



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 13<sup>TH</sup> DAY OF JANUARY, 2026**

**BEFORE**

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

**WRIT PETITION NO. 23110 OF 2022 (GM-POLICE)**

**BETWEEN:**

SMT. POORNIMA K  
W/O D.T. SRINIVAS  
AGED ABOUT 44 YEARS  
R/AT NO.111  
KSHAMAYADARITHRINILAY  
DEVASANDRA  
K.R.PURAM POST  
BENGALURU-560 036

...PETITIONER

(BY SRI. ASHOK HARANALLI, SENIOR ADVOCATE FOR  
SRI. MANMOHAN P.N, ADVOCATE)

**AND:**

1. STATE OF KARNATAKA  
DEPARTMENT OF HOME  
VIDHANA SOUDHA  
BANGALORE-01  
REPRESENTED BY ITS SECRETARY.
2. THE COMMISSIONER OF POLICE  
OFFICE OF THE POLICE COMMISSIONER  
NO.1, INFANTRY ROAD  
BANGALORE-560 001.
3. ASSISTANT COMMISSIONER OF POLICE  
MAHADEVPUR DIVISON





NO.3, CHINMAYA MISSION HOSPITAL ROAD  
HOYSALA NAGAR, INDIRNAGAR  
BENGALURU-560 038.

4. THE POLICE INSPECTOR  
WHITEFILED POLICE STATION  
WHITEFIELD  
BANGLAORE-560 066
5. SMT. NANJAMMA  
D/O LATE P. ERAPPA  
AGED ABOUT 65 YEARS  
R/AT NAGONDANAHALLI VILLAGE  
BANGALORE EAST TALUK  
BENGALURU-560 066
6. SMT. MANJULA M.E  
D/O LATE P. ERAPPA  
AGED ABOUT 45 YEARS  
R/AT NAGONDANAHALLI VILLAGE  
BANGALORE EAST TALUK  
BENGALURU-560 066
7. SMT. N.E. RAJESHWARI  
D/O LATE P. ERAPPA  
AGED ABOUT 45 YEARS  
R/AT NAGONDANAHALLI VILLAGE  
BANGALORE EAST TALUK  
BENGALURU-560 066

...RESPONDENTS

(BY SRI. MAHANTESH SHETTAR, AGA FOR R1 TO R4;  
SRI. P.P. HEGDE, SENIOR ADVOCATE FOR  
SRI. GOWTHAMDEV C. ULLAL, ADVOCATE FOR R5 TO R7)



THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO REVIEW AND RECALL THE ORDER DATED 12.01.2021 PASSED BY THIS HON'BLE COURT IN W.P NO 569/2021 AND RESTORE W.P NO 569/2021 TO FILE (PRODUCED AS ANNEXURE-R).

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**

1. In this Writ Petition, petitioner is assailing the Order dated 12.01.2021 in W.P.No.569/2021 (Annexure-R) passed by this Court and sought for review of the Order dated 12.01.2021 passed in the above petition.

2. The relevant facts for adjudication of this Writ Petition are that, one Akkayamma (Akkamma) wife of Anjanappa has been registered as an occupant under Section 9 of Mysore (Personal and Miscellaneous) Inams Abolition Act, 1954 (hereinafter referred to as 'the Inams



Act'), in respect of the agricultural land bearing Sy.No.42 of Pattandur Village, K.R. Puram Hobli, Bangalore, in case No.35/1959-60 (Annexure-A). In this regard, endorsement dated 21.02.1963 has been issued by the competent authority as per Annexure-B. Thereafter, revenue records transferred into the name of said Akkayamma. The RTC extracts transferred into the name of Akkayamma and her husband Anjanappa as per Annexure-D series. It is further stated that, the husband of the said Akkayamma has sold the land in question in favour of one Smt. Jayalakshamma, as per registered Sale Deed dated 10.05.1991 (Annexure-F). Thereafter, the name of said Smt. Jayalakshamma was mutated in the revenue records as per Annexure-G series. It is further stated that, the petitioner herein had purchased the land in question from said Smt. Jayalakshamma as per registered Sale Deed dated 09.09.2005 (Annexure-H) and revenue record is produced at Annexure-J. It is the case of the petitioner that, at the time of conducting survey, the petitioner came



to know that the vendor of the petitioner was in possession of land bearing Sy.No.156 after resurveying the same as per the re-grant order dated 22.04.1970. Hence, the petitioner filed appeal before the Joint Director of Land Records in Appeal No.43/2017-18 challenging the phodi, and the Joint Director of Land Records, by Order dated 02.08.2017, (Annexure-K), cancelled the phodi of the old survey No.42. It is further stated that, the petitioner has filed W.P.No.25584/2018 before this Court, seeking change of sketch as per the order of the Joint Director of Land Records and this Court, vide Order dated 26.02.2019 (Annexure-L), directed the respondent - revenue authorities to implement the Order dated 02.08.2017 passed by the Joint Director of Land Records.

3. It is the grievance of the petitioner that, one Sri. Erappa was making false claim in respect of the old Sy.No.10 (new Sy.No.42) measuring to an extent of 3 acres of Pattandur Agrahara Village, without any right or title in respect of the said land. It is stated that, the



respondent Nos.5 to 7 are the legal heirs of late Erappa. It is the case of the petitioner that, the said Erappa had challenged the Order dated 02.08.2017 (Annexure-K) passed by the Joint Director of Land Records in R.P.No.11/2018-19 and the said order was questioned by the petitioner in W.P.No.23398/2021 before this Court and this Court, vide order dated 18.12.2021 (Annexure-M) granted interim stay of the said order.

4. It is further stated in the Writ Petition that, the vendor of the petitioner - Smt. Jayalakshamma had filed O.S.No.558/1998 before the competent Civil Court against one Veerappa and the said suit came to be decreed in part as per the Judgment and Decree dated 13.12.1999 (Annexure-N), wherein, the land in question in the present Writ Petition is schedule-A in the aforementioned suit. It is also stated that, late Eerappa has filed W.P.No.4472/2020 before this Court, seeking phodi and durust in respect of the land in question and this Court disposed of the Writ Petition by order dated 30.03.2021



(Annexure-P), directing the respondent - authorities to consider the claim of the petitioner therein. It is also stated that, the said Erappa had filed O.S.No.1381/2005 against the vendor of the petitioner and the said suit came to be decreed in part. It is further stated that, the petitioner has filed O.S.No.25604/2018 against said Erappa and the petitioner had withdrawn the suit for want of jurisdiction. It is also stated that, the said Erappa had filed W.P.No.569/2021 before this Court and in the said petition, petitioner was arrayed as respondent No.5. This Court, vide order dated 12.01.2021 (Annexure-R), disposed of the Writ Petition with a direction to the respondent - State to consider the representation made by the petitioner therein, seeking police protection in respect of the subject land in question. It is to be noted that, at the time of disposal of the Writ Petition, the petitioner herein has been deleted from array of parties. It is also stated that, respondent Nos.5 to 7 have filed CCC No.1000/2021 against the petitioner and the police



personnel, alleging disobedience of order produced at Annexure-R and as such, the notice was ordered by this Court. Pursuant to the same, the police came near the schedule land of which the petitioner was in possession and as such, petitioner has made a representation dated 24.08.2022 (Annexure-S). It is further stated that, the Tahsildar, Bangalore East Taluk has issued endorsement dated 28.06.2021 (Annexure-T), stating that the respondent Nos.5 to 7 are not in possession of the schedule land. It is further stated that, petitioner has lodged complaint against the said Erappa and same was registered as Crime No.190/2018 (Annexure-V) on the file of Whitefield Police Station. It is the case of the petitioner that, the petitioner being aggrieved by Order dated 12.01.2021 in W.P.No.549/2021 (Annexure-R), has presented this Writ Petition, seeking review of the said Order.

5. I have heard Sri. Ashok Haranahalli, learned Senior Counsel appearing on behalf of Sri. Manmohan P.N.,



learned counsel for the petitioner, Sri. P.P. Hegde, learned Senior Counsel appearing on behalf of Sri. Gawthamdev C. Ullal, learned counsel for the respondent Nos.5 to 7, and Sri. Mahantesh Shettar, learned Additional Government Advocate appearing for respondent Nos.1 to 4.

6. Sri. Ashok Haranahalli, learned Senior Counsel for the petitioner contended that, this Court has committed an error in providing police protection to the private respondents in respect of the land in question and thereby the private respondents are interfering with the peaceful possession of schedule property by the petitioner herein, and as such, if the private respondents claim to be owners of the schedule land in question and have to implement the order of injunction granted by the competent Civil Court, as it is open for the private respondents to avail the remedy under Order XXI Rule 32 of CPC and not by filing writ petition before this Court, therefore, in the circumstances of the case, where dispute is with regard to



claiming right over the schedule land by both the petitioner and the respondent Nos.5 to 7 and as such, this Court ought to have relegated the parties to file suit for declaration in respect of title over the property in question and accordingly, sought for review of the impugned order.

7. Sri. Ashok Haranahalli, learned Senior Counsel for the petitioner further contended that, the impugned order passed by this Court is non est and contrary to the principles of natural justice as no opportunity was extended to the petitioner herein. It is further argued by learned Senior Counsel that, the said late Erappa was not in possession of the land in question and same was suppressed before this Court and further the petitioner herein was in possession of the land in question and therefore, the said aspect has to be re-considered by this Court. It is further argued by the learned Senior Counsel for the petitioner by referring to the Judgment and Decree in O.S.No.1381/2005, wherein the said suit came to be decreed in part and by referring to paragraph No.11 of the



said Judgment at Annexure-Q, learned Senior Counsel for the petitioner submitted that, the property adjacent to the schedule land bearing Sy.No.42 is land bearing Sy.No.156 belonging to the vendor of the petitioner and therefore, sought for review of the order dated 12.01.2021 in W.P.No.569/2021, produced at Annexure-R.

8. Per contra, Sri. P.P. Hegde, learned Senior Counsel appearing for the respondent Nos.5 to 7 argued by referring to Order dated 08.12.2025 in W.P.No.3594/2022 passed by this Court and submitted that, the endorsement issued by the Tahsildar dated 28.06.2021 (Annexure-T) was quashed by this Court and the respondent - authorities were directed to proceed with the phodi proceedings and the question relating to title was made subject to the result in O.S.No.24/2000 and as such, sought for dismissal of the Writ Petition.

9. It is further contended by learned Senior Counsel for the respondent Nos.5 to 7 that, Erappa had filed



application for rejection of suit in respect of the land bearing Sy.No.42 in O.S.No.558/1998, which came to be allowed by Order dated 13.12.1999 (Annexure-N) which has reached finality and therefore, the petitioner has no *locus-standi* to file the present Writ Petition. It is also argued by learned Senior Counsel by referring to the Judgment and Decree in O.S.No.24/2000 filed by Erappa against the revenue officials, seeking declaration of ownership by way of adverse possession in respect of the schedule property which came to be decreed in favour of Erappa declaring that he has perfected his rights over land bearing Sy.No.42 of Pattandur Agrahara Village, by way of adverse possession. Thereafter, the State Government has filed R.A.No.83/2001 which came to be dismissed on 16.09.2001. The State Government has filed RSA No.156/2007 before this Court and the appeal came to be dismissed on 13.06.2008 which came to be confirmed by the Hon'ble Supreme Court in SLP (C) No.29520 of 2008. In this regard, learned Senior Counsel Sri. P.P. Hegde



argued that, the respondent Nos.5 to 7 have been declared to be the owner in possession of the land bearing Sy.No.42 of Pattandur Agrahara Village and as the same has reached finality by the Hon'ble Supreme Court, therefore, it is contended that, the Writ Petition is not maintainable and requires to be dismissed by this Court.

10. It is further argued by Sri. P.P. Hegde, learned Senior Counsel for the respondent Nos.5 to 7, by referring to the various orders of this Court in CCC No.1000/2021 argued that, the Writ Petition filed by the petitioner seeking quashing of the earlier Order dated 12.01.2021 in W.P.No.569/2021 is not maintainable and accordingly, sought for dismissal of the Writ Petition.

11. Learned Additional Government Advocate appearing for the respondent - State argued on the lines of the submissions made by Sri.P.P. Hegde, learned Senior Counsel for the private respondents.



12. Having heard the learned counsel for the parties, the prayer made by the petitioner in this Writ Petition is to review and recall the order dated 12.01.2021 passed by this Court in W.P.No.569/2021. In W.P.No.569/2021, the prayer in the Writ Petition is to direct the respondent - State to provide police protection to the petitioner in respect of the schedule property by considering the Annexures - A to C therein. In the said Writ Petition, the petitioner herein has been arrayed as respondent No.5 and for the reasons best known to the private respondents herein, the respondent No.5 (petitioner in the present Writ Petition) has been deleted as per order dated 12.01.2021. It may be concluded that, the order impugned in this Writ Petition is passed without hearing the petitioner herein. It is also to be noted at paragraph 3 of the order, which reads as under:

*" 3. In the circumstances, this petition is disposed of by directing respondents to consider Annexure-C and to take action in accordance with the law laid down in Lalita Kumari's case and to accord necessary protection required in aid of the Civil Court's decree."*



*(underlined by me)*

13. This Court in W.P.No.569/2021, as per paragraph 3 of the order, directed the respondent - State to consider the representation as per Annexure-C therein, in accordance with law. The definition and applicability of the word 'consider' has been discussed in detail by the Hon'ble Supreme Court in the case of **EMPLOYEES' STATE INSURANCE CORPN. Vs. ALL INDIA ITDC EMPLOYEES' UNION AND OTHERS** reported in **(2006) 4 SCC 257**, and the relevant portion therein at paragraphs 12 to 15 is extracted below:

*"12. But it is really unnecessary to go into said question because the order of the High Court really did not give a positive direction. Relevant portion of the learned single Judge's order which has been extracted above, clearly goes to show that the learned Single Judge left the matter to be decided by the Corporation. The direction was to "consider" and in that sense there was no positive direction.*

*13. " 14, We may, in this context, examine the significance and meaning of a direction given by the Court to "consider" a case. When a court directs an*



*authority to 'consider', it requires the authority to apply its mind to the facts and circumstances of the case and then take a decision thereon in accordance with law. There is a reason for a large number of Writ Petitions filed in High Courts being disposed of with a direction to "consider" the claim/case/representation of the petitioner(s) in the Writ Petitions.*

*15. Where an order or action of the State or an authority is found to be illegal, or in contravention of prescribed procedure, or in breach of the rules of natural justice, or arbitrary/unreasonable/irrational, or prompted by mala fides or extraneous consideration, or the result of abuse of power, such action is open to judicial review. When the High Court finds that the order or action requires interference and exercises the power of judicial review, thereby resulting in the action/order of the State or authority being quashed, the High Court will not proceed to substitute its own decision in the matter, as that will amount to exercising appellate power, but require the authority to 'consider' and decide the matter again. The power of judicial review under Article 226 concentrates and lays emphasis on the decision making process, rather than the decision itself.*

*16. The High Courts also direct authorities to 'consider' , in a different category of cases. Where an*



*authority vested with the power to decide a matter, fails to do so in spite of a request, the person aggrieved approaches the High Court, which in exercise of power of judicial review, directs the authority to 'consider' and decide the matter. In such cases, while exercising the power of judicial review, the High Court directs 'consideration' without examining the facts or the legal question(s) involved and without recording any findings on the issues. The High Court may also direct the authority to 'consider' afresh, where the authority had decided a matter without considering the relevant facts and circumstances, or by taking extraneous or irrelevant matters into consideration. In such cases also, High Court may not examine the validity or tenability of the claim on merits, but require the authority to do so.*

*17. Where the High Court finds the decision-making process erroneous and records its findings as to the manner in which the decision should be made, and then directs the authority to 'consider' the matter, the authority will have to consider and decide the matter in the light of findings or observations of the Court. But where the High Court without recording any findings, or without expressing any view, merely directs the authority to 'consider' the matter, the authority will have to consider the matter*



*in accordance with law, with reference to the facts and circumstances of the case, its power not being circumscribed by any observations or findings of the Court.*

*18. We may also note that sometimes the High Courts dispose of matter merely with a direction to the authority to 'consider' the matter without examining the issue raised even though the facts necessary to decide the correctness of the order are available. Neither pressure of work nor the complexity of the issue can be a reason for the Court, to avoid deciding the issue which requires to be decided, and disposing of the matter with a direction to 'consider' the matter afresh.*

*19. There are also several instances where unscrupulous petitioners with the connivance of 'pliable' authorities have misused the direction 'to consider' issued by court. We may illustrate by an example. A claim, which is stale, time-barred or untenable, is put forth in the form of a representation. On the ground that the authority has not disposed of the representation within a reasonable time the person making the representation approaches the High Court with an innocuous prayer to direct the authority to 'consider' and dispose of the representation. When the Court*



*disposes of the petition with a direction to 'consider', the authority grants the relief, taking shelter under the order of the Court directing it to 'consider' . Instances are also not wanting where authorities, unfamiliar with the process and practice relating to writ proceedings and the nuances of judicial review, have interpreted or understood the order 'to consider' as directing grant of relief sought in the representation and consequently granting reliefs which otherwise could not have been granted. Thus, action of the authorities granting undeserving relief, in pursuance of orders to 'consider', may be on account of ignorance, or on account of bona fide belief that they should grant relief in view of Court's direction to 'consider' the claim or on account of collusion/connivance between the person making the representation and the authority deciding it. ....*

*20. Therefore, while disposing of Writ Petitions with a direction to 'consider', there is a need for the High Court to make the direction clear and specific. The order should clearly indicate whether the High Court is recording any finding about the entitlement of the petitioner to the relief or whether the petition is being disposed of without examining the claim on merits...."*



*14. The aforesaid aspects were highlighted recently in A.P.S.R.T.C. & Ors. v. G. Srinivas Reddy and Ors. (AIR 2006 SCW 1108).*

*15. It is true as contended by learned counsel for the Corporation that the use of the expression "should" gives a scope for entertaining a doubt that there was a positive direction. It is, therefore, necessary to clarify that what learned Single Judge in the direction said was only consideration by the Corporation and there was no positive direction. In that view of the matter the Corporation shall now give opportunity to the concerned parties i.e. respondents 1, 2 & 3 in each case to present their respective stand before the Corporation so that after consideration necessary order can be passed in accordance with law. We express no opinion on that aspect. The appeals are disposed of accordingly with no order as to costs."*

*(underlined by me)*

14. It is also to be noted that the Hon'ble Supreme Court in the case of **UNION OF INDIA AND OTHERS Vs. M.K. SARKAR** reported in **(2010) 2 SCC 59**, at paragraphs 14 to 16 of the Judgment, has held as under:



*"14. The order of the Tribunal allowing the first application of respondent without examining the merits, and directing the appellants to consider his representation has given rise to unnecessary litigation and avoidable complications. The ill-effects of such directions have been considered by this Court in C. Jacob v. Director of Geology and Mining [(2008) 10 SCC 115 : (2008) 2 SCC (L&S) 961] : (SCC pp. 122-23, para 9)*

*"9. The courts/tribunals proceed on the assumption, that every citizen deserves a reply to his representation. Secondly, they assume that a mere direction to consider and dispose of the representation does not involve any 'decision' on rights and obligations of parties. Little do they realise the consequences of such a direction to 'consider'. If the representation is considered and accepted, the ex-employee gets a relief, which he would not have got on account of the long delay, all by reason of the direction to 'consider'. If the representation is considered and rejected, the ex-employee files an application/Writ Petition, not with reference to the original cause of action of 1982, but by treating the rejection of the representation given in 2000, as the cause of action. A prayer is made for quashing the rejection of representation and for grant of the relief claimed in the representation. The tribunals/High Courts routinely entertain such applications/petitions*



*ignoring the huge delay preceding the representation, and proceed to examine the claim on merits and grant relief. In this manner, the bar of limitation or the laches gets obliterated or ignored."*

*15. When a belated representation in regard to a "stale" or "dead" issue/dispute is considered and decided, in compliance with a direction by the court/tribunal to do so, the date of such decision cannot be considered as furnishing a fresh cause of action for reviving the "dead" issue or time-barred dispute. The issue of limitation or delay and laches should be considered with reference to the original cause of action and not with reference to the date on which an order is passed in compliance with a court's direction. Neither a court's direction to consider a representation issued without examining the merits, nor a decision given in compliance with such direction, will extend the limitation, or erase the delay and laches.*

*16. A court or tribunal, before directing "consideration" of a claim or representation should examine whether the claim or representation is with reference to a "live" issue or whether it is with reference to a "dead" or "stale" issue. If it is with reference to a "dead" or "stale" issue or dispute, the court/tribunal should put an end to the matter and*



*should not direct consideration or reconsideration. If the court or tribunal deciding to direct "consideration" without itself examining the merits, it should make it clear that such consideration will be without prejudice to any contention relating to limitation or delay and laches. Even if the court does not expressly say so, that would be the legal position and effect."*

15. Perusal of the aforementioned decisions would indicate that, direction to "consider" representation does not amount to give positive direction to the respondent - authorities to do a particular act and thereby it is for the respondent - authorities to consider the case of the litigant public in accordance with law and therefore, it is to be held that this Court at paragraph No.3 in W.P.No.569/2021, directed the respondent - authorities to consider the case of the petitioner therein and it is not a positive direction to provide police direction. In the backdrop of these aspects, on careful examination of the writ papers would indicate that, the petitioner claiming right over a property as per the registered Sale Deed dated 09.09.2005 (Annexure-H),



the original title holder is one Akkayamma as per the regrant order by the Special Deputy Commissioner for Abolition of Inams, Bangalore in case No.35/1959-60 (Annexure-A), under the provisions of the Inams Act. The private respondent Nos.5 to 7 claiming right over the land in question as per the Judgment and Decree dated 27.01.2001 in O.S.No.24/2000 (Annexure-R1). The said suit is filed by Erappa, seeking declaration in respect of the land bearing Sy.No.10 of Pattanduru Agrahara village, Bangalore South Taluk, and in the said suit, defendants are the State revenue authorities and the petitioner herein or her vendor are not parties therein. It is not in dispute that, the defendants therein have entered appearance in the suit, however, have not filed the written statement, nor contested the matter on merits. The said suit came to be decreed, declaring that Erappa is the owner of the schedule land by adverse possession and has perfected the title by uninterrupted physical possession. The said Judgment and Decree passed by the Trial Court was



confirmed in R.A.No.83/2001 (Annexure-R2) and in RSA No.156/2007 (Annexure-R3) and thereafter, by the Hon'ble Supreme Court in SLP (C) No.29520 of 2008 (Annexure-R4). The Hon'ble Supreme Court has dismissed the Special Leave Petition and the operative portion of the order dated 16.12.2008 reads as under:

*" The Special Leave Petition is dismissed."*

16. On careful examination of the claim made by the petitioner based on the registered Sale Deed and the Order of re-grant made under the Inams Act, in favour of Akkayamma as well as the claim made by the private respondents which is based on the relief of adverse possession in the suit would indicate that, there is fraud committed by the petitioner therein (private respondents) in W.P.No.569/2021, by deleting the petitioner herein in the Writ Petition and have obtained the order dated 12.01.2021 behind the back of the petitioner. At this juncture, it is relevant to cite the Judgment of the Hon'ble Supreme Court in the case of **LACHHMAN DASS Vs.**



**JAGAT RAM AND OTHERS** reported in **(2007) 10 SCC 448** wherein it is held that, when the fraud is apparent on face of the record, pleadings are not necessary to be looked into. In this regard, it is relevant to cite the judgment of Hon'ble Supreme Court in the case of **S.P. CHENGALVARAYA NAIDU (DEAD) BY LRS. Vs. JAGANNATH (DEAD) BY LRS. AND OTHERS** reported in **(1994) 1 SCC 1**, wherein, paragraphs 5 and 6 read as under:

*"5. The High Court, in our view, fell into patent error. The short question before the High Court was whether in the facts and circumstances of this case, Jagannath obtained the preliminary decree by playing fraud on the court. The High Court, however, went haywire and made observations which are wholly perverse. We do not agree with the High Court that "there is no legal duty cast upon the plaintiff to come to court with a true case and prove it by true evidence". The principle of "finality of litigation" cannot be pressed to the extent of such an absurdity that it becomes an engine of fraud in the hands of dishonest litigants. The courts of law are meant for imparting justice between the parties. One*



*who comes to the court, must come with clean hands. We are constrained to say that more often than not, process of the court is being abused. Property-grabbers, tax-evaders, bank-loan-dodgers and other unscrupulous persons from all walks of life find the court-process a convenient lever to retain the illegal gains indefinitely. We have no hesitation to say that a person, who's case is based on falsehood, has no right to approach the court. He can be summarily thrown out at any stage of the litigation.*

6. *The facts of the present case leave no manner of doubt that Jagannath obtained the preliminary decree by playing fraud on the court. A fraud is an act of deliberate deception with the design of securing something by taking unfair advantage of another. It is a deception in order to gain by another's loss. It is a cheating intended to get an advantage. Jagannath was working as a clerk with Chunilal Sowcar. He purchased the property in the court auction on behalf of Chunilal Sowcar. He had, on his own volition, executed the registered release deed (Ex. B-15) in favour of Chunilal Sowcar regarding the property in dispute. He knew that the appellants had paid the total decretal amount to his master Chunilal Sowcar. Without disclosing all these facts, he filed the suit for the partition of the property on the ground that he had purchased the*



*property on his own behalf and not on behalf of Chunilal Sowcar. Non-production and even non-mentioning of the release deed at the trial is tantamount to playing fraud on the court. We do not agree with the observations of the High Court that the appellants-defendants could have easily produced the certified registered copy of Ex. B-15 and non-suited the plaintiff. A litigant, who approaches the court, is bound to produce all the documents executed by him which are relevant to the litigation. If he withholds a vital document in order to gain advantage on the other side then he would be guilty of playing fraud on the court as well as on the opposite party."*

17. In the case of **MEGHMALA AND OTHERS Vs. G. NARASIMHA REDDY AND OTHERS** reported in **2010 AIR SCW 5281** at paragraphs 28 to 36, the Hon'ble Supreme Court held as under:

***"Fraud/Misrepresentation:-***

*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 eye of the law.*



*"Fraud avoids all judicial acts, ecclesiastical or temporal." (Vide S.P. Chengalvaraya Naidu (dead) by LRs. v. Jagannath (dead) by LRs and Others AIR 1994 SC 853). In Lazarus Estates Ltd. v. Beasley 1956 All. E.R.349), 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. Fraud unravels everything."*

*29. In Andhra Pradesh State Financial Corporation. v. M/S. GAR Re-Rolling Mills [(1994) 2 SCC 647, 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 always known to defend the law from crafty evasions and new subtleties invented to evade law."*

*30. In Smt. Shrisht Dhawan v. M/s. Shaw Brothers. AIR 1992 SC 1555], it has been held as under:*

*"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. v. Rajendra Singh & Others AIR 2000 SC 1165, 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 Vizianagaram Social Welfare Residential School Society v. M. Tripura Sundari Devi [(1990) 3 SCC 655; Union of India v. M. Bhaskaran [1995 Supp (4) SCC 100]; Vice Chairman, Kendriya Vidyalaya Sangathan v. Girdharilal Yadav (2004) 6 SCC 325; State of Maharashtra v. Ravi Prakash Babulalsing Parmar (2007) 1 SCC 80; Himadri Chemicals Industries Ltd. v. Coal Tar Refining Co. AIR 2007 SC 2798; and Mohammed Ibrahim v. State of Bihar (2009) 8 SCC 751].*

*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 v. Delhi Administration AIR 1963 SC 1572; Indian Bank v. Satyam Fibres (India) (P) Ltd. (1996) 5 SCC 550; State of A.P. v. T. Suryachandra Rao (2005) 6 SCC 149; K.D. Sharma v. SAIL (2008) 12 SCC 481; and Central Bank of India v. Madhulika Guruprasad Dahir (2008) 13 SCC 170]*

*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. Chengalvaraya Naidu (1994) 1 SCC 1; Gowrishankar v. Joshi Amba Shankar Family*



*Trust [(1996) 3 SCC 310; Ram Chandra Singh v. Savitri Devi (2003) 8 SCC 319; Roshan Deen v. Preeti Lal [(2002) 1 SCC 100; Ram Preeti Yadav v. U.P. Board of High School & Intermediate Education (2003) 8 SCC 311; and Ashok Leyland Ltd. v. State of T.N. (2004) 3 SCC 1]*

*35. In Kinch v. Walcott (1929 AC 482, 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."*



18. It is to be noted that, the petitioner in the present Writ Petition is claiming title in respect of the subject land, where the private respondents are also claiming identical right. If such being the case, there was no occasion for the petitioner in W.P.No.569/2021 to delete the petitioner herein at the time of disposal of the Writ Petition on 12.01.2021 (Annexure-R). It is also forthcoming from the writ papers that the subject land is the subject matter in O.S.No.558/1998 filed by the vendor of the petitioner - Smt. Jayalakshamma, O.S.No.1381/2005 filed by Erappa seeking relief of permanent injunction, O.S.No.24/2000 filed by Erappa seeking declaration based on adverse possession and O.S.No.25604/2018 filed by the petitioner herein against Erappa and others. In the backdrop of these aspects, as there are four suits connected with the same subject land and that apart, the petitioner herein is claiming right over the property based on the registered Sale Deed and the order of re-grant made in favour of Akkayamma (erstwhile owner of the property) and



therefore, this Court while passing the order at Annexure-R ought not to have allowed the private respondents to delete the petitioner herein in W.P.No.569/2021. Though the learned Senior Counsel appearing for the private respondents submitted that the claim made by the private respondents is based on Judgment and Decree in O.S.No.24/2000 which ultimately confirmed by the Hon'ble Supreme Court in SLP (C) No.29520 of 2008 (Annexure-R4), however, the said special leave petition came to be dismissed in limine and not on merits. It is also to be noted that, suit is filed by Erappa against the respondent - State, wherein, the said suit was not contested by the defendant - State by filing written statement or on merits.

19. At this stage, it is also relevant to cite the judgment of Hon'ble Supreme Court in the case of **STATE OF ODISHA AND OTHERS Vs. SULEKH CHANDRA PRADHAN AND OTHERS** reported in **AIR 2022 SC 2030**, wherein at paragraphs 36 and 37, it is held as under:



*"36. That leaves us with the submission of Shri R. Balasubramanian, learned Senior Counsel that since the view taken by the Tribunal has been affirmed by the High Court and the special leave petition challenging the same has been dismissed, the view of the Tribunal has become final. In this respect, reliance could be placed on the judgment of this Court in Kunhayammed v. State of Kerala and another, wherein this Court has held as under:*

*"27. A petition for leave to appeal to this Court may be dismissed by a non-speaking order or by a speaking order. Whatever be the phraseology employed in the order of dismissal, if it is a non-speaking order i.e. it does not assign reasons for dismissing the special leave petition, it would neither attract the doctrine of merger so as to stand substituted in place of the order put in issue before it nor would it be a declaration of law by the Supreme Court under Article 141 of the Constitution for there is no law which has been declared. If the order of dismissal be supported by reasons then also the doctrine of merger would not be attracted because the jurisdiction exercised was not an appellate jurisdiction but merely a discretionary jurisdiction refusing to grant leave to appeal. We have already dealt with this aspect earlier. Still the reasons stated by the Court would attract applicability of Article 141*



*of the Constitution if there is a law declared by the Supreme Court which obviously would be binding on all the courts and tribunals in India and certainly the parties thereto. The statement contained in the order other than on points of law would be binding on the parties and the court or tribunal, whose order was under challenge on the principle of judicial discipline, this Court being the Apex Court of the country. No court or tribunal or parties would have the liberty of taking or canvassing any view contrary to the one expressed by this Court. The order of the Supreme Court would mean that it has declared the law and in that light the case was considered not fit for grant of leave.*

*The declaration of law will be governed by Article 141 but still, the case not being one where leave was granted, the doctrine of merger does not apply. The Court sometimes leaves the question of law open. Or it sometimes briefly lays down the principle, may be, contrary to the one laid down by the High Court and yet would dismiss the special leave petition. The reasons given are intended for purposes of Article 141. This is so done because in the event of merely dismissing the special leave petition, it is likely that an argument could be advanced in the High Court that the Supreme Court has to be understood as not to have differed in law with the High Court.”*



37. It is thus clear that a mere dismissal of the special leave petition would not mean that the view of the High Court has been approved by this Court. As such, the contention in that regard is rejected.

*(emphasis supplied)*

20. Following the declaration of law made by the Hon'ble Supreme Court in the above case, even if the suit was decreed in favour of the plaintiff in O.S. No.24/2000 filed against the defendant-State and neither the petitioner nor the vendor of the petitioner - Smt. Jayalakshamma, nor the original grantee of the land - Smt. Akkayamma were party to the said suit in O.S.No.24/2000 and these aspects of the matter ought to have been considered by this Court while disposing the W.P.No.569/2021. It is also to be noted that, a competent Civil Court has already decreed the suit in O.S.No.558/1998 (Annexure-N) in favour of the vendor of the petitioner herein - Smt. Jayalakshamma, wherein, the subject land is involved in the above suit. At this juncture, it is relevant to mention that, this Court in W.P.No.3594/2022 filed by the private respondents herein



against the respondent - State and the petitioner herein, disposed of on 08.12.2025, held that the contentions of the parties are kept open as to the title dispute. Therefore, I am of the opinion that, the arguments advanced by the learned Senior Counsel for the respondents cannot be accepted particularly referring to various orders passed in contempt proceedings, as the order impugned in this petition is obtained by the private respondents behind the back of the petitioner herein and therefore, I find force in the submission made by the learned Senior Counsel appearing for the petitioner to review the order impugned in this Writ Petition.

21. Hence, I pass the following:

**ORDER**

- (i) Writ Petition is ***allowed***.
- (ii) The order dated 12.01.2021 in W.P.No.569/2021 (Annexure-R) passed by this Court is hereby recalled and the W.P.No.569/2021 is restored on file. It is to be noted that, it is open for the



petitioner herein to get impleaded in the above Writ Petition, if so advised, and contest the matter on merits.

(iii) The interim order dated 21.11.2022 passed in this Writ Petition shall continue till the restoration of the W.P.No.569/2021.

(iv) In view of allowing the Writ Petition on merits, the pending applications if any, do not survive for consideration.

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

sac  
List No.: 19 Sl No.: 1