



CNR: KAHC010116612024

NC: 2026:KHC:47252
WP No. 6541 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31ST DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE E.S.INDIRESH

WRIT PETITION NO. 6541 OF 2024 (LR)

BETWEEN:

SRI. C. MARIAPPA
SINCE DEAD BY LRS.

1. SMT. SUMALAMMA
D/O LATE C. MARIAPPA,
AGED ABOUT 80 YEARS,
R/AT NO.323/A, 11A,
HYDER ALI ROD,
NAARBAD MOHALLA,
MYSURU CITY - 570 010.
2. SMT. TULASAMMA
D/O LATE C. MARIAPPA,
AGED ABOUT 74 YEARS,
R/AT NO.323/A, 11A,
HYDER ALI ROD,
NAARBAD MOHALLA,
MYSURU CITY - 570 010.
3. SMT. VENKATALAKSHMAMMA
D/O LATE C. MARIAPPA,
AGED ABOUT 72 YEARS,
R/AT NO.323/A, 11A,
HYDER ALI ROD,
NAARBAD MOHALLA,
MYSURU CITY - 570 010.

Digitally signed
by CHAYA S A
Location: HIGH
COURT OF
KARNATAKA



CNR: KAHC010116612024

NC: 2026:KHC:47252
WP No. 6541 of 2024

...PETITIONERS

(BY SRI. K.N.NITISH, ADVOCATE)

AND:

1. THE LAND TRIBUNAL
SRIRANGAPATNA TALUK,
SRIRANGAPATNA,
MANDYA DISTRICT,
REPRESENTED BY ITS SECRETARY.

C. NINGAMMAA
W/O MR. NARAYANASWAMY
SINCE DEAD BY LRS.
2. SRI. ANANTHARAMU
S/O LATE M.R. NARAYANASWAMY
AGED ABOUT 56 YEARS,
R/AT ARAKERE VILLAGE,
ARAKERE HOBLI,
SRIRANGAPATNA TALUK,
MANDYA DISTRICT - 571 415.
3. SRI. SHIVAPRASAD
S/O LATE M.R. NARAYANASWAMY
AGED ABOUT 54 YEARS,
R/AT ARAKERE VILLAGE,
ARAKERE HOBLI,
SRIRANGAPATNA TALUK,
MANDYA DISTRICT - 571 415.
4. SMT. MAHALAKSHMI
D/O LATE M.R. NARAYANASWAMY
W/O CHANDRASEKHAR
AGED ABOUT 51 YEARS,



NC: 2026:KHC:47252
WP No. 6541 of 2024

CNR: KAHC010116612024

R/AT ARAKERE VILLAGE,
ARAKERE HOBLI,
SRIRANGAPATNA TALUK,
MANDYA DISTRICT - 571 415.

5. SMT. NANDINI
D/O LATE M.R. NARAYANASWAMY
W/O RAVI KUMAR
AGED ABOUT 49 YEARS,
R/AT NO.1755, I CROSS,
CHIKKAOLIGAGERI,
LASHKAR MOHALLA,
MYSURU - 570 001.
6. SRI. RAVISHANKAR
S/O LATE M.R. NARAYANASWAMY
AGED ABOUT 46 YEARS,
R/AT ARAKERE VILLAGE,
ARAKERE HOBLI,
SRIRANGAPATNA TALUK,
MANDYA DISTRICT - 571 415.
7. SMT. RUKMINI
D/O LATE M.R. NARAYANASWAMY
W/O RAMAKRISHNA
AGED ABOUT 43 YEARS,
R/AT NEAR PRIMARY SCHOOL
NEAR VIDHINATHESWARA TEMPLE,
TALAKADU VILLAGE,
T. NARASIPURAM TALUK
MYSURU DISTRICT - 571 124.
8. STATE OF KARNATAKA
REPRESENTED BY ITS PRL SECRETARY,
DEPARTMENT OF REVENUE,
MS BUILDING, BENGALURU - 560001.
9. M/S. THINK REAL PROJECTS
A PARTNERSHIP FIRM
HAVING ITS OFFICE AT NO.406



CNR: KAHC010116612024

BASEMENT FLOOR,
I 'C' CROSS, VII BLOCK
KORAMANGALA, BENGALURU - 560 095.
REPRESENTED BY ITS
MANAGING PARTNER
MR. AKIF AHAD.

10. MR. AKIF AHAD
S/O SRI. MUKTHAR AHAMED
AGED ABOUT 30 YEARS
MANAGING PARTNER
M/S THINK REAL PROJECTS
NO.406, BASEMENT FLOOR,
I 'C' CROSS, VII BLOCK
KORAMANGALA, BENGALURU - 560 095.
11. SRI. ABDUL HANNAN AHAD
S/O SRI. MOHAMMED ZAHEER
AGED: MAJOR
M/S. THINK REAL PROJECTS
NO.406, BASEMENT FLOOR,
I 'C' CROSS, VII BLOCK
KORAMANGALA
BENGALURU - 560 095.

...RESPONDENTS

(BY SMT. SHARADA H.V., AGA FOR R1 & R8;
SRI. P.P. HEGDE, SENIOR COUNSEL FOR
SRI. YATHIN B., ADVOCATE FOR R2 TO R7 & R9 TO R11)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226
AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO SET
ASIDE THE ORDER DATED 11/03/2023 AT ANNEXURE-E
PASSED BY THE RESPONDENT NO.1 IN PROCEEDINGS NO.
LAND TRIBUNAL, SRIRANGAPATNA TALUK, SRIRANGAPATNA IN
LRT 175/1981-82.



**NC: 2026:KHC:47252
WP No. 6541 of 2024**

CNR: KAHC010116612024

THIS WRIT PETITION HAVING BEEN RESERVED FOR
ORDERS, COMING ON FOR PRONOUNCEMENT THIS DAY,
E.S. INDIRESH J., MADE THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE E.S.INDIRESH

CAV ORDER

In this writ petition, the petitioners are assailing
the order dated 11.03.2023 (Annexure-E) in LRT
175/1981-82 passed by the respondent No.1-Land
Tribunal, Srirangapatna.

2. The facts, in brief, for the purpose of
adjudication of the present writ petition are that one
Smt. C. Ningamma filed Form No. 7 seeking
occupancy rights in respect of the land bearing Sy. No.
38 of Belavadi Village, Srirangapatna Taluk,
measuring to an extent of 4 acres 21 guntas, as per
Annexure-A. It is stated that the landlord of the
subject land was C. Mariyappa. The Land Tribunal,
after considering the material available on record, by



CNR: KAHC010116612024

order dated 09.11.1981 (Annexure-B), granted occupancy rights in favour of the applicant-Smt. c. Ningamma. Thereafter, an appeal was preferred in LRRP No. 527 of 1986 before the Appellate Tribunal, which was subsequently renumbered before this Court as W.P. No. 34939 of 1993. This Court, vide order dated 04.10.2001 (Annexure-C), allowed the writ petition and remanded the matter to the Land Tribunal for fresh consideration.

3. Pursuant thereto, proceedings were initiated before Respondent No. 1. The parties were represented in the proceedings, and the matter was posted for enquiry on 21.09.2022. Thereafter, no sitting was held before the Land Tribunal. Subsequently, the matter was posted for hearing on 12.10.2022 and thereafter adjourned to 02.11.2022.



CNR: KAHC010116612024

4. It is further averred that, on 02.11.2022, the case was not called. Thereafter, no notice of hearing was issued to the legal representatives of the deceased C. Mariyappa. However, the final order came to be passed on 11.03.2023, behind the back of the petitioners and without affording them an opportunity of being heard. It is, therefore, contended that the impugned order is liable to be quashed on the ground that the same has been passed without notice to the petitioners, and without affording an opportunity of fair hearing to the petitioners. Hence, the present writ petition has been filed.

5. Heard Sri. K. N. Nitish, learned counsel appearing for petitioners; Smt. Sharada H. V., learned Additional Government Advocate appearing for the respondent- State and Sri. P. P. Hegde, learned Senior



CNR: KAHC010116612024

Counsel on behalf of Sri. Yathin B., learned counsel appearing for respondent Nos. 2 to 7 and 9 to 11.

6. Sri. K.N. Nitish, learned counsel appearing for the petitioners, referring to the order sheet pertaining to the proceedings before Respondent No.1-Tribunal, contended that the entire proceedings were conducted behind the back of the petitioners. It is further contended that, on 21.09.2022, the matter was adjourned and the next date of hearing was shown as 02.11.2022. However, no sitting was held on 02.11.2022, though the order sheet records that a spot inspection would be conducted. It is further argued that, on 11.03.2023, the order sheet records that the matter was adjourned to 15.03.2023. However, without affording an opportunity of hearing to the petitioners, the final order came to be passed. Therefore, learned counsel appearing for the



CNR: KAHC010116612024

petitioners contended that the entire proceedings were conducted behind the back of the petitioners and, accordingly, sought interference by this Court.

7. Per contra, Sri. P.P. Hegde, learned Senior Counsel appearing for private Respondent Nos. 2 to 7, and 9 to 11 contended that Smt. C. Ningamma had filed Form No. 7 seeking occupancy rights, and thereafter, the Land Tribunal, by order dated 09.11.1981, granted occupancy rights in her favour.

8. Learned Senior Counsel further contended that, on 22.07.1987, C. Mariyappa had executed a Power of Attorney in favour of Sri. Badruddina Khan. The principal contention of the learned Senior Counsel is that C. Mariyappa, the landlord of the land in question, died on 08.08.1988 and, consequently, the agency created under the Power of Attorney stood terminated by operation of law.



CNR: KAHC010116612024

9. Referring to the order dated 04.10.2001 passed in W.P. No.34939 of 1993, produced at Annexure-C, learned Senior Counsel contended that the entire proceedings before this Court were non-est in law, as the order came to be passed in the year 2001, nearly 13 years after the death of C. Mariyappa. Therefore, contended that the order dated 09.11.1981 at Annexure-B, by which occupancy rights had been granted in favour of Smt. C. Ningamma, would revive. Accordingly, learned Senior Counsel contended that the contentions raised by the petitioners cannot be accepted and sought for dismissal of the writ petition.

10. Nextly, learned Senior Counsel appearing for the private respondents further contended that Petitioner No.1 had filed an application before the Land Tribunal on 20.12.2011 seeking to come on record, as per Annexure-R3 to the statement of



CNR: KAHC010116612024

objections. It is further contended that the deponent of the said application had deliberately failed to disclose the date of death of C. Mariyappa. Therefore, learned Senior Counsel contended that the entire proceedings conducted before the Land Tribunal pursuant to the order passed by this court in W.P.No.34939 of 1993 are of no consequence and have no sanctity in law. Accordingly, learned Senior Counsel sought dismissal of the writ petition.

11. It is further contended that, the respondent Nos.2 to 7 had executed registered Sale Deed in favour of respondent Nos.9 and 10 on 07.08.2023 and the land in question has been converted for residential purpose on 16.01.2024 and 04.02.2024 and therefore, learned Senior Counsel contended that the writ petition deserves to be dismissed. In order to buttress his arguments, learned Senior Counsel appearing for



CNR: KAHC010116612024

the respondent Nos.2 to 7 and 9 to 11 places reliance on the judgment of the Hon'ble Supreme Court in the case of ***Maulvi Issa Qureshi v. District Judge, Deoria and others*** reported in ***(1996) 5 SCC 731*** and argued that, impugned order passed by respondent No.1- Tribunal is nullity in law and as such, sought for dismissal of the writ petition. It is also argued by learned Senior Counsel by referring to the judgment of the Hon'ble Supreme Court in the case of ***Vikram Bhalchandra Ghongade v. State of Maharashtra and others*** reported in ***2025 SCC OnLine SC 2360*** and contended that, in the identical circumstances, the Hon'ble Supreme Court held that, subsequent declaration by the court in a proceedings has no significance in law and accordingly, sought for dismissal of the writ petition.



12. Sri. P.P. Hegde, learned Senior Counsel appearing for the private respondents submitted that, the legal representatives of the C. Mariyappa-petitioners had committed fraud against this court in not disclosing the fact of death of C. Mariyappa, way back in the year 1988 and therefore, this court is required to dismiss the petition with exemplary costs as the petitioners have not approached this court with clean hands and liable for contempt of court for abusing the process of law and therefore, sought for dismissal of the writ petition.

13. Smt. Sharada H.V., learned Additional Government Advocate appearing for the respondent-State sought to justify the impugned order and produced the original records.

14. In the light of the submissions made by the learned counsel appearing for the parties, the



CNR: KAHC010116612024

undisputed facts are that Smt. C. Ningamma had filed Form No. 7 before the Land Tribunal, as per Annexure-A, seeking occupancy rights in respect of the land in question. The Land Tribunal, vide order dated 09.11.1981, produced at Annexure-B, granted occupancy rights in favour of Smt. C. Ningamma in respect of land bearing Sy. No. 38 of Belavadi Village, measuring 4 acres 21 guntas. It appears from the record that, the order passed by the Land Tribunal was challenged before this Court in W.P. No. 34939 of 1993 by C. Mariyappa, represented by his General Power of Attorney holder. This Court, vide order dated 04.10.2001 (Annexure-C), allowed the writ petition and remanded the matter to the Land Tribunal for fresh consideration.

15. It is the case of the private respondents that C. Mariyappa, who was the petitioner in W.P. No.



CNR: KAHC010116612024

34939 of 1993, had died on 08.08.1988 and, therefore, the said writ petition itself was not maintainable. In this regard, it is pertinent to note that the death of C. Mariyappa on 08.08.1988 is evidenced by Annexure-R2 to the statement of objections. In such circumstances, it is rather strange as to how the writ petition came to be filed before this Court in the name of C. Mariyappa, represented by his Power of Attorney holder, Sri. Badruddin Khan. There is no satisfactory explanation forthcoming from the learned counsel appearing for the petitioners in this regard.

16. In this regard, it is also pertinent to note that, since C. Mariyappa died on 08.08.1988, the order dated 09.11.1981 passed by Respondent No.1– Land Tribunal has attained finality as, for all practical purposes, no valid writ petition was instituted



CNR: KAHC010116612024

challenging the order of the Land Tribunal granting occupancy rights in favour of Smt. C. Ningamma. It is further evident from the cause title of W.P. No. 34939 of 1993, produced at Annexure-C, that the said writ petition was filed in the name of a deceased person, namely, C. Mariyappa, represented by his General Power of Attorney holder. It is also significant to note that Respondent No.4 therein, Smt. Ningamma, was not represented in the said proceedings. These circumstances clearly indicate that true material facts were suppressed before this Court and that the proceedings were conducted by misrepresentation. In view of the same, I find considerable force in the submission made by the learned Senior Counsel appearing for the private respondents, that the order passed by this court remanding the matter to the Land Tribunal is not an order in law.



CNR: KAHC010116612024

17. It is also pertinent to note that, on perusal of the affidavit filed by Smt. Sumalamma, daughter of late C. Mariyappa, before the Land Tribunal, as per Annexure-R3 to the statement of objections, it is evident that the date of death of C. Mariyappa has been deliberately withheld, and it is merely stated that he died long ago. The aforesaid circumstance makes it clear that the petitioners have continued the proceedings before the Land Tribunal without making a full and candid disclosure of the material facts. Having approached this Court with unclean hands, the petitioners are not entitled to seek equitable relief under Article 226 of the Constitution of India. Accordingly, I am of the considered view that the petitioners are not entitled to the relief sought for in the present writ petition.



CNR: KAHC010116612024

NC: 2026:KHC:47252
WP No. 6541 of 2024

18. In this regard, it is relevant to extract paragraph 3 and 4 of the judgment in the case of ***Maulvi Issa Qureshi*** (supra), reads as under:

"3. These two appeals by special leave arise against the orders of the High Court of Allahabad dated 15-11-1995 and 1-3-1995 made in Revision Petition No. 16944 of 1995 and in CMWP No. 29890 of 1991. The admitted facts are that Ram Nihore, said to be living, laid the suit, impleading Mansari as a co-plaintiff, for perpetual injunction restraining the appellant from possession and enjoyment of the plaint schedule property. The suit came to be laid on 25-4-1988. The suit was dismissed for default on 27-5-1988. An application under Order 9 Rule 4 CPC was filed for restoration on 30-5-1988. The appellant filed objections stating that Ram Nihore had already died on 4-9-1979. Therefore, it was a fraudulent suit laid on behalf of a dead person by the co-plaintiff. That application came to be dismissed on 30-5-1988. Subsequently, the co-plaintiff filed an application for substitution of the son of the dead plaintiff on 6-2-1990. The appellant raised objection that since the suit had already been dismissed, no substitution could have been made. Accordingly, the civil court dismissed the application on 6-2-1990. The respondent carried the matter in revision to the District Judge. The District Judge by his order dated 6-7-1991 allowed the application and directed substitution. When it came to be challenged



CNR: KAHC010116612024

NC: 2026:KHC:47252
WP No. 6541 of 2024

before the High Court in writ petition, the High Court dismissed the same.

4. The question, therefore, is whether the respondent is entitled to be substituted in a suit which is already dismissed and has become final? Though Ms Sandhya Goswami, the learned counsel for the respondents, sought time again and again for filing the counter-affidavit, no counter-affidavit has been filed. From the narration of the facts, it is clear that when the suit had come to be filed on behalf of a dead person professing to be alive and the co-plaintiff was impleaded in the suit, it would be obvious that the co-plaintiff played fraud upon the court and misused the judicial process. The question then is whether the substitution of the son of the dead plaintiff in the suit would be permissible? It is axiomatic that the son of the deceased has no better independent right than what the original plaintiff himself had. After filing of the suit on behalf of a dead person and when the suit has already become final the question of substitution does not arise. Therefore, the District Judge committed a manifest error of law in directing substitution and the High Court was not right in declining to interfere with the order."

(Underlined by me)

19. The aforementioned judgment was
reiterated by the Hon'ble Supreme Court in the case of



CNR: KAHC010116612024

Vikram Bhalachandra Ghongade (supra),
paragraphs 12 to 15 reads as under:

"12. According to the executing Court, since the appeal was decided on 20.10.2010, which was prior to expiry of a period of ninety days from the death of defendant No. 5 on 20.09.2010, the appeal could not have been disposed of as abated. It is correct that the abatement of a proceeding cannot take place prior to expiry of the prescribed period of limitation of ninety days under Article 120 of the Limitation Act, 1963 for bringing on record the legal heirs. Notwithstanding this position, the fact remains that prior to the appeal being heard and thereafter decided, both the appellants who had filed the said appeal were no more. The judgment pronounced in the first appeal on 20.10.2010 was, thus, in favour of the parties who were no more alive. The said adjudication, therefore, amounted to a nullity and the same did not have the force of law. This position is not in doubt and we may only refer to the decisions in Rajendra Prasad v. Khirodhar Mahto in Civil Appeal No.2275 of 1994 decided on 11.01.1994 and Amba Bai v. Gopal, reported in 2001 INSC 263, in this regard. The appellant, therefore, is justified in contending that the decree passed by the first appellate Court was a nullity as it was passed in favour of the appealing parties, who had expired prior to the appeal being heard and decided. As a result, the only decree that could be enforced was the one passed by the trial Court on 14.08.2006.



CNR: KAHC010116612024

13. *In our view, therefore, the appellant is justified in seeking execution of the decree passed by the trial Court on the premise that the decree passed by the first appellate Court was a nullity having been passed in favour of dead persons. We are fortified in this view by the decision in Bibi Rahmani Khatoon v. Harkoo Gope reported in 1981 INSC 100, wherein it was held as under:*

"If a party to a proceeding either in the trial Court of any appeal or revision dies and the right to sue survives or a claim has to be answered, the heirs and legal representatives of the deceased party would have to be substituted and failure to do so would result in abatement of proceedings. Now, if the party to a suit dies and the abatement takes place, the suit would abate. If a party to an appeal or revision dies and either the appeal or revision abates, it will have no impact on the judgment, decree or order against which the appeal or revision is preferred. In fact, such judgment, decree or order under appeal or revision would become final."

These observations though made in the context of abatement of proceedings, the same position would arise when the appellant/s expires prior to hearing of the appeal, which is subsequently allowed without the legal heirs being brought on record. In the case in hand, the judgment in favour of the deceased appellants would be a nullity in the absence of the legal heirs being brought on record and the judgment of the trial Court would be the



CNR: KAHC010116612024

one that would govern the rights of the parties. Hence, the decree passed by the trial Court would revive for being executed.

14. *The execution proceedings herein could not have been dismissed on the ground that the decree passed by the trial Court was superseded by the decree passed by the first appellate Court and was modified. Since the decree of the first appellate Court was a nullity, the plaintiffs were entitled to execute the decree passed by the trial Court. It is well settled that if a decree is a nullity, its invalidity can be set up whenever and wherever it is sought to be enforced, even at the stage of execution as held in Kiran Singh v. Chaman Paswan reported in 1954 INSC 45.*

15. *We may note that the legal heirs of defendant Nos. 4 and 5 who had preferred the first appeal did not take any steps whatsoever to have themselves impleaded before the first appellate Court. Even after the appellant filed the execution proceedings, no steps have been taken by the legal heirs of defendant Nos. 4 and 5 to have themselves impleaded. Even before this Court, they have not chosen to contest the proceedings. The contest by respondent No. 3, who was the defendant No. 3 before the trial Court, would be of no avail as the defendant No. 3 did not challenge the decree passed by the trial Court."*

20. Following the declaration of law by the Hon'ble Supreme Court in the aforesaid cases, it is



CNR: KAHC010116612024

clear that, since C. Mariyappa, the landlord, died on 08.08.1988, and the subsequent proceedings before Respondent No.1-Land Tribunal and the impugned order passed therein would have no legal effect. Consequently, the order dated 09.11.1981 passed by the Land Tribunal granting occupancy rights in favour of Smt. C. Ningamma has attained finality. Therefore, the contentions raised by the learned counsel appearing for the petitioners as to deprivation of fair hearing required to be rejected.

21. It is pertinent to note that this Court deprecates the conduct of the petitioners in failing to disclose the date of death of C. Mariyappa, even after the remand order was passed by this Court in W.P. No. 34939 of 1993, as per Annexure-C. The entire claim made by the petitioners is devoid of merit and is based on suppression of true material facts. Having



CNR: KAHC010116612024

approached this Court with unclean hands, the petitioners are not entitled to seek equitable relief under Article 226 of the Constitution of India.

22. In this regard, the Hon'ble Supreme Court in the case of ***K.D.Sharma v. Steel Authority of India Limited and others*** reported in **(2008) 12 SCC 481** at paragraph 34 to 39 held as follows.

"34. The jurisdiction of the Supreme Court under Article 32 and of the High Court under Article 226 of the Constitution is extraordinary, equitable and discretionary. Prerogative writs mentioned therein are issued for doing substantial justice. It is, therefore, of utmost necessity that the petitioner approaching the writ court must come with clean hands, put forward all the facts before the court without concealing or suppressing anything and seek an appropriate relief. If there is no candid disclosure of relevant and material facts or the petitioner is guilty of misleading the court, his petition may be dismissed at the threshold without considering the merits of the claim.

35. The underlying object has been succinctly stated by Scrutton, L.J., in the leading case of R. v. Kensington Income Tax Commrs. [(1917) 1 KB 486 : 86 LJKB 257 : 116 LT 136 (CA)] in the following words: (KB p. 514)



CNR: KAHC010116612024

"... it has been for many years the rule of the court, and one which it is of the greatest importance to maintain, that when an applicant comes to the court to obtain relief on an ex parte statement he should make a full and fair disclosure of all the material facts—it says facts, not law. He must not misstate the law if he can help it—the court is supposed to know the law. But it knows nothing about the facts, and the applicant must state fully and fairly the facts; and the penalty by which the court enforces that obligation is that if it finds out that the facts have not been fully and fairly stated to it, the court will set aside any action which it has taken on the faith of the imperfect statement."

(emphasis supplied)

36. *A prerogative remedy is not a matter of course. While exercising extraordinary power a writ court would certainly bear in mind the conduct of the party who invokes the jurisdiction of the court. If the applicant makes a false statement or suppresses material fact or attempts to mislead the court, the court may dismiss the action on that ground alone and may refuse to enter into the merits of the case by stating, "We will not listen to your application because of what you have done." The rule has been evolved in the larger public interest to deter unscrupulous litigants from abusing the process of court by deceiving it.*



CNR: KAHC010116612024

37. *In Kensington Income Tax Commrs. [(1917) 1 KB 486 : 86 LJKB 257 : 116 LT 136 (CA)] Viscount Reading, C.J. observed: (KB pp. 495-96)*

"... Where an ex parte application has been made to this Court for a rule nisi or other process, if the Court comes to the conclusion that the affidavit in support of the application was not candid and did not fairly state the facts, but stated them in such a way as to mislead the Court as to the true facts, the Court ought, for its own protection and to prevent an abuse of its process, to refuse to proceed any further with the examination of the merits. This is a power inherent in the Court, but one which should only be used in cases which bring conviction to the mind of the Court that it has been deceived. Before coming to this conclusion a careful examination will be made of the facts as they are and as they have been stated in the applicant's affidavit, and everything will be heard that can be urged to influence the view of the Court when it reads the affidavit and knows the true facts. But if the result of this examination and hearing is to leave no doubt that the Court has been deceived, then it will refuse to hear anything further from the applicant in a proceeding which has only been set in motion by means of a misleading affidavit."

(emphasis supplied)

38. *The above principles have been accepted in our legal system also. As per settled law, the party who invokes the*



CNR: KAHC010116612024

extraordinary jurisdiction of this Court under Article 32 or of a High Court under Article 226 of the Constitution is supposed to be truthful, frank and open. He must disclose all material facts without any reservation even if they are against him. He cannot be allowed to play "hide and seek" or to "pick and choose" the facts he likes to disclose and to suppress (keep back) or not to disclose (conceal) other facts. The very basis of the writ jurisdiction rests in disclosure of true and complete (correct) facts. If material facts are suppressed or distorted, the very functioning of writ courts and exercise would become impossible. The petitioner must disclose all the facts having a bearing on the relief sought without any qualification. This is because "the court knows law but not facts".

39. *If the primary object as highlighted in Kensington Income Tax Commrs. [(1917) 1 KB 486 : 86 LJKB 257 : 116 LT 136 (CA)] is kept in mind, an applicant who does not come with candid facts and "clean breast" cannot hold a writ of the court with "soiled hands". Suppression or concealment of material facts is not an advocacy. It is a jugglery, manipulation, manoeuvring or misrepresentation, which has no place in equitable and prerogative jurisdiction. If the applicant does not disclose all the material facts fairly and truly but states them in a distorted manner and misleads the court, the court has inherent power in order to protect itself and to prevent an abuse of its process to discharge the rule nisi and refuse to proceed further with the examination of the case on merits. If the court does not reject the petition on that*



CNR: KAHC010116612024

NC: 2026:KHC:47252
WP No. 6541 of 2024

ground, the court would be failing in its duty. In fact, such an applicant requires to be dealt with for contempt of court for abusing the process of the court."

23. Following the declaration of law by the Hon'ble Supreme Court in the aforementioned cases, I am of the considered view that the arguments advanced by the learned counsel appearing for the petitioners cannot be accepted. The petitioners have approached the Land Tribunal as well as this Court with unclean hands and have failed to disclose the material fact that C. Mariyappa had died on 08.08.1988. In the case of ***Prestige Lights Limited v. State Bank of India*** reported in ***(2007) 8 SCC 449*** the Hon'ble Supreme Court held that, party whose hands are soiled cannot hold writ of court. In the case of ***K.D.Sharma (supra)*** the Hon'ble Supreme Court held that, party who suppressed the facts is not entitled to be heard on merits.



24. It is also significant that W.P. No. 34939 of 1993 came to be filed before this Court in the name of a deceased person, namely, C. Mariyappa, represented through his Power of Attorney holder, which is contrary to law. Consequently, the order passed by this Court in the said writ petition, produced at Annexure-C, is rendered a nullity in law, in view of the principles laid down by the Hon'ble Supreme Court in the judgments referred to hereinabove. Accordingly, I do not find any merit in the present writ petition.

25. Accordingly, the writ petition is liable to be dismissed with costs of Rs.10,000/-, payable by the petitioners to the Karnataka State Legal Services Authority, Bengaluru, within two months from the date of pronouncement of this order.

26. In the result, the writ petition stands ***dismissed*** with costs.



**NC: 2026:KHC:47252
WP No. 6541 of 2024**

CNR: KAHC010116612024

27. A copy of this order shall be forwarded to the Karnataka State Legal Services Authority, Bengaluru, for necessary action towards recovery of the costs imposed herein.

**SD/-
(E.S.INDIRESH)
JUDGE**

SB
List No.: 1 Sl No.: 61