

**(2016) 06 KAR CK 0104**

**KARNATAKA HIGH COURT**

**Case No:** Writ Petition Nos. 21998 to 22000 of 2016 (KLR-RES).

M.R. Pattabhiram and Others -  
Petitioners @HASH State of  
Karnataka and Others

APPELLANT

Vs

RESPONDENT

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**Date of Decision:** June 13, 2016

**Acts Referred:**

- Constitution of India, 1950 - Article 226
- Karnataka Land Revenue Rules, 1966 - Rule 21(2)

**Citation:** (2016) 6 KantLJ 330

**Hon'ble Judges:** Ashok B. Hinchigeri, J.

**Bench:** Single Bench

**Advocate:** Sri K. Chandrakanth Patil, Advocate, for the Petitioners; Sri Kiran Kumar T.L. Additional Government Advocate, for the Respondent

**Final Decision:** Disposed Off

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**Judgement**

@JUDGMENTTAG-ORDER

**Ashok B. Hinchigeri, J.** - The petitioners have called into question the demand notice dated 22-3-2016 (Annexure-O) and 24-3-2016 (Annexures-P and Q respectively), insofar as they relate to demanding the payment of market value of "A" phot kharab land measuring 18 guntas at Sy. No. 8/2, 5 guntas at Sy. No. 7, 3 guntas at Sy. No. 20, 1 gunta at Sy. No. 21 and 1 gunta at Sy. No. 23 of Adlenahalli-Mallenahalli Village.

2. The facts of the case in brief are that the petitioners sought the conversion of the lands measuring 2 acres 16 guntas at Sy. No. 41, 1 acre 10 guntas at Sy. No. 8/2 (including 18 guntas of "A" phot kharab land), 25 guntas at Sy. No. 29, 3 acres 36 guntas at Sy. No. 13, 1 acre 23 guntas at Sy. No. 12/2, 8 guntas at Sy. No. 30/2, 2 acres 18 guntas (including 5 guntas of "A" phot kharab land), 5 guntas of "A" phot

kharab land at Sy. No. 7,1 acre 31 guntas at Sy. No. 28/1,2 acres 36 guntas at Sy. No. 28/2,2 acres 9 guntas at Sy. No. 27,3 guntas at Sy. No. 13,3 guntas of "A" phot kharab land at Sy. No. 20,1 gunta of A phot kharab land at Sy. No. 21 and 1 gunta of phot "A" kharab land at Sy. No. 23. The respondent 2 granted the NA conversion, inter alia, demanding the amount towards the market value of "A" phot kharab land measuring 28 guntas.

3. On ascertaining the legal position, the petitioners realised that they are not liable to pay the market value of "A" phot kharab land, as it forms part of the mainland belonging to them. They approached this Court by filing these writ petitions.

4. Sri K. Chandrakanth Patil, the learned Counsel appearing for the petitioners submits that the issue is fairly covered in favour of the petitioners by the learned Single Judge's order in the case of **L.A. Krishnappa v. State of Karnataka and Others ILR 2009 Kar. 938** and the Division Bench judgment, **dated 28-7-2010 in W.A. No. 3524 of 2009 in the case of The Government of Karnataka v. Smt. G. Anuradha.**

5. Sri T.L. Kiran Kumar, the learned Additional Government Advocate appearing for the respondents is at a loss to justify the impugned demand. However, he sought to justify the impugned demand on the ground that it is done pursuant to the circular issued by the Government.

6. To adjudicate as to whether the petitioners are liable to pay the market value of "A" phot kharab land, it is necessary to refer to the classification of lands as per Rule 21(2) of the Karnataka Land Revenue Rules, 1966. The provisions contained therein are extracted herein below:

"21. (2) During the process of classification land included as un-arable shall be treated as "Pot Kharab". Pot Kharab lands may be classified as follows. -

(a) That which is classified as unfit for agriculture at the time of survey including the farm buildings or threshing floors of the holder;

(b) That which is not assessed because, (i) it is reserved or assigned for public purpose; (ii) it is occupied by a road or recognised footpath or by a tank or stream used by persons other than the holders for irrigation, drinking or domestic purposes; (iii) used as burial ground or cremation ground; (iv) assigned for village potteries."

7. The perusal of the afore-extracted provisions reveals that "A" phot kharab land is that which is not under cultivation for the time being on account of the existence of the threshing floors, etc., but it continues to be a part of the mainland. It can be brought under cultivation any time. On the contrary, "B" kharab land does not belong to any private individual. "B" phot kharab land is vested in the Government for being used as footpath, tank, burial ground, cremation ground, etc. Considering the said classification of "A" phot kharab and "B" phot kharab lands, this Court, in

the cases of LA Krishnappa and G. Anuradha (supra), has expressed the considered view that the applicant for conversion of the lands is not liable to pay the market value of the phot kharab "A" land to the Government.

8. Considering the provisions contained in Rule 21(2) of the Karnataka Land Revenue Rules, 1966 and the ratio laid down in the cases of L.A. Krishnappa and G. Anuradha (supra), I allow these petitions by quashing the impugned intimations insofar as they pertain to the demand for the payment of market value of Phot Kharab "A" lands. It is made clear that the other portions of the intimations are left undisturbed.

9. These petitions are accordingly disposed of. No order as to costs.