

Shree Laxmi Devi Devastan vs the State of Karnataka

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Court : Karnataka Dharwad

Decided On : Apr-24-2025

Judge : M.G.UMA

Appeal No. : WP/105893/2014

Appellant : Shree Laxmi Devi Devastan

Respondent : The State of Karnataka

Advocate for Def. : Sri. Deepak S. Kulkarni, Sri. Y.V.Raviraj

Advocate for Pet/Ap. : Sri. Ramesh N. Misale

Judgement :

-1- IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH
DATED THIS THE 24TH DAY OF APRIL, 2025 BEFORE THE HON'BLE
MRS. JUSTICE M.G.UMA WRIT PETITION NO. 105893 OF 2014 (LR-)
BETWEEN:

1. SHREE LAXMI DEVI DEVASTAN BY ITS DEITY, SRI LAXMI R/BY
ITS WAHIWATDAR PUJARI, SRI VASANT S/O. SHIVAPPA SUTAR,
R/O. 1296, BASAWAN GALLI,

2. VASANT S/O. SHIVAPPA SUTAR, AGE: 64 YEARS, OCC: PUJARI & AGRICULTURE, R/O. 1296, BASAWAN GALLI,

3. SRI. SHANKAR S/O. SHIVAPPA SUTAR

AGE: 59 YEARS, OCC: PUJARI & AGRICULTURE, Digitally signed by V N R/O. 1296, BASAWAN GALLI, BADIGER SHAHAPUR, BELGAUM Location: HIGH COURT OF 4. SMT. KAMALA W/O. APPANNA SUTAR, KARNATAKA, AGE: 72 YEARS, DHARWAD BENCH, OCC: PUJARI & AGRICULTURE, DHARWAD R/O. 1296, BASAWAN GALLI,

5. RAVI S/O. APPANA SUTAR, AGE: 50 YEARS, OCC: PUJARI and AGRICULTURE, R/O. 1296, BASAWAN GALLI,

6. SRI. RAJENDRA S/O. APPANNA SUTAR, AGE: 46 YEARS, OCC: PUJARI & AGRICULTURE, -2- R/O. 1296, BASAWAN GALLI,

7. SRI. SHRIKANT S/O. VAIJANATH SUTAR, AGE: 21 YEARS, OCC: AGRICULTURE, R/O. HALAGA, TQ & DIST: BELGAUM. PETITIONERS (BY SRI. RAMESH N. MISALE, ADVOCATE) AND:

1. THE STATE OF KARNATAKA BY ITS SECRETARY, DEPT. OF REVENUE, M. S. BUILDING, DR. B. R. AMBEDKAR ROAD, BANGALORE -560001.

2. THE LAND TRIBUNAL, BELGAUM, BY ITS SECRETARY, KACHERI ROAD, BELGAUM-590 002.

3. THE TAHASILDAR BELGAUM-590002.

4. SRI. VISHWANATH S/O. FAKIRA SUTAR AGE: 68 YEARS, OCC: PUJARI, R/O. 1297, BASAWAN GALLI,

5. SRI. KRISHNA S/O. FAKIRA SUTAR, AGE: 57 YEARS, OCC: PUJARI, R/O. 1297, BASAWAN GALLI,

6. SMT. SHARADA W/O. SIDDAPPA SUTAR, AGE: 60 YEARS, OCC: PUJARI, R/O. 1297, BASAWAN GALLI, SHAHAPUR, BELGAUM. -3-

7. SRI. JOTIBA S/O. KRISHNA NANDIHALLI, AGE: 45 YEARS,
8. SMT. POOJA W/O. RAMESH SURYAVANSHI AGE: 38 YEARS,
9. SMT. SARITA W/O. CHANGAPPA GORAL, AGE: 35 YEARS,
10. SMT. RANI B. KHADARWADKAR AGE: 32 YEARS,
11. SMT. ROOPA P MUCHANDIKAR AGE: 28 YEARS,
12. SMT. DEEPA M. KHANDEKAR AGE: 25 YEARS,
13. SRI. RAMA S/O. MALLAPPA NANDIHALLI, AGE: 65 YEARS, -4-
14. SRI. ANAND S/O. NAGAPPA NANDIHALLI, AGE: 32 YEARS,
15. SRI. PARSHARAM S/O. NAGAPPA NANDIHALLI, AGE: 28 YEARS,
16. SRI. GOPAL S/O. MALLAPPA NANDIHALLI, AGE: 58 YEARS,
17. SMT. MOHINI YALLAPPA NANDIHALLI, AGE: 45 YEARS,
18. SMT. ROHINI YALLAPPA NANDIHALLI, AGE: 38 YEARS,
19. SRI. PANKAJ YALLAPPA NANDIHALLI, AGE: 35 YEARS, -5-
20. LAXMAN S/O. BHARMA NANDIHALLI, AGE: 70 YEARS, OCC: BUSINESS,
21. SRI. GANGARAM S/O. BHARMA NANDIHALLI, AGE: 67 YEARS,
22. SRI. MALLAPPA S/O. BHARMA NANDIHALLI, AGE: 60 YEARS,
23. SRI. PARASHARAM S/O. ARJUN NANDIHALLI AGE: 22 YEARS,
24. SMT. SARASWATI W/O. ARJUN NANDIHALLI AGE: 40 YEARS,
25. SRI. ARUN DINAKAR KAMAT AGE: 50 YEARS, OCC: BUSINESS, R/O. RUKMINI NIVAS KELKAR BAG, NEAR RAM MANDIR, BELGAUM.

26. SRI. PRADEEP S/O. NILAKANT NAIK, AGE: 55 YEARS, OCC: BUSINESS, R/O. 103, MAY FLOWER, -6- KHANAPUR ROAD,

27. SRI. RAMESH S/O. NILAKANT NAIK, AGE: 58 YEARS, OCC: BUSINESS, R/O. 103, MAY FLOWER, KHANAPUR ROAD, RESPONDENTS (BY SRI. T. HANUMAREDDY, AGA FOR R1 TO R3;

SRI. DEEPAK S. KULKARNI, ADVOCATE FOR R4; SRI. SHIVARAJ BALLOLI, AND SRI. RAMESH I. ZIRALI, ADV FOR R7 TO R11, R13 TO R18, R20 TO R24; SRI. SHESH R. PATANKAR IN GPA HOLDER OF R7 TO R11 R13 TO R18, R20-R24; SRI. Y.V. RAVIRAJ, ADVOCATE FOR R5 & R6; R12, R19-ARE SERVED; R25, R26 AND R27 ARE HELD SUFFICIENT) ----- THIS WRIT PETITION IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA, PRAYING TO A WRIT IN THE NATURE OF CERTIORARI OR ANY OTHER APPROPRIATE WRIT OR

ORDER OR DIRECTION QUASHING THE ORDERS PASSED BY THE 2ND

RESPONDENT, LEARNED LAND TRIBUNAL, BELGAUM, PASSED UNDER PROCEEDINGS NO.ZAD SHAHAPUR/SR-4+7+10+5++27+9+15+29 +36, DATED 24-12-1975, PRODUCED AS ANNEXURE-A, AND CONSEQUENT ORDER PASSED BY THE 3RD RESPONDENT UNDER M.R.NO. 68/2006-07 DATED 04-05-2007, PRODUCED AN ANNEXURE-B. THIS PETITION COMING ON FOR ORDERS THIS DAY, THE COURT MADE THE FOLLOWING: -7- CORAM: THE HON'BLE MRS JUSTICE M.G.UMA

ORAL ORDER

The petitioners have approached this Court seeking

issuance of writ in the nature of Certiorari to quash the order

dated 24.12.1975, produced as per Annexure A passed by respondent No.2-the Land Tribunal, Belgaum and consequent mutation entry bearing M.R.No.68/2006-

07 dated 04.05.2007, produced as per Annexure B.

2. Heard Sri. Ramesh N. Misale, learned counsel for the

petitioners, Sri. T. Hanumareddy, learned Additional Government Advocate for respondent Nos.1 to 3. Sri. Deepak S. Kulkarni, learned counsel for respondent No.4, Sri. Y.V.Raviraj, learned counsel for respondent Nos.5 and 6, and Sri. Shivaraj Balloli for respondent Nos.7 to 11, 13 to 18 and 20 to 24 have remained absent, and they have not addressed their arguments in spite of giving sufficient opportunity. Hence, their arguments are taken as nil. 2.1. Respondent Nos.12 and 19 though served with notice, have remained unrepresented before this Court. -8-

3. In the light of the submissions made by the learned

counsel for the petitioners and learned Additional Government Advocate for respondent Nos.1 to 3, the only contention raised by the learned counsel for the petitioners is that, the property bearing Sy.No.30/1 of Zad Shahapur, Belgaum Taluk and District, measuring 4.18 acres was belonging to Shree Laxmi Devi Devasthan, represented by the Wahiwatdar and Pujary. Initially, Laxman Siddappa Sutar was the sole Wahiwatdar. He died in the year 1943 leaving behind his four sons namely, Shivappa, Narayana, Appanna and Fakirappa. Since then, they were discharging duties as Wahiwatdars and Pujaris of Shree Laxmi Devi Devasthan by rotation, and they were in possession and cultivation of 1.04 acres each. The petitioners are the legal representatives of Shivappa Sutar, Appanna Sutar and Narayan Sutar consisting of three branches of Wahiwatdars. Respondent Nos.4 to 6 are the legal representatives of fourth branch headed by Fakirappa Sutar.

4. The materials on record disclose that, Mallappa

Laxmana Nandihalli and Bharna Nandihalli have filed Form No.7 claiming occupancy right in respect of the land in question claiming to be in possession and cultivation of the lands as -9- tenants. The Land Tribunal held an enquiry, showing Fakirappa Laxman Sutar i.e. the fourth son of the original Wahiwatdar as respondent No.11, and passed the impugned order, produced as per Annexure-A.

Based on the said order, the mutation entry as per Annexure B was effected. Now the petitioners are seeking to quash both Annexures A and B on the ground that, none of the petitioners or their predecessor-in-title were arrayed as respondents before the Land Tribunal.

5. The record of rights produced before the Court

disclose that, since 1943, the land in question was standing in the names of four sons of the original Wahiwatdars i.e. Shivappa, Appanna, Narayana and Fakirappa till 2007-08. Under such circumstances, the Land Tribunal was duty bound to notify them before considering Form No.7 filed by Mallappa

Laxman Nandihalli and Bharma Nandihalli. The impugned order

discloses that, it is only Fakirappa Laxman Sutar is arrayed as respondent No.11, and the other three branches represented by petitioner Nos.1 to 7 are not arrayed as parties.

6. Learned Additional Government Advocate submitted

that, the impugned order Annexure A was passed on - 10 - 24.12.1975. But the writ petition came to be filed in the year 2014 after lapse of nearly 40 years. But however, when admittedly the predecessor-in-title of the petitioners whose names appeared in the revenue records were not notified by the Land Tribunal, I deem it appropriate to set aside the impugned order with a direction to the Tribunal to hold fresh enquiry, in accordance with law.

7. Annexure B is the Mutation Entry under

M.R.No.68/2006-07 dated 04.05.2007 which was certified on the basis of the impugned order passed by the Land Tribunal. Under these circumstances, I am of the opinion that, both Annexures A and B are liable to be quashed and the matter is ordered to be remitted back to the Land Tribunal for fresh enquiry, in accordance with law. Accordingly, I proceed to pass the following:

ORDER

(i) The petition is allowed.

(ii) The impugned order dated 24.12.1975 passed by

respondent No.2-Land Tribunal, Belgaum in No.Zad Shahapur / SR- 4 + 7 + 10 + 5 + 27 + 9 - 11 - + 15 + 29 + 36, produced as per Annexure A and consequent order dated 04.05.2007 passed by respondent No.3 under M.R.No.68/2006-07, produced as per Annexure B, are hereby quashed only in respect of the claim of the petitioners with regard to Sy.No.30/1 measuring 4.18 acres situated at Zad Shahapur, Belgaum Taluk and District.

(iii) The matter is remitted back to respondent No.2- Land Tribunal, Belgaum, for fresh consideration, in accordance with law.

(iv) Petitioners and respondent Nos.7 to 11, 13 to 18 and 20 to 24 are directed to appear before the Land Tribunal on 06.06.2025, without waiting for issuance of fresh notice.

(v) The Land Tribunal is directed to issue notice to respondent Nos.12 and 19, if they do not appear before it. Sd/- (M.G.UMA) JUDGE MKM List No.: 1 SI No.: 4

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