

FORM No.10 ISSUED BY THE TAHSILDAR ON 17.12.1981
VIDE ANNEXURE-D ACCORDING TO LAW.

THIS PETITION COMING ON FOR FINAL HEARING THIS
DAY, THE COURT MADE THE FOLLOWING:

ORDER

1. An order by the Land Tribunal passed on 30.06.1981 is called in question. By the said order, the Tribunal has conferred occupancy rights in respect of 63 cents of land comprised in Sy.No.48/1B1 of Padavu Village in favour of the tenant-3rd respondent.

2. It is the contention of the petitioners that their father Sanjeeva Shetty has passed away on 05.05.1974 itself and despite the death of their father, the tenant had arrayed his deceased father as a respondent and therefore, the proceedings initiated against a dead person was essentially a nullity in the eye of law.

3. Learned counsel for the petitioners made a submission that the cause title of the Land Tribunal's order indicates that Sanjeeva Shetty, petitioners' father had passed away and Subbaiah Shetty was representing Sanjeeva Shetty. Learned counsel also submits that the petitioners were completely

unaware of the said proceedings as no notices had been served on them.

4. Learned High Court Government Pleader produced the records which indicate that the notices sent by RPAD to Subbaiah Shetty has been received and a signature is also found the said acknowledgment. However, the signature does not indicate as to whether it is the signature of Subbaiah Shetty. I say so, because the signature found in the verifying affidavit in this writ petition and also in the vakalath differ completely when compared to the signatures found on the postal acknowledgment and also on the personal notice effected by the Land Tribunal.

5. However, the fact remains that all the legal representatives of Sanjeeva Shetty were not brought on record and the valuable right which the petitioners possessed to oppose the conferment of occupancy rights had been snatched away. I am, therefore, of the view that the impugned order passed, in the absence of all the legal representatives of deceased Sanjeeva Shetty, cannot be sustained and the same is accordingly set aside.

6. Learned counsel for the respondent, however, submits that this Court in the case of **ANIL M.PUTHRAN AND OTHERS Vs. THE LAND TRIBUNAL, PUTTUR, DAKSHINA KANNDA AND ANOTHER - (2006) 3 KAR.L.J. 136** held that non-impleading of all the legal representatives would not nullify the order of the Land Tribunal. In that particular case, it had been stated by the tenant that he was unaware whether there are any legal representatives and in the light of the said submission, this Court had rendered the said judgment. In this case, the fact remains that the Land Tribunal was informed about the existence of legal representatives of the landlord and the Tribunal ordered notices to only one legal representative of Sanjeeva Shetty. This by itself indicates that the tenant was aware that there were legal representatives of Sanjeeva Shetty and therefore, the decision relied upon by the respondent would not benefit him in any way. Be that as it may, since the legal representatives have not been afforded an opportunity to oppose the claim of the tenant, the order of the Land Tribunal cannot be sustained.

7. Writ Petition is, therefore, allowed. The matter is remanded to the Land Tribunal. The Land Tribunal shall hear

the petitioners, afford them an opportunity of adducing evidence, if any and then, proceed to pass appropriate orders in accordance with law.

**Sd/-
JUDGE**

PKS