R

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF SEPTEMBER, 2026

PRESENT

THE HON'BLE MR. JUSTICE D K SINGH

AND

THE HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN

WRIT APPEAL NO. 1929 OF 2026 (KLR-RES)

BETWEEN:

1. UNION OF INDIA
   MINISTRY OF DEFENCE,
   REPRESENTED BY SECRETARY,
   NEW DELHI-110 001.

2. AIR OFFICER COMMANDING
   AIR FORCE STATION,
   YELAHANKA,
   BENGALURU-560 042.

3. THE DEFENSE ESTATES OFFICER,
   KARNATAKA CIRCLE,
   K. KAMARAJ ROAD, BENGALURU-560 042.

...APPELLANTS

(BY SRI. ARVIND KAMATH, ASG FOR
SRI. AJAY PRABHU.M.,ADVOCATE)

AND:

1. MR MOHSIN SHARIEFF
   S/O. LATE DR. A. M. SHARIEFF,
   AGED ABOUT 61 YEARS,
   R/AT SY. NO. 32/1/3/4/5, 33/2/3,
   SONNAPPANAHALLI VILLAGE,
   JALA HOBLI, BEHIND VIT BUS STOP,
   BENGALURU-560 057.

2. THE TAHSILDAR,
   YELAHANKA TALUK,
   YELAHANKA, BENGALURU-560 042.

3. THE ASSISTANT COMMISSIONER
DEPARTMENT OF REVENUE
BENGALURU NORTH SUB DIVISION,
BENGALURU NORTH, BENGALURU 560 001.

4. THE DEPUTY COMMISSIONER
BENGALURU URBAN CITY,
BENGALURU-560 001.

...RESPONDENTS

(BY SRI.M.N.SUDEV HEGDE, AGA FOR R2 TO R4;
SRI.D.R.RAVI SHANAKAR, SENIOR COUNSEL FOR
SRI.SOMASHEKAR.C. ANGADI.,ADVOCATE FOR R1)

THIS WRIT APPEAL FILED U/S 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO I) SET ASIDE THE IMPUGNED ORDER DATED 21/07/2026 AND 22/07/2026 PASSED IN WP NO.12825/2024 BY THE LEARNED SINGLE JUDGE OF THIS HONBLE COURT AND CONSEQUENTIALLY, DISMISS THE WRIT PETITION IN WP NO.12825/2024 AND II)CONSEQUENTIALLY ISSUE ANY OTHER WRIT OR ORDER OR DIRECTION TO THE REVENUE AUTHORITIES TO RESTORE THE REVENUE ENTRY IN THE NAME OF DEFENCE AUTHORITIES AND III) ISSUE ANY OTHER WRIT OR ORDER OR DIRECTION.

THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 09.09.2026 AND COMING ON FOR PRONOUNCEMENT THIS DAY, ***HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN*** MADE THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE D K SINGH
AND
HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN

CAV JUDGMENT

(PER: HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN)

Strategic Air Defence is indispensable for a secured nation. The taxi track of the Indian Air Force has been subjected to trickery of the highest order, notwithstanding the fact that the land was acquired for Defence purposes. The Indian Air Force is a vital component of the nation's defence infrastructure, entrusted with safeguarding the country's airspace and protecting its strategic interests and national security. Yet, after several decades, an attempt has been made to create a private title over the very same land and to assert rights against the Defence authorities. However, such an attempt has not escaped the scrutiny of this Court. After the acquisition, the land was utilised for the purposes of the Indian Air Force and compensation was paid to the original land owner. It is a classic case of 'nemo dat quod non habet'—no person can convey a better title than what he himself possesses. The Military Land Register is an official document and a conclusive document insofar as defence land is concerned. The

Military Land Register records the land in Sy.No.33 measuring 3 acres 12 guntas as Defence land and same has to be accepted inasmuch as nothing credible has been brought on record to establish otherwise.

This intra-court appeal has been filed by respondent Nos.1 to 3 in W.P.No.12825/2024, wherein the learned Single Judge, vide orders dated 21.07.2026 and 22.07.2026, had allowed the Writ Petition and set aside the concurrent findings that had been rendered by the Assistant Commissioner vide his order dated 18.07.2022 and the Deputy Commissioner's order dated 05.08.2023.

1. For convenience, the parties are referred to as per their ranking before the learned Single Judge.

2. Briefly stated, the case of the petitioner is that one Thontarya (also referred to as 'Thoantadarya' or 'Thontaraya') was the owner of lands bearing Sy.Nos.32 and 33 situated at Sonnappanahalli Village, Jala Hobli, Bengaluru North Taluk, Bengaluru and after his death, his legal heirs succeeded to the said lands and continued in possession. The petitioner entered into an agreement of sale dated 08.10.1995 with the said legal heirs for purchase of Sy.Nos.32 and 33, measuring 4 acres 28 guntas and 2 acres 11 guntas, respectively. The petitioner states that he paid an advance of Rs.1,00,000/- and subsequently paid a further sum of Rs.33,95,000/-, but the vendors did not execute the registered sale deed.

3. The petitioner, therefore, instituted O.S. No.606/2008 before the Senior Civil Judge, Devanahalli, seeking specific performance. The suit came to be decreed in his favour on 26.08.2008. Since the decree was not complied with by the vendors, the petitioner initiated Execution Petition No.13/2014, and in the said execution proceedings, the sale deed was executed through the Court Commissioner in favour of the petitioner on 29.01.2015. The petitioner relies upon the said sale deed and contends that he has been in possession and enjoyment of the property from the date of the agreement.

4. The petitioner further states that thereafter his name was entered in the revenue records in respect of the property. The RTC extracts produced by him show his name in respect of Sy.No.33 and after the survey and phoding of the survey number, the property came to be shown as Sy. No.33/2 measuring 1 acre 21 guntas and Sy. No.33/3 measuring 30 guntas. The 4th respondent–Tahsildar effected the mutation in favour of the petitioner under MR No.T3 and MR No.H15.

5. The petitioner also continued to pay property tax to the Hunasamaranahalli Town Municipal Council in respect of Sy. Nos.33/2 and 33/3. The petitioner has relied upon the RTC extracts, mutation entries and tax paid receipts to show that his name continued in the revenue records and that he was dealing with the property as its holder. He has also produced photographs of the property and contends that he had put up a compound wall covering the land and was in actual possession and enjoyment thereof.

6. The dispute arose when respondent Nos.1 to 3 questioned the mutation standing in the name of the petitioner and asserted that the land in Sy.No.33 measuring 3 acres 12 guntas had been acquired for the Defence Department. The petitioner, however, relies upon the acquisition records and contends that Sy. No.33 was not covered by the acquisition and that the relevant mutation records themselves show that certain survey numbers, including Sy. No.33, had been dropped from acquisition.

7. In the meantime, respondent Nos.1 to 3 challenged the mutation before the 5th respondent–Assistant Commissioner in R.A.(BNA) No.425/2017-18. By order dated 18.07.2022, the 5th respondent held that Sy. No.33 measuring 3 acres 12 guntas belonged to the Defence Department and set aside the mutation standing in favour of the petitioner, directing that the name of the Defence Department be entered in the revenue records.

8. The petitioner thereafter approached the 6th respondent–Deputy Commissioner by filing R.P.No.34/2023-24. The 6th respondent, by order dated 05.08.2023, dismissed the revision petition and confirmed the order passed by the 5th respondent. It is against these two orders dated 18.07.2022 and 05.08.2023 that the petitioner filed the present writ petition, contending that the revenue authorities had not properly appreciated the earlier acquisition records, the sale deed executed through the Court Commissioner and the revenue documents relied upon by him.

II. FACTS OF THE RESPONDENTS

9. Having appreciated the case of the petitioner, it is now apposite for us to shed some light on the case of the respondents. The respondent Nos.1 to 3 filed their statement of objections to the writ petition, disputing the case of the petitioner both on title and possession. Their specific case is that the land in Sy. No.33 measuring 3 acres 12 guntas at Sonnappanahalli Village had already been acquired for the Defence Department in 1943 for the Air Force Station, Yelahanka.

10. According to them, the acquisition was under Sections 4(1) and 6(1) of the Land Acquisition Act, 1894, and the preliminary as well as final notifications were published in the Mysore Gazette on 12.02.1943. They further state that compensation was paid to the original owner Thontarya under the award dated 28.02.1949 and, therefore, after the acquisition neither Thontarya nor his legal heirs had any subsisting right, title or interest in the land. It is their case that the Defence Department has been in title and possession of the land from 1943.

11. The respondent Nos.1 to 3 further explain the discrepancy in the survey number appearing in the Gazette notification. According to them, Sy.No.33 was erroneously mentioned as Sy.No.30 in Gazette Notification No.3441 dated 12.02.1943.

They rely upon the boundaries mentioned in the notification and the details of the original owner to contend that the land referred to as Sy. No.30 was in fact Sy. No.33. They also rely upon the report of the Surveyor submitted to the Special Land Acquisition Officer on 26.02.1944, wherein, according to the respondents, it is recorded that 1 acre 28 guntas in Sy. No.33 was notified for acquisition, the total extent of the survey number being 4 acres 11 guntas, and 3 acres 12 guntas had been used for the road/aircraft taxi track, for which the award bill was prepared. On this basis, the respondents contend that the reference to Sy. No.30 in the Gazette was only a typographical error and that the land in Sy. No.33 measuring 3 acres 12 guntas forms part of the Defence land.

12. The respondents would dispute the petitioner's claim that he has been in possession from 1995. They point out that the registered sale deed relied upon by the petitioner came to be executed only on 29.01.2015, and contend that the petitioner cannot claim possession from 1995 on the basis of an agreement of sale. They refer to the proceedings in O.S. No.606/2008, stating that the matter was settled before the Lok Adalat on 26.08.2008, followed by execution of the sale deed through the Court.

13. Their further objection is that the vendors themselves had no title to the property by then, as the land had already been acquired in 1943 and therefore, the agreement dated 08.10.1995 and the subsequent sale deed could not convey any right in respect of the Defence land. They also contend that respondent Nos.1 to 3 were not parties to the civil proceedings and were not bound by the decree or the subsequent sale deed executed through the Court.

14. The respondent Nos.1 to 3 also rely upon the proceedings in O.S. No.502/2007 to dispute the petitioner's assertion regarding the property. They state that an order dated 22.03.2016 had been passed in the said suit restraining the petitioner from alienating or creating any charge over the property bearing Sy. No.33 measuring 3 acres 12 guntas, which, according to them, is Defence land. The respondents further state that the Defence authorities were not impleaded as necessary parties in that suit.

15. They also refer to the earlier revenue transactions in Sy. No.33 and contend that the revenue history itself does not support the petitioner's claim of title. In particular, they refer to an entry showing Sri S. Kannan having obtained 1 acre 10 guntas in Sy. No.33 by purchase from Virupakshaiah, with mutation by bifurcation in 1977-78, and thereafter sale of 2 acres in favour of B.P. Shanthappa in 1987-88 under M.R. No.9010.

16. A further objection taken by the respondents concerns the documents and the family relationship of the persons who executed the agreement in favour of the petitioner. They state that Virupakshaiah died on 05.10.1995, whereas the agreement relied upon by the petitioner was executed on 08.10.1995, only three days thereafter. They also point out that the mutation in favour of Virupakshaiah was ordered on 05.09.1995, before his death.

17. The respondents further rely upon the Military Land Register ('MLR'), the Surveyor's report dated 26.02.1944 and the compensation proceedings to maintain that 3 acres 12 guntas in Sy. No.33 was acquired and that the Air Force has remained in possession since 1943. They also state that Form No.11 of the Mutation Register for 2001-02 records the land in the name of the Defence Department and possession with Air Force Station, Yelahanka.

18. The respondents further state that the petitioner's claim of possession and the subsequent revenue entries were the subject matter of proceedings before the revenue authorities. According to them, the 5th respondent, in R.A. No.425/2017-18, by order dated 18.07.2022, directed removal of the petitioner's name in respect of the extent of 2 acres 11 guntas and directed entry of the Ministry of Defence/Air Force Station, Yelahanka in the RTC of Sy. No.33.

19. The respondents further contend that the petitioner thereafter filed R.P. No.34/2023-24 before the 6^{th} respondent, which was dismissed and the order of the 5th respondent was confirmed. The respondents therefore contend that the orders of the 5^{th} and 6^{th} respondents are concurrent orders based upon the revenue and Defence records. They also point out that the petitioner had filed O.S. No.168/2024 on 24.04.2024 seeking permanent injunction on the same cause of action and, therefore, according to them, the statement in the writ petition that no suit was pending was incorrect. On these grounds, the respondents seek dismissal of the writ petition.

III. PROCEEDINGS BEFORE THE WRIT COURT

20. We may now take note of the proceedings before the learned Single Judge. The learned Single Judge, having considered the rival submissions, first examined the basis on which the petitioner claimed right over the subject land. It was noticed that the petitioner had instituted O.S. No.606/2008 on the basis of the agreement of sale dated 08.10.1995, and that the suit had been decreed by the competent Civil Court.

21. Pursuant to the decree, E.P. No.13/2014 was filed and, in the execution proceedings, a registered sale deed came to be executed through the Court in favour of the petitioner on 29.01.2015. The learned Single Judge also noticed that the revenue records stood in the name of the petitioner. The learned Single Judge accordingly examined whether the revenue authorities, while exercising jurisdiction under Sections 136(2) and 136(3) of the Karnataka Land Revenue Act, 1964 (‘KLR Act’), had properly considered these documents.

22. The learned Single Judge noted that the principal dispute was with regard to the acquisition of Sy. No.33. Respondent Nos.1 to 3 relied upon the Preliminary Notification dated 12.02.1943, the Village Map, the letter dated 31.05.1943 and the MLR to contend that Sy. No.33 measuring 3 acres 12 guntas had been acquired for the Defence Department and was in the possession of the Air Force. The learned Single Judge, however, examined the Preliminary Notification itself and found that Sy. No.33 did not find place in the notification, whereas Sy. No.32, which was stated to be the Bajudar of Sy. No.33, was specifically mentioned.

23. The learned Single Judge therefore held that, as the notification stood, the land bearing Sy. No.33 was outside the acquisition proceedings. Though respondent Nos.1 to 3 sought to explain the discrepancy as a typographical error in the survey number and relied upon subsequent records to establish that Sy. No.33 was in fact acquired, the learned Single Judge found that the notification dated 12.02.1943 did not itself cover Sy. No.33.

24. The learned Single Judge further examined the effect of the above discrepancy on the orders passed by the revenue authorities. The 5th respondent, by order dated 18.07.2022 in R.A. No.425/2017-18, had proceeded on the basis that the Defence Department had acquired Sy. No.33 and directed removal of the petitioner's name from the revenue records. The

6th respondent, by order dated 05.08.2023 in R.P. No.34/2023-24, confirmed that decision.

25. The learned Single Judge held that these findings did not properly reconcile the 1943 acquisition notification with the judgment and decree in O.S. No.606/2008, the proceedings in E.P. No.13/2014 and the registered sale deed dated 29.01.2015. The learned Single Judge therefore held that the conclusion arrived at by respondents Nos.5 and 6 under Sections 136(2) and 136(3) of the KLR Act was incorrect and contrary to the records and also amounted to violation of Section 128 of the KLR Act. It was on this specific basis that both orders were interfered with. On these observations, the learned Single Judge allowed the Writ Petition on 21.07.2026.

26. The matter was thereafter taken up again on 22.07.2026 for "being spoken to", after the writ petition had been allowed in the morning session on 21.07.2026. Respondent Nos.1 to 3, through the learned Additional Solicitor General, raised a further objection regarding maintainability and placed a memo dated 22.07.2026 along with documents. They relied upon the two Absolute Sale Deeds dated 28.03.2019 in favour of one Shri D.N. Lokesh and contended that, having sold the property prior to the institution of the Writ Petition, the petitioner had no locus standi to maintain the writ petition. It was also contended that this fact had been suppressed. The learned Single Judge examined the dates and found that although the sale deed was executed on 28.03.2019, the entire registration of the document was completed only on 16.10.2024, whereas the writ petition had been filed on 03.05.2024.

27. Thus, on the date of institution of the writ petition, the registration of the subsequent sale deed had not been completed. On this factual position, the learned Single Judge held that there was no suppression of material fact by the petitioner and did not accept the objection to maintainability on that ground.

28. The learned Single Judge also specifically considered the extract from the MLR, on which respondent Nos.1 to 3 placed considerable reliance. Their submission was that the MLR showed Sy. No.33 as Defence land and that the discrepancy in the 1943 notification was only a mistake in the survey number. The learned Single Judge, however, compared the MLR with the Preliminary Notification dated 12.02.1943 and found that, while

Sy. No.33 was subsequently shown in the MLR, Sy. No.33 itself did not find place in the acquisition notification.

29. The learned Single Judge therefore did not accept the MLR entry as sufficient to sustain the conclusion reached by the revenue authorities. The learned Single Judge also noticed that the petitioner's claim was supported by the competent Civil Court decree in O.S. No.606/2008, the execution proceedings in E.P. No.13/2014 and the registered sale deed executed through the Court Commissioner on 29.01.2015. It was in this factual background that the learned Single Judge held that the judgments relied upon by respondent Nos.1 to 3 could not be applied to the present case.

30. The learned Single Judge accordingly confirmed the order dated 21.07.2026. The writ petition remained allowed, the order dated 18.07.2022 passed by the 5th respondent in R.A. No.425/2017-18 and the order dated 05.08.2023 passed by the 6th respondent in R.P. No.34/2023-24 remained set aside, and the 4th respondent–Tahsildar was directed to enter the petitioner's name in the revenue records in respect of the land in question within one month from the date of receipt of the order. At the same time, the learned Single Judge made it clear that the competing title claimed by respondent Nos.1 to 3 was not finally adjudicated in the writ proceedings.

31. Respondent Nos.1 to 3 were expressly given liberty to establish their title over the land before the competent Civil Court in accordance with law. Thus, the two revenue orders were set aside for the specific reason that the revenue authorities had proceeded on the acquisition claim despite the discrepancy between the 1943 notification and the subsequent MLR, without properly considering the Civil Court decree, execution proceedings and registered sale deed relied upon by the petitioner; the final question of title was left open for adjudication by the competent Civil Court.

IV. SUBMISSIONS IN THE APPEAL

32. Aggrieved by the said order passed by the learned Single Judge, respondent Nos.1 to 3 have preferred the present intra-court appeal, challenging the said order.

33. We have heard Shri Arvind Kamath, learned Additional Solicitor General appearing for the appellants/respondent Nos.1 to 3; Shri D.R. Ravi Shankar, learned Senior Counsel appearing on behalf of the petitioner and Shri Sudev Hegde M.N., learned

Additional Government Advocate appearing for the State/respondent Nos.4 to 6.

34. The learned Additional Solicitor General has rigorously assailed the impugned order by contending that the learned Single Judge has not properly appreciated that the land in Sy.No.33, measuring 3 acres 12 guntas, was acquired for the Defence Department for establishing the Airfield at Yelahanka in the year 1943. The preliminary and final notifications were published in the Mysore Gazette on 12.02.1943 and compensation in respect of Sy.No.33 was paid to Thontarya under the award dated 26.07.1945. After the acquisition, the MLR and the mutation records reflected the possession and holding of the Defence Department. The case of the petitioner is based on an agreement of sale dated 08.10.1995, which was entered into over 50 years after the acquisition.

35. It was further submitted by the learned ASG that the main dispute before the learned Single Judge was with regard to the mention of Sy.No.30 instead of Sy.No.33 in the acquisition notification. The respondents had specifically relied upon the village map, survey records, boundaries of the land, MLR and the payment of compensation to Thontarya in respect of

Sy.No.33 to show that the reference to Sy.No.30 was only a typographical error. The 5th respondent, after considering the records, passed the order dated 18.07.2022 in R.A.(BNA) No.425/2017-18 in favour of the Defence authorities. Thereafter, the petitioner challenged the said order before the 6^{th} respondent and the 6^{th} respondent, by order dated 05.08.2023 in R.P.No.34/2023-24, upheld the order dated 18.07.2022. These concurrent factual findings of the revenue authorities, according to the respondents, were not properly considered by the learned Single Judge while setting aside both the orders.

36. The learned ASG also submitted that the learned Single Judge has not considered the circumstances in which the petitioner obtained the collusive decree in O.S.No.606/2008 and the subsequent sale deed dated 29.01.2015 through the Court Commissioner. The respondents were not parties to the said civil proceedings and, therefore, the decree passed between the petitioner and the persons from whom he claimed to have purchased the property could not, according to the respondents, determine the title of the Defence Department over land which had already been acquired in 1943.

37. It was also specifically contended by the learned ASG that the issue regarding the discrepancy between Sy.No.30 and Sy.No.33 had to be examined with reference to the acquisition records, village map, survey documents, MLR and compensation records, and not merely on the basis of the subsequent sale deed and revenue entries.

38. The learned ASG further submitted that there is also the issue regarding the subsequent sale transactions in favour of Shri D.N. Lokesh. The respondents contended that two sale deeds dated 28.03.2019 had been executed by the petitioner in favour of Shri D.N. Lokesh and that this fact was not disclosed when W.P.No.12825/2024 was filed on 03.05.2024. During the writ proceedings, an impleading application was also filed by Shri D.N. Lokesh, but the respondents contend that they were not given an opportunity to file objections to the interlocutory applications.

39. The writ petition was disposed of on 21.07.2026 and, thereafter, the learned ASG moved the matter for *"being spoken to"*, pursuant to which the matter was taken up on 22.07.2026. The respondents, therefore, contend that the learned Single Judge ought to have considered the question of suppression, locus and the subsequent sale transactions before granting relief to the petitioner.

40. In support of his contentions, the learned ASG has drawn our attention to the following judgments:

(i) *Prestige Lights Ltd. v. State Bank of India*[1];

(ii) *K.D. Sharma v. Steel Authority of India Ltd.*[2];

(iii) *Union of India & Another v. S. Narasimhulu Naidu & Ors.*[3];

(iv) *Air Officer Commanding, Air Force Station Yelahanka, Bangalore v. Shri S.M. Ashwathanarayana & Ors.*[4];

(v) *M. Venkatesh & Ors. v. Commissioner, BDA*[5] and

(vi) *Union of India & Ors. v. Azmathulla Mekhri & Anr*.[6]

41. Per contra, Shri D.R. Ravi Shankar, the learned Senior Counsel for the petitioner, has vehemently opposed the present intra-court appeal. The learned Senior Counsel has assailed the jurisdiction of the 5th respondent under Section 136(2) of the KLR Act to consider the appeal presented by respondent Nos.1 to 3 before the 5th respondent. It was contended that the right

[1] (2007) 8 SCC 449.
[2] (2008) 12 SCC 481.
[3] Civil Appeal No.2049/2013 c/w 13/2012 DD 27.8.2021.
[4] Civil Appeal No.14815/2024 DD 17.12.2024.
[5] (2015) 17 SCC 1.
[6] RFA No.699/2002 DD 17.02.2014.

of appeal is one that is conferred by statute and when the statutory preconditions to the appeal are not satisfied, then the appellate jurisdiction of the 5th respondent cannot be invoked.

42. It was further submitted that the petitioner entered into an agreement to sell with the legal heirs of Shri Thontraya on 08.10.1995, only after verifying the RTCs and other relevant records pertaining to the land bearing Sy.No.33. All the subsequent transactions and events, including the suit in O.S.No.606/2008 and Execution Petition No.13/2014, culminating in the sale deed dated 29.01.2015, followed from that agreement.

43. The learned Senior Counsel for the petitioner further contends that the petitioner has not suppressed any material fact in filing the present Writ Petition. Although the two absolute sale deeds executed in favour of Shri D.N.Lokesh are dated 28.03.2019, their registration was completed only on 16.10.2024, which was subsequent to the filing of the present Writ Petition on 03.05.2024. Hence, no material fact was suppressed when the Writ Petition was filed.

44. The learned Senior Counsel has also placed considerable emphasis on the fact that the preliminary and final notifications dated 12.02.1943 do not mention the land bearing Sy.No.33, in respect of which the petitioner entered into the agreement to sell with the legal heirs of the original owner in 1995. It is therefore contended that the land in Sy.No.33 was never the subject of any acquisition proceedings.

45. The learned Senior Counsel further submits that after the sale deed was executed in the petitioner's favour, he took steps to erect a boundary wall around the land as early as 2017. The petitioner also relies on the RTCs produced by him to show that the names of the respondents do not appear in the RTCs from 1943 to 2000. On the basis of this, and among other submissions, the petitioner has strenuously opposed the present intra-court appeal.

46. In support of his contentions, the learned Senior Counsel has relied upon the following judgments:

(i) *Arcot Textile Mills Ltd. v. Regional Provident Fund Commissioner and Ors.*[7];

(ii) *Competition Commission of India v. Steel Authority of India Ltd. and Anr.*[8];

(iii) *Vishnu Kumar Gupta v. State of Madhya Pradesh*[9];

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[7] (2013) 16 SCC 1.
[8] (2010) 10 SCC 744.
[9] SLP(Crl.) No.13891/2025.

(iv) *Nandeshwar Prasad and Ors. v. U.P. Government and Ors. etc.*[10];

(v) *Delhi Airtech Services Pvt. Ltd. and Anr. v. State of Uttar Pradesh and Anr.*[11] *and*

(vi) *Venkataswamy (dead by his LRs) v. The Special Deputy Commissioner & Others*[12].

V. POINT FOR CONSIDERATION

47. We have heard the learned ASG appearing for the respondents, learned Senior Counsel appearing for the petitioner, and have carefully perused the records of the case placed before us. The only point which requires our consideration is,

> *Whether the respondents have made out a ground for us to interfere with the impugned order of the learned Single Judge?*

VI. REASONS:

48. At the outset, we may note that the learned ASG has strenuously argued on the point of maintainability before us, by relying on decisions of the Hon'ble Supreme Court in ***Prestige***

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[10] 1963 SCC OnLine SC 245.
[11] (2024) 17 SCC 610.
[12] WA No.22/2023 DD 28.03.2025.

***Lights Ltd**. (supra)*. The crux of the argument put forth by the learned ASG is that at the time of filing the Writ Petition, the petitioner had not disclosed about the fact of having entered into two Absolute Sale Deeds dated 28.03.2019 in favour of Shri D.N. Lokesh (impleading applicant). Due to such non-disclosure, the petitioner has not come before this Court with clean hands, and thus, the doors to seek a prerogative writ should be closed upon the petitioner, without even considering the petitioner’s case. The petition ought to have been rejected at the threshold on the ground of maintainability itself, as the petitioner had not placed the true and complete facts before the learned Single Judge. The petitioner, having approached the Court seeking discretionary relief, was required to make a full and candid disclosure of all facts having a bearing on the dispute. A litigant cannot withhold material facts and, on the basis of such incomplete disclosure, seek orders from the hands of the Court. The suppression of material facts goes to the very maintainability of the petition and, in the circumstances, the writ petition itself was liable to be rejected without entering into the merits of the claim.

49. Turning our attention to the merits of the case, we note that the learned Single Judge has not considered the manner in which the 5th respondent examined the original acquisition records while passing the order dated 18.07.2022 in R.A.(BNA) No.425/2017-18. The 5th respondent did not proceed merely on the basis of the survey number mentioned in the Gazette notification. The notification, the village map, the survey records, the MLR and the other records relating to the acquisition were examined.

50. The principal question therefore is not merely whether the number "33" appears in the notification dated 12.02.1943. The question is whether, on a consideration of the entire acquisition record, the land which was acquired and thereafter utilised for the Air Force taxi track can be identified with the land presently claimed by the petitioner as Sy.No.33.

51. The answer to this question has to be found from the contemporaneous documents and not merely from the subsequent revenue entries. The acquisition was of the year 1943. The petitioner's agreement of sale is of the year 1995. Therefore, the contemporaneous acquisition records necessarily assume greater significance while identifying the land.

52. The learned Single Judge has failed to consider that it is the 5th and the 6th respondent who have the competency to peruse the land records and accurately identify the land and the person who has title over that land, on the basis of such land records. Having failed to consider this aspect, the writ proceedings could not have been converted into proceedings to determine the title of the property.

53. The letter dated 31.05.1943 of the Surveyor addressed to the Special Land Acquisition Officer is one such contemporaneous document. The subsequent survey report dated 26.02.1944 specifically records that 1 acre 28 guntas in Sy.No.33 was notified for acquisition, that the total extent of Sy.No.33 was 4 acres 11 guntas and that 3 acres 12 guntas was utilised for the taxi track for aircrafts, for which the award bill was prepared. The same record also refers to compensation being paid to Thontaraya Bin Siddalingaiah in respect of the acquired land. The survey report of 26.02.1944 itself therefore connects the acquisition with Sy.No.33.

54. The MLR is another important document. The MLR is not a document created in the course of the present dispute. It is the Defence record reflecting the holding and possession of 3 acres 12 guntas in Sy.No.33 of Sonnappanahalli in favour of the Ministry of Defence. The 5th respondent took note of this document and also of the fact that the mutation records had thereafter reflected the Defence Department's name. The MLR identifying the land as Sy.No.33, when read with the 1944 survey report and the boundaries in the 1943 notification, was therefore required to be examined along with the other acquisition records.

55. On the evidentiary value of the entries made in the MLR, we may note that the MLR is a public document within the meaning under Section 74(1) of the Bharatiya Sakshya Adhiniyam, 2023 ('Adhiniyam'), as it is a document that is forming a part of the acts, or records of acts, of the Union of India. Being a public document, this Court may presume the correctness of the entries made in the MLR under Section 119 of the Adhiniyam, since they are official acts which have been regularly performed. While the respondents have produced the MLR to show that the land in Sy.No.33 had become the land of the Defence Department, there is no convincing material produced by the petitioner to show that the said land ceased to be the land of the Defence Department.

56. The learned ASG has also relied upon the judgment of the Hon'ble Supreme Court in *Narasimhulu Naidu* (supra), wherein it was re-iterated that when the entries of the MLR show that the land was transferred in favour of the Union, in the absence of any evidence to show that the records were not maintained properly, the MLR, being an official record, would carry the presumption of correctness.

57. On this point, we may additionally note the judgment of the Hon'ble Supreme Court in ***Union of India v. Robert Zomawia Street***[13], wherein it was observed that the entries made in the General Land Register maintained under the Cantonment Rules are conclusive proof of title. The relevant observations are noted hereinbelow:

> *"**12**. We have given our thoughtful consideration to the rival submissions and plea of Mr Parasaran that entries made in the GLR are the conclusive proof of title commends us and the decisions relied on clearly support his contention. In Ibrahim Uddin [Union of India v. Ibrahim Uddin, (2012) 8 SCC 148 : (2012) 4 SCC (Civ) 362], relying on the decision of Kamla Verma [Union of India v. Kamla Verma, (2010) 13 SCC 511 : (2010) 4 SCC (Civ) 802] and Chief Executive Officer v. Surendra Kumar Vakil [(1999) 3 SCC 555], this Court has observed that:*

[13] (2014) 6 SCC 707

> *"83. … It is settled legal position that the entries made in the General Land Register maintained under the Cantonment Land Administration Rules are conclusive evidence of title."*

We respectfully concur with this view."

58. In our considered opinion, the observations of the Hon'ble Supreme Court in ***Robert Zomawia Street*** (supra), would apply aptly to the facts of the instant case as well. The MLR is also prepared by the Union with respect to maintaining a record of the lands wherein the title belongs to the Union. As such, the entries made in the MLR that shows that the land in Sy.No.33 was acquired by the Union would be conclusive proof of the title of the Defence Department over the said land.

59. In the present case, the boundaries stated in the notification correspond with the land identified by the subsequent survey records and the MLR as Sy.No.33. The 5th respondent specifically recorded this aspect while accepting that the reference to Sy.No.30 was a typographical error. The 6th respondent, while considering R.P.No.34/2023-24, examined the order dated 18.07.2022 and the records and, by order dated 05.08.2023, dismissed the revision and confirmed the finding of the 5th respondent. There were thus concurrent findings of respondents Nos.5 and 6 regarding identification of the land.

60. There is another circumstance concerning the very foundation of the petitioner's claim. The petitioner relies upon an agreement of sale dated 08.10.1995, said to have been executed by the legal heirs of Thontarya. According to the petitioner's own case, the vendors did not execute the sale deed and, therefore, he instituted O.S.No.606/2008 seeking specific performance. Thus, an agreement allegedly executed in 1995 was followed by a suit only in 2008, nearly 13 years thereafter. The suit ultimately came to be decreed on 26.08.2008 and, thereafter, in E.P.No.13/2014, a sale deed was executed through the Court Commissioner on 29.01.2015. The very circumstance that a suit for specific performance was instituted nearly 13 years after the alleged agreement, and that the suit was nevertheless decreed, is a circumstance which shocks the conscience of the Court and calls for closer scrutiny, particularly when the decree is thereafter relied upon as the foundation for claiming title over the property. The long delay, the nature of the suit, the manner in which the decree came to be passed and the subsequent execution of the sale deed through the Court Commissioner were all material circumstances which ought to have been considered while examining the petitioner’s claim in the writ proceedings.

61. The collusive and an illegal decree in O.S.No.606/2008 in which the respondents were not the parties, cannot by itself create a title in favour of the petitioner if the persons against whom the decree was obtained had no subsisting title over the property on the date of the agreement. The specific case of respondents Nos.1 to 3 is that the land had already been acquired in 1943, compensation had been paid to the original owner and the Defence Department had thereafter been in possession.

62. The predecessor-in-interest of the vendors had already lost his title by reason of the acquisition. The petitioner has also not provided any document to show that even after the acquisition, the predecessor-in-interest had title to the land. With the predecessor-in-interest not having any title, his legal heirs could not acquire a better title merely because they were parties to a subsequent agreement of sale. A maxim which squarely encapsulates this aspect is *nemo dat quod non habet*, which means that no one can give what he does not possess.

The successor will not have better title than what his predecessor had.

63. It is precisely this aspect which the learned Single Judge has lost sight of. The petitioner, by providing certain documents, has painted a high degree of probability that he is the owner of the land. However, what the learned Single Judge ought to have considered is when the original owner and his heirs had no right in the land, the petitioner could not get any right over the said land.

64. At this juncture, we may also add that it is no longer *res integra* that when a preliminary notification has been issued, any sale made over the land that is the subject of the preliminary notification is void and non-est in the eyes of law. On this point we may note some observations of the Hon'ble Supreme Court in ***M. Venkatesh*** (supra), wherein it was held as follows:

> *"16. ….The legal position about the validity of any such sale, post issuance of a preliminary notification is fairly well settled by a long line of decisions of this Court. The sale in such cases is void and non est in the eyes of the law giving to the vendee the limited right to claim compensation and no more…"*

65. The nature of O.S.No.606/2008 is also relevant. The Defence Department was not a party to that suit, though its case is that the very property involved in the suit had been acquired in 1943 and was thereafter being used for Defence purposes. The suit was between the petitioner and the persons claiming through the original owner. The decree dated 26.08.2008, therefore, could not have conclusively adjudicated the Defence Department's title when the Defence Department was not before the Civil Court. The subsequent execution of the sale deed on 29.01.2015 through the Court Commissioner could convey only such right as the judgment-debtors themselves possessed; it could not enlarge the title of the judgment-debtors and create a title against a person who was not a party to the decree.

66. There is also a material circumstance regarding the consideration and the subsequent court execution. The petitioner's case refers to substantial consideration having been paid under the agreement, whereas the sale deed was ultimately executed through the Court Commissioner pursuant to the decree. The material placed before the learned Single Judge also indicates a considerable difference between the consideration stated for the transaction and the stamp duty paid when the sale deed was executed through the Court Commissioner. This circumstance arises in the background of an agreement dated 08.10.1995, followed by a suit only in 2008 and execution of the sale deed only in 2015.

67. The mutation records also require to be considered in their proper sequence. The 5th respondent found that the petitioner's name had subsequently been entered in the revenue records, but that the Defence records, including the MLR and the earlier acquisition records, showed the land as Defence property. The order dated 18.07.2022 specifically directed removal of the petitioner's name in respect of the relevant extent and entry of the Ministry of Defence/Air Force Station, Yelahanka, for the 2 acres 11 guntas claimed by the petitioner. The 6th respondent, on 05.08.2023, did not find any reason to interfere with that conclusion and confirmed the order.

68. The letter dated 31.05.1943, the survey report dated 26.02.1944, the compensation records, the village map and the MLR form one continuous chain of records. The 1943 notification contains the discrepancy in the survey number, but the description of the land by boundaries, the 1944 survey report identifying Sy.No.33, the extent of 3 acres 12 guntas used for the taxi track, the compensation records and the MLR thereafter identifying Sy.No.33 all relate to the same property. The learned Single Judge, while considering the matter on 21.07.2026 and again on 22.07.2026, principally proceeded on the absence of the number "33" in the preliminary notification. The other documents which explain the discrepancy in that number therefore required to be considered along with the notification.

69. The records produced by the learned ASG along with the additional statement of objections also disclose the relevant portion of the payment of compensation to the land loser. The said record shows payment of a sum of Rs.5,810/- on 26.07.1945 towards compensation in respect of the acquired land. This payment record is to be read along with the survey report dated 26.02.1944, which specifically refers to Sy.No.33, its total extent of 4 acres 11 guntas and utilisation of 3 acres 12 guntas for the road/taxi track. Thus, there is a contemporaneous record of payment of compensation, followed by the survey record identifying Sy.No.33 and thereafter the MLR recording 3 acres 12 guntas in Sy.No.33 as Defence land.

70. Our attention has also been drawn to another judgment of the Hon'ble Supreme Court in ***Air Officer Commanding, Air Force Station Yelahanka, Bangalore*** (supra), wherein the land acquisition under the same Notification No.3441 dated 12.02.1943 was an issue. The Hon'ble Supreme Court had held that when possession of the land was taken and compensation has been paid, the respondents therein could not have a claim over that land only by virtue of the grant of occupancy rights under the Karnataka (Religious and Charitable) Inams Abolition Act, 1955.

VII. SUBSEQUENT CONDUCT OF THE PETITIONER

71. Yet another aspect concerns the manner in which the subsequent transaction was brought to the notice of the learned Single Judge. The writ petition was filed on 03.05.2024 and the matter came to be heard and disposed of on 21.07.2026. During this period, the factum of the subsequent transaction concerning the subject property was not brought to the notice of the learned Single Judge by the petitioner in the writ petition. The material relating to the said transaction was sought to be brought on record only in the year 2026, when an impleading application came to be filed in the writ proceedings.

72. It is also relevant to notice the subsequent conduct of the petitioner in relation to the very transaction entered into by him. After the judgment passed by the learned Single Judge on 22.07.2026, the petitioner himself instituted O.S.No.1094/2026 before the learned Senior Civil Judge, Devanahalli, seeking cancellation of the two Absolute Sale Deeds dated 28.03.2019 executed by him in favour of Sri D.N. Lokesh. Even in the legal notice dated 08.09.2021, the petitioner had taken the stand that the said sale deeds were, in substance, intended to operate as a mortgage for the amounts received by him and that he never intended to alienate the properties. He further alleged that Sri D.N. Lokesh had declared before the Income Tax Department that a sum of Rs.18,73,60,000/- was received towards sale consideration, whereas, according to the petitioner, he had actually received only Rs.6,90,60,000/-. In the plaint in O.S.No.1094/2026, he has further pleaded that he had borrowed Rs.5,64,40,000/- from Sri D.N. Lokesh by mortgaging the land in Sy.No.33 and that he was misled into executing the two sale deeds dated 28.03.2019. Thus, the petitioner himself has questioned the nature and validity of the very transaction which he had earlier entered into.

73. The aforesaid conduct cannot be considered in isolation. The pleadings and stands taken by the petitioner before different forum, in relation to the same property and the same transactions, disclose a course of approbation and reprobation. At one stage, the petitioner relies upon the transaction and the title claimed through the subsequent sale deed; at another stage, he himself seeks cancellation of the very sale deeds executed by him, contending that they were never intended to be sales but were only in the nature of security for a loan. The petitioner cannot, depending upon the forum and the stage of the proceedings, take mutually inconsistent stands with regard to the same property and the same transaction. However, such an attempt cannot escape the scrutiny of this Court. The entire conduct of the petitioner, as reflected in his pleadings before the different forums, therefore, has to be kept in view while examining the claim set up by him over the property.

74. With regard to the said transactions relied upon by the petitioner, it is necessary to bear in mind the nature and importance of the land in question. Air defence forms an essential part of the defence infrastructure of the country, and the installations of the Indian Air Force are not merely properties held by the Government, but facilities maintained for the operational and strategic requirements of the Defence forces. A taxi track within an Air Force Station has a direct connection with such operations, as it facilitates the movement of aircraft within the station and connects the operational areas of the airfield. The land in question, therefore, cannot be viewed in the same manner as an ordinary parcel of private agricultural land.

75. It is in this background that the acquisition of the land in 1943, during the Second World War, assumes significance. The Union of India acquired the land for Defence purposes, and thereafter the land was utilised by the Indian Air Force. Compensation was also paid to the original land loser pursuant to the acquisition. The Defence authorities have consequently treated and maintained the land as part of the Air Force establishment for several decades. When a piece of land forms part of an operational facility of the Indian Air Force, its identity and use have to be examined with due regard to the Defence records and the purpose for which it was acquired, and not merely on the basis of subsequent private transactions or entries relied upon by individuals.

76. The taxi track in question, therefore, has a significance beyond the mere extent of 3 acres 12 guntas of land. It forms part of the operational infrastructure of the Indian Air Force, and the acquisition, utilisation, survey records and Military Land Register have to be considered in that background before examining the subsequent claims and litigation set up by the petitioner.

77. Upon perusal of the judgments relied upon by the petitioner, we find that they do not come to the aid of the petitioner.

VIII. CONCLUSION

78. As we conclude, we would observe that the orders dated 18.07.2022 passed by the 5th respondent in R.A.(BNA) No.425/2017-18 and 05.08.2023 passed by the 6th respondent in R.P.No.34/2023-24 were thus passed after consideration of the acquisition records and the MLR. The 6th respondent reconsidered the matter in revision and confirmed the conclusion of the 5th respondent. The subsequent judgment of the learned Single Judge dated 21.07.2026, as modified by the order dated 22.07.2026, proceeded substantially on the discrepancy in survey-number, without giving the same weight to the boundaries and the contemporaneous records which explain that discrepancy. On a consideration of the material documents, particularly the letter dated 31.05.1943, survey report dated 26.02.1944, compensation records, village map and MLR, it would make it clear that the judgment of the learned Single Judge would be required to be set aside.

Accordingly, the appeal is ***allowed***.

The orders dated 21.07.2026 and 22.07.2026 passed by the learned Single Judge in W.P.No.12825/2024 (KLR-RES) is hereby ***set aside, confirming*** the order dated 18.07.2022 in No.R.A(BNA):425/2017-2018 passed by the respondent No.5/Assistant Commissioner and the order dated 05.08.2023 passed by the respondent No.6/Deputy Commissioner in No.R.P.34/2023-24.

Pending applications stand disposed of.

Sd/-
(D K SINGH)
JUDGE

Sd/-
(H.SHANTHI BHUSHAN)
JUDGE

KNM