection was solely on the ground that the land in question falls within 5kms of the Shivamogga City Municipal Corporation. The order of the respondent No.3-Assistant Commissioner was assailed in the writ proceedings.

6. The orders of the committee for regularization and the appellate authority are not on merits. The rejection of the application of the appellant is solely on the technical ground that the land claimed by the appellant is in contravention of Section 94A of the Karnataka Land Revenue Act, 1964 (for short 'the Act') as it falls within 5kms of the City Municipal limits. This Court in the case of Mahadeva and Others referred supra has held that the authority is required to take note of the law prevailing as on the date of filing of the application and the provisions of Section 94A of the Act has prospective application. In view of the said finding and taking note of the fact that the application is claimed to have been filed on 06.07.1988, the authorities are required to consider the law prevailing on the date of filing of an application and not the later events.

7. It is noticed that there was a delay in filing the appeal by the appellant before respondent No.3, however, the same has been explained stating that he had no knowledge with regard to the rejection of the application by the regularization committee and only on 24.06.2019, he came to know about the rejection of the application and thereafter, the appeal was preferred before respondent No.3. The

said justification is required to be accepted in the absence of any contrary material placed by the respondents. Insofar as the contention of the learned AGA and the learned counsel for KIADB that the appellant has received the amount pursuant to the government order dated 19.07.2007 and he is are not entitled to seek for regularization has no merit. The government order produced at Annexure-R3 along with the objections does not indicate that the right to seek regularization by the unauthorized occupants cannot be enforced, it refers only with regard to the payment of compensation for relocation of small and marginal farmers. The said compensation is only required to be considered as an ex-gratia of amount for delivery of possession. The right to seek regularization is substantive right available under the provisions of the Act which cannot be taken away by way of government order, hence, there is no merit in the contention advanced by the respondents. It is made clear that this Court has not expressed any opinion on the merits of the entitlement for regularization of the land in favour of the appellant. It is also noticed that now the land is acquired by the State. If the authority comes to conclusion that the appellant is entitled for regularization of land in his favour, the authority shall issue necessary order and based on such order, the appellant is entitled to seek compensation from the respondent authorities.

8. For the aforementioned reasons, the writ appeal is allowed, impugned order of the learned Single Judge dated 30.03.2022 in WP.No.5466/2021 is set aside. Consequently writ petition is allowed.

Order dated 07.11.2020 passed by respondent No.3 and the order dated 12.05.1997 of the committee for regularization are hereby set aside. Writ of mandamus is issued to respondent No.4 to place the application of the appellant before the committee for regularization and the committee shall take decision on merits and in accordance with law, keeping in mind the observations of this Court. The decision shall be taken within a period of 6 months from the date of receipt of copy of the order.

No order as to costs.