

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 06TH DAY OF JULY, 2026

PRESENT

THE HON'BLE MR. JUSTICE D K SINGH

AND

THE HON'BLE MR. JUSTICE G BASAVARAJA

WRIT APPEAL NO.1311 OF 2025

c/w

WRIT APPEAL NO.1675 OF 2025

IN W.A. NO. 1311/2025

BETWEEN:

1. THE JOINT DIRECTOR OF LAND RECORDS,
CITY SURVEY SOUTH RANGE,
K.R. CIRCLE,
BENGALURU-560 001.

(PRESENTLY RE-DESIGNATED AS
REGIONAL JOINT DIRECTOR OF LAND RECORDS,
BENGALURU DIVISION,
BENGALURU)

2. THE ASSISTANT DIRECTOR OF
LAND RECORDS (ENQUIRY OFFICER),
CITY SURVEY-II,
K.R. CIRCLE,
BENGALURU-560 001.

3. THE STATE OF KARNATAKA,
REVENUE DEPARTMENT,
REP. BY ITS PRINCIPAL SECRETARY,
M.S. BUILDING,
BENGALURU-560 001.

...APPELLANTS

(BY SRI. M. N. SUDEV HEGDE, AGA FOR APPELLANTS.)

AND:

1. SRI. S VAZEER AHMED @ VAZEER PASHA,
S/O SYED ABDUL KHADER @ NANHEJAN,
AGED ABOUT 65 YEARS,
R/AT NO. 14/2, ACHUT MUDALIAR STREET,
BENGALURU.
REPRESENTED BY HIS GPA HOLDER
SRI AMRITLAL P. JAIN,
S/O PUKHRAJ JAIN,
RESIDING AT NO.450A,
12/13, ARIHANTH SOCIETY,
KESHVAPUR-KUSUGAL ROAD,
HUBBALI-580 028.
2. SRI AMRITLAL P. JAIN,
S/O PUKHRAJ JAIN,
RESIDING AT NO.450A, 12/13,
ARIHANTH SOCIETY,
KESHVAPUR-KUSUGAL ROAD,
HUBBALI-580 028.
3. THE ESTATE OFFICER,
SOUTH WESTERN RAILWAY,
BANGALORE DIVISION, BANGALORE,
RETD. BY SMT. SUNANDA ARUL.
4. INDIAN RED CROSS SOCIETY,
(KARNATAKA STATE BRANCH),
NO.26, RED CROSS BHAVAN,
1ST FLOOR, RACE ROAD,
BENGALURU-560 001.

...RESPONDENTS

(BY SRI K. G. RAGHAVAN, SENIOR COUNSEL A/W
SRI. A. SAMPATH, ADV. FOR C/R-2,
SRI. K. ARAVIND KAMATH, ASGI A/W
SRI. VINAY VENUGOPAL, ADV. FOR R-3.)

THIS WRIT APPEAL IS FILED U/S 4 OF THE KARNATAKA
HIGH COURT ACT PRAYING TO CALL FOR RECORDS
AND SET ASIDE THE ORDER PASSED BY THE LEARNED SINGLE
JUDGE IN WP NO-15283/2015 (KLR-RR/SUR) DATED

25.04.2025 AND CONSEQUENTLY DISMISS THE WRIT PETITION.

IN W.A. NO. 1675/2025

BETWEEN:

THE ESTATE OFFICER
SOUTH WESTERN RAILWAY,
BANGALORE DIVISION, BANGALORE,
REP. BY SMT. SUNANDA ARUL.

...APPELLANT

(SRI. K. ARAVIND KAMATH, ASGI A/W
SRI. VINAY VENUGOPAL, ADV. FOR APPELLANT.)

AND:

1. SRI. S. VAZEER AHMED @ VAZEER PASHA
S/O SYED ABDUL KHADER @NANHEJAN
AGED ABOUT 55 YEARS
R/AT NO.14/2,
ACHUT MUDALIAR STREET,
BANGALORE,
REPRESENTED BY HIS GPA HOLDER
SRI AMRITAL P JAIN
S/O PHUKRAJ JAIN
RESIDING AT NO.450A, 12/13,
ARIHANTH SOCIETY KESHVAPUR-
KUSUGAL ROAD,
HUBBALLI - 580028.
2. MR AMRITLAL P JAIN
AGED ABOUT 57 YEARS
SRI AMRITLAL P JAIN
S/O PHUKRAJ JAIN
SRI AMRITAL P JAIN
S/O PHUKRAJ JAIN
RESIDING AT NO.450A 12/13,
ARIHANTH SOCIETY KESHVAPUR-
KUSUGAL ROAD,
HUBBALLI - 580028.
3. THE JOINT DIRECTOR OF LAND RECORDS

CITY SURVEY,
SOUTH RANGE, KR CIRCLE,
BANGALORE 560 001.

4. ASSISTANT DIRECTOR OF LAND RECORDS
(ENQUIRY OFFICER)
CITY SURVEY-II, KR CIRCLE
BANGALORE 560001
5. THE STATE OF KARNATAKA
REVENUE DEPARTMENT.
REP. BY ITS PRINCIPAL SECRETARY,
VIKAS SOUDHA,
DR. AMBEDKAR VEEDHI,
BANGALORE-560001
6. INDIAN RED CROSS SOCIETY
(KARNATAKA STATE BRANCH)
NO.26, RED CROSS BHAVAN,
1ST FLOOR,
RACE ROAD,
BANGALORE-560001.

...RESPONDENTS

(BY SRI K. G. RAGHAVAN, SENIOR COUNSEL A/W
SRI. A. SAMPATH, ADV. FOR R-1 AND R-2,
SRI. M.N. SUDEV HEGDE, AGA FOR R-3 TO R-5.)

THIS WRIT APPEAL IS FILED U/S 4 OF THE KARNATAKA
HIGH COURT ACT PRAYING TO CALL FOR RECORDS IN WP
NO.15283/2015 AND ALLOW THIS WRIT APPEAL AND SET-
ASIDE THE ORDER DATED 25/04/2025 IN WP NO.15283/2015
AND ETC.

THESE APPEALS HAVING BEEN HEARD AND RESERVED
FOR JUDGMENT ON 05.06.2026 AND COMING ON FOR
"PRONOUNCEMENT OF ORDERS" THIS DAY, THE COURT,
DELIVERED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE D K SINGH
AND
HON'BLE MR. JUSTICE G BASAVARAJA

CAV JUDGMENT

(PER HON'BLE MR. JUSTICE G. BASAVARAJA)

1. These appeals are filed, impugning the order dated 25th April, 2025, passed in Writ Petition No.15283 of 2015 by the learned Single Judge.

2. Facts leading to Writ Appeal No.1311 of 2025 are that the respondents questioned the order dated 20th March, 2015 in Case No.CTS(B) Rev.17/2014-15 passed by the Joint Director of Land Records, South Range, K.R. Circle, Bangalore. The proceedings before the Joint Director of Land Records and Assistant Director of Land Records were produced by the Power of Attorney Holder, who is none other than the respondent No.1 herein. Later, the property in question was transferred in favour of the respondents herein, in terms of Deed of Absolute Sale dated 03rd November, 2012 pursuant to order in Execution Petition No.432 of 2013 before the trial Court vide Order dated 24th April, 2014. In the year 1880, the Department of Railways had acquired the land to the extent of more than 600 acres for the purpose laying Railway line and for construction of Quarters for its employees. The first acquisition proceedings were completed in the year 1900 by the British Government, which acquired the land by paying compensation to land owners by the Maharaja of Mysore. From the date of acquisition, the

Railway Department is in possession and enjoyment of the land in question without any interference. State issued Circular dated 12th October, 1881 in No.21-Railway and in the year 1948, the Maharaja of Mysore handed over the entire land to the Indian Railways by publishing Gazette vide order dated 05th August 1948, Mysore Act No.LVII of 1948 and as per the Gazette. The respondents herein, for the first time, filed appeal before the Joint Director of Land Records in Appeal No.CTS(B) Appeal (Rev) 7/1994-95. The Joint Director of Land Records dismissed the appeal filed by the respondents on the ground that the documents produced by them did not tally with the property in CTS No.1047. Thereafter, during the pendency of the appeal before the Joint Director of Land Records, respondent No.1 and his brother filed a suit before the Additional City Civil Judge at Mayo Hall in OS No.10987 of 1994. The Court granted an ex-parte interim order against the Railways. After appearance, the Railways filed a detailed written statement and an application for vacating stay. The trial Court, vide order dated 18.09.1997 vacated the interim order and vide order dated 12.02.2002, dismissed the suit. Thereafter, respondent No.1 filed Appeal before the Director of Land Records in Appeal No.16/95-96 questioning the order passed by the Joint Director of Land Records. The Director of

Land Records & Survey Settlement, dismissed the appeal filed by the Respondent on 18th November, 1996. After dismissal of the revision and appeal, and rejection of interim order in OS No.10987 of 1994, the respondent No.1, behind the back of the Railways, approached the Bruhat Bengaluru Mahanagara Palike (for short 'BBMP') by giving representation for change of revenue entries in his name. The BBMP has not considered the representation given by respondent No.1. Again, the petitioner No.2 filed petition before this Court in Writ Petition No.10726 of 2008 seeking mandamus on behalf of respondent No.1 as a General Power of Attorney holder. This Court disposed of the writ petition with a direction to BBMP to consider representation for change of khata in favour of respondent No.1, in accordance with law. The BBMP has not considered the representation of respondent No.1 since relevant documents were not produced to show that he was the absolute owner of the property in question. Hence, respondent No.1 and his brother preferred Appeal No.16/95-96 before the Director of Survey Settlement and Land Records. The Director, after hearing the parties, dismissed the appeal. The respondent No.1 herein again approached the Joint Director of Land Records, South zone in Rev No.CTS(B)Rev.09/2007-08. The Joint Director of Land Records, after conducting a detailed enquiry, dismissed the

Revision on 13th March, 2009. The same was questioned by respondent No.1 before this Court in Writ Petition No.14358 of 2009. This Court, after hearing the parties, vide order dated 15.03.2011, set aside the order of Joint Director of Land Records and directed to consider the Revision filed by the petitioners under Section 56 of the Land Revenue Act and to identify the property, so also, as to whether the property belongs to the Railways or to the petitioners therein, since there was a serious objection raised by the Railways that the property belonged to them and not to the petitioners therein and the property claimed by the petitioners, as per the map of Bilekalli Village, was situated to the right side of Queens Road and petitioners are not the owners of the land. It was further directed that, after hearing the parties, appropriate orders be passed in accordance with law. Keeping open all contentions, parties were directed to appear before the Joint Director of Land Records on 25th April 2011. Accordingly, the Joint Director of Land Records, after hearing the parties, set aside the order dated 18th April, 1979, passed by the Enquiry Officer and directed the Enquiry Officer to conduct fresh enquiry as per the directions issued by this Court. As per the directions of the Joint Director of Land Records, the Enquiry Officer initiated proceedings and issued notice to all the parties. The Enquiry

Officer was required to identify survey No.2 of Bilekalli as per the village map and other available revenue documents in the Revenue Department and also the documents produced by the respondent No.1. The Enquiry officer has not properly conducted the enquiry. The survey number which was claimed by the respondent No.1, as shown in CTS No.1047 LA 77 Vasanthanagar local area which comes under the Bengaluru City Survey No.475, was not properly clarified by the Enquiry Officer at the time of enquiry and wrongly the same was shown in favour of respondent No.1 herein. The village map issued by the Assistant Director of Land Records would clearly show that the land bearing Sy.No.2 of Bilekalli is situated to the right side of Queens Road, which is at distance of more than a kilometre from the disputed property. As per the village map, the boundaries and the survey number No.2, do not tally with the property CTS No.1047. The land bearing Sy.No.28 (old No.18) of Bilekalli is situated on Thimmaiah Road. Various buyers have purchased lands in survey No.28 of Bilekalli. The sale deed and encumbrance certificates issued by jurisdictional Sub-Registrar would clearly show that the land bearing survey No.2 of Bilekalli is situated a kilometer away from Thimmaiah Road.

3. The Bangalore Development Authority acquired the land for extension of Vasanthnagar during the year 1954 and published the Gazette in respect of lands (Palace) Upparahalli Grama and no land in Bilekalli Village was acquired.

4. The Railway Department, as per Circular No.21/80-81, measured the property which was handed over as per the acquisition by the competent authority in the year 1938. As per the sketch, there is no survey number in the map prepared by the Department of Railways. These documents are not properly considered by the Enquiry Officer and the same was challenged before the Joint Director of Land Records. After hearing the parties, the Joint Director of Land Records, set aside the order passed by the Enquiry Officer on 23rd February, 2015. The respondent No.1 executed an agreement of sale in favour of respondent No.2 on 24th April, 2002. The respondent No.1 failed to execute the sale deed in favour of respondent No.2. The respondent No.2 filed suit before City Civil Court in OS No.2977 of 2006 and in that suit, the respondent No.1 was placed ex-parte. The trial Court, after full-fledged trial, vide judgment dated 21st January, 2007, rejected the prayer for specific performance and allowed the prayer for repayment of amount. The respondents colluded with each other and

executed General Power of Attorney in favour of Sri Mangilal Jain to file Miscellaneous Petition to set aside the judgment and decree. The General Power of Attorney filed Miscellaneous Petition No.924 of 2008. Respondent No.2 filed Memo of no-objection to allow the Miscellaneous Petition. The Miscellaneous Petition was allowed on 22nd August, 2009 by setting aside the judgment and decree passed in OS No.2977 of 2006 and the suit was restored to its file. Thereafter, the respondent No.2, on the basis of collusive decree, obtained the sale deed in respect of survey No.2 situate at Bilekalli. On the strength of the sale deed, the respondent herein claimed the property CTS No.1047 which belongs to Railway Department. Respondent No.2, in the year 2006, had filed a suit against respondent No.1 in OS No.1977 of 2006. During the pendency of the above suit, suppressing the suit filed by respondent No.2 herein against the respondent No.1, he initiated proceedings before the Joint Director of Land Records in Revision Petition No.9 of 2007-08. The said Revision came to be dismissed, against which, he preferred Writ Petition No.14358 of 2009 before this Court. In the said petition also, the respondent No.2 herein was represented as General Power of Attorney. The execution proceedings are pending and during that period, the judgment and decree obtained by respondent No.2 herein is

operated against respondent No.1. The said fact was not disclosed by respondent No.2. Respondents were not represented before the Courts. Hence, the respondents have approached this Court with unclean hands. The respondents and others made an effort to grab the valuable property of the Railway Department, which is clearly evident from the documents produced by the railway authorities in the statement of objections filed before the learned single Judge and also the statement of objections filed by the State explaining how the property vests with Railway Department. It is stated that the learned Single Judge has not properly appreciated the facts and the grounds raised by appellants and Railway Department, so also, not considered the fraud played by respondents herein on the Courts as well as on the Railway Department. Hence, the present appeal.

5. Writ Appeal No.1675 of 2025 is preferred by the Estate Officer, South Railway Bangalore Division, impugning the order dated 25th April, 2025 passed by the learned Single Judge in Writ Petition No.15283 of 2015. The facts leading to this appeal are that, the appellant herein-Railways possessed a piece of land that abuts Cantonment Railway Station in the City of Bengaluru since British era. The said land was given CTS

No.1047 pursuant to survey conducted by the then Survey authorities. The said land was a vacant land and has always been in the possession of the appellant-Railways. The case of the respondent-petitioners is that they are the owners of land bearing survey No.2 of Bilekalli Village, Bengaluru and that the property CTS No.1047, is also part of their land i.e. survey No.2 of Bilekalli Village.

6. It is the case of the appellant that earlier in 1994, the Sri S. Vazeer Ahmed had filed a Suit in OS No.10987 of 1994 against the Railways before the X Additional City Civil Court, Bengaluru, praying for grant of permanent injunction in respect of property CTS No.1047. Along with suit, the first respondent had filed Application seeking temporary injunction. The Civil Court had initially granted ex-parte temporary injunction. The Railways came on record and filed an application for vacating interim injunction. After hearing, the Civil Court passed a detailed order on 18th September, 1997, rejecting the claim of the first respondent that he is the owner of property CTS No.1047 and holding that the defendant-Railways is the lawful owner in possession of land. The first respondent never challenged the said order and allowed it to

become final. Thereafter, by order dated 30th October, 2002, the suit was dismissed for non-prosecution.

7. The first respondent also made various attempts before the revenue authorities to claim that he is the owner of the property CTS No.1047, however, failed in all attempts. In one such revenue proceedings that was pending before the Joint Director of Land Records, an order dated 13th March 2009 was passed, rejecting the revision petition filed by the first respondent. The said order was questioned by the first respondent before this Court in Writ Petition No.14358 of 2009. By order dated 15th March, 2011, this Court remanded the matter back to Joint Director of Land Records for fresh consideration. Thereafter, the Joint Director of Land Records remanded the matter back to the Assistant Director of Land Records. In the meantime, the second respondent-Amrit Lal filed suit in OS No.2977 of 2006 against Sri S. Vazeer Ahmed seeking specific performance in respect of land bearing survey No.2 of Bilekalli. The said suit was a collusive suit filed by the first and second respondents in order to stake a claim to the property CTS No.1047. In the said suit plaintiff and defendant despite being adversaries, the second respondent-Amrit Lal, was conducting various proceedings before the revenue

authorities and before this Court, as the General Power of Attorney of first respondent herein.

8. The fact that the second respondent was conducting proceedings on behalf of the first respondent, itself indicates that both the first and second respondents were working in tandem and had filed collusive suit with a plan of staking a claim on the Railway property. In the said suit, the first respondent was placed exparte. On merits, the Civil Court dismissed the suit. Though no order which was adverse to the interest of the first respondent was passed, yet he being the defendant therein, filed an application for the restoration of the suit. The first respondent was represented by another power of attorney viz. Mangi Lal in the said Application for restoration of suit. The plaintiff i.e. the second respondent, did not object for the restoration of the suit and as such, the suit was restored. After restoration of the suit, the first respondent, through his power of attorney, filed a written statement literally supporting the plaintiff. By such collusion and collaboration, the first and second respondents have mis-led the Civil Court in decreeing the suit. The judgment and decree was clearly in respect of the suit schedule property survey No.2 of Bilekalli and there was absolutely no mention or reference of property bearing CTS

No.1047 in the judgment and decree. It is further stated that the order passed by the Enquiry Officer was challenged before the Joint Director of Land Records and by a speaking order, the illegal order passed by the Enquiry Officer was set aside by the Joint Director of Land Records holding that the appellant-Railway is the owner of the property bearing CTS No.1047. This was challenged by the first and second respondents before this Court in writ petition. Before the learned Single Judge, the appellant herein has demonstrated that the boundaries in each of the title deeds produced by the petitioners were altered, and that there was a complete mismatch between the boundaries of CTS No.1047 and that of survey No.2 of Bilekalli. Hence, it is submitted that the learned Single Judge has committed an error by allowing the Writ Petition. Hence the appeal.

9. Statement of objections filed on behalf of respondent No.2. Written synopsis is filed on behalf of respondent No.1.

10. We have heard the arguments on both sides and examined the materials placed before us.

11. The judgment and decree in OS No.2977 of 2006 was clearly in respect of the suit schedule property, viz. the

property bearing survey No.2 of Bilekalli village. There was absolutely no mention or reference of property CTS No.1047 in the judgment and decree. The first respondent did not comply with the said decree and as such, the second respondent filed an execution petition for executing the decree. In the execution petition, the description of schedule property was given as property bearing survey No.2 of Bilekalli, but the words "**and part of CTS No.1047**" were inserted by handwriting. The said insertion is malafide and was an attempt to tamper with records to give a misleading impression that the decree of the Court was also in respect of property CTS No.1047. Based on the tampered entry in the schedule, the ministerial staff which executed the decree, appears to have drawn a report that property CTS No.1047 was handed over to the decree holder i.e. the second respondent. It is the further case of the appellant that, in the proceedings before the Enquiry Officer-Assistant Director of Land Records pursuant to the remand by the Joint Director of Land Records, the first respondent produced the tampered Execution Petition and the consequent decree drawn by the ministerial staff of the trial Court, and claimed ownership in respect of property CTS No.1047 as per the orders of the Civil Court. Without verifying the correctness of the said claim and by overlooking the fact

that the judgment and decree in the civil suit was only in respect of survey No.2 of Bilekalli, the Enquiry officer, might have partitioned the property CTS No.1047 into three 3 parts comprising of a portion which declared to be a Government property and a portion to be a property of the first respondent. Thus, the Enquiry Officer, passed a prima facie illegal order based on the tampered records. In a challenge to the said illegal order passed by the Enquiry Officer, the third respondent-Joint Director of Land Records, heard the parties and reviewed all the materials and relevant documents and, by a speaking order, set aside the illegal order of the Enquiry Officer holding that the appellant-Railways is the owner of the property bearing CTS No.1047. The first and second respondents challenged the said order of the third respondent Joint Director of Land Records, before this Court in Writ Petition No.15283 of 2015. In the proceedings, the appellant-Railways stoutly defended the order of the Joint Director of Land Records and questioned the maintainability of writ petition on the ground that the petitioners are guilty of suppression of relevant material facts. The assertion of appellant was that the petitioners did not make any disclosure about the suit in OS No.10987 of 1994, and the decree in OS No.2977 of 2006 was not denied by them, as such, there is a clear admission of

suppression of material facts, which constitute the breach of doctrine of clean hands.

12. One Amritlal s/o Pukhraj Jain, filed suit in OS No.2977 of 2006 before the City Civil Judge, Bangalore for Specific Performance of contract agreement dated 4th June 2002 against one S Vazeer Ahmed @ Vazeer Pasha and S Noor Ahmed, son of Sayed Abdul Khader, in respect of the following schedule property:

SCHEDULE

"All that piece and parcel of the immovable property bearing survey No.2 situated at Bilekalli Village, Civil and Military Station, Bangalore and Municipal Corporation No.2/1, Division No.69, situated at Thimmaiah Road, Bangalore-560 001, the same bearing Ward No.79, Shivaji Nagar, old Municipal Number 247/1, now bearing new No.2 of Bengaluru Mahanagara Palike measuring East-West 235 feet and North-South 165 feet, which is bounded as follows:

East: Corporation property, now KSFC;

West: Road and Railway property;

North: Kuntumane Bande and Railway property;

South: Thimmaiah Road

Total area is 38,775 sq.ft."

13. In the plaint, it is submitted that on the date of execution of agreement of sale, the defendant has handed over all the original title deeds pertaining to the property to the plaintiff at Hubballi. In the said suit, defendant appeared and filed written statement admitting that they are the absolute owners of the suit property upon execution of agreement of sale dated 04th June, 2002. It was contended by the defendant that the plaintiff was not ready and willing to perform his part of contract to get the sale deed executed by paying the balance sale consideration of ₹10,00,000/-. The suit was decreed by the V Additional City Civil Judge, Bangalore on 25th October 2010 in favour of the plaintiff, dismissing the Suit for specific performance. However, the suit was decreed with regard to the alternative relief that the plaintiff has claimed in the plaint. The defendant was directed to repay the balance amount of ₹3.00 crore along with interest at the rate of 6% per annum from the date of Suit till the date of realisation.

14. The petitioner filed suit OS No.2977 of 2006 for specific performance of contract under agreement of sale dated 4th June, 2002. The defendants in the said suit were placed ex-parte. Copy of the ex-parte judgment and decree dated 21st July, 2007 is not produced by the parties. On the basis of

evidence of plaintiffs and documents produced, suit came to be decreed. The respondent No.1 in the suit was aware that the petitioner is residing in Delhi on his assignment and there was no proper service of summons on him and therefore, prayed to set aside the ex-parte judgment and decree. The counsel for respondent No.1 filed memo dated 21st August, 2009 stating no objection to set aside the ex-parte judgment and decree in order to avoid inordinate delay in adjudicating the matter on merits. Even after passing the ex-parte judgment and decree, the petitioner S. Vazeer Ahmed filed Misc. No.924 of 2008 before the Principal City Civil Judge, Bengaluru under Order IX Rule 13 read with Section 151 of Code of Civil Procedure to set aside the ex-parte judgment and decree dated 21st July, 2007 along with Section 5 of Limitation Act. In the said Miscellaneous Petition, the respondent No.2 was placed ex-parte vide Order dated 22nd August, 2009 the Court allowed the Application, set aside the ex-parte decree passed in OS No.2977 of 2006 and restored the suit to its file. After restoration of the suit and after recording the evidence of parties, the V City Civil Judge, Bangalore decreed the suit and passed judgment and decree in favour of plaintiff-Amrit Lal. The Court has decreed the Suit as under:

"It is ordered and decreed that the plaintiff is entitled for relief of specific performance to enforce the agreement of Sale dated 04.06.2002. The defendants are directed to execute the sale deed with respect to the Suit schedule property by receiving the balance sale consideration of ₹10,00,000/- within a period of three months from the date of decree, failing which the plaintiff is at liberty to get the sale deed executed through the process of Court."

15. The Schedule in the decree is the same as the schedule in the Suit OS No.2977 of 2006. After obtaining judgment and decree, Amrit Lal filed Execution Petition before the Principal City Civil Judge in Execution No.432 of 2013. In this Execution petition, the Decree holder has sought for a cost of ₹3,73,629/- and also sought to direct judgment debtors to execute the sale deed on behalf of the decree holder and deliver the physical possession of the schedule property. In Execution Petition, the schedule of the property is shown as under:

"All that piece and parcel of the immovable property bearing survey No.2 situated at Bilekalli Village, Civil and Military Station, Bangalore and Municipal Corporation No.2/1, Division No.69, situated at Thimmaiah Road, Bangalore-560 001, the same bearing Ward No.79, Shivaji Nagar, old Municipal Number 247/1, now bearing new No.2 of Bengaluru Mahanagara Palike measuring East-

West 235 feet and North-South 165 feet, which is bounded as follows:

East: Corporation property, now KSFC;

West: Road and Railway property;

North: Kuntumane Bande and Railway property;

South: Thimmaiah Road

Total area is 38,775 sq.ft."

The words "**and part of CTS No.1047**", was subsequently incorporated.

16. The decree holder had filed Execution Petition No.2755 of 2010 for execution of sale deed and the Executing Court has executed the registered sale deed in favour of the decree holder. The copy of Execution Petition No.2755 of 2010 and the order passed by the Execution Court in the said execution petition is not produced by the parties. However, this order is shown in Execution Petition No.432 of 2013 filed by decree holder. Thereafter, the decree holder has filed the Execution Petition No.432 of 2013 and sought for attachment and sale of moveable/immovable property and etc. In Execution Petition, the Court has passed the following order:

"Issue attachment warrant to recover cost from the judgment debtor, i.e. out of balance consideration amount deposited by the decree holder in execution

No.2755 of 2010 dated 17th August 2012 vide R.O.No.1343 of 2012 and J.D.No.1399."

17. Though Sri S. Vazeer Ahmed was aware of the fact as to the existence of CTS No.1047, he has neither shown nor explained anything regarding the same in OS No.2977 of 2006 or in Execution petition No.432 of 2713. The materials placed before us indicate that the vendor of the property pertaining to OS No.2977 of 2006 was aware about property CTS No.1047 and he has not shown the same in the sale agreement. The plaintiff and defendants in OS No.2977 of 2006 have not pleaded anything as to existence of property CTS No.1047 in the plaint or in the written statement. Only for the first time in Execution Petition No.432 of 2013, they have incorporated the words "**and part of CTS No.1047**". This material fact was also not pleaded in the writ petition. The reason for non-disclosure of the same in the writ petition or in the original suit, has not been explained. Even in the statement of objections before this Court filed by respondent No.2, nothing is pleaded or stated as to why he has not pleaded anything with regard to property CTS No.1047. The copy of Execution Petition proceedings placed before the Court reveals that on 31st May, 2014, the Court has issued delivery warrant and accordingly, the bailiff has delivered the possession receipt in favour of

decree holder Amritlal P. Jain, in respect of the schedule shown in execution petition No.432 of 2013, arising out of OS No.2977 of 2006. While delivering the possession of favour of decree holder, in the mahazar it is clearly stated that the decree holder has accepted the measurement of the property delivered by the bailiff and has also affixed his signature on the said mahazar. Even in the immovable property possession receipt also, the schedule that is shown in the execution petition, is reflected. The possession receipt (ಸ್ಥಿರ ಸ್ವತ್ತು ಸ್ವಾಧೀನ ರಸೀದಿ) is endorsed by the decree holder by affixing his signature on the receipt dated 24th April 2014, in the presence of Panchas. In the possession receipt, it is stated as under:

"ಸ್ಥಿರ ಸ್ವತ್ತು ಸ್ವಾಧೀನ ರಶೀದಿ"

ಮೆಲ್ಟಂಡ ನಂಬರ್ ಕೆಸಿನಲ್ಲ ಕಂಡ ಸ್ಥಿರಸ್ವತ್ತು ಸ್ವಾಧೀನ ವಾರೆಂಟ್ ಮತ್ತು
ಡಿಕ್ರಿ ಕಾಪಿ ಹಾಗೂ Sale deed ಕಾಪಿಗಳೆಲ್ಲ ವಿವರಿಸಿರುವಂತೆ ಪ್ರತಿವಾದಿಗಳ
ಸ್ವಾಧೀನದಲ್ಲಿರುವ ಷೆಡ್ಯೂಲ್ ಸ್ಥಿರಸ್ವತ್ತನ್ನು ಖಾಲಿ ಮಾಡಿಸಿ ಖಾಲಿಯಾದ ಸ್ವತ್ತನ್ನು
ಡಿಲ್ವಿದಾರನಾದ ನನಗೆ ಸ್ವಾಧೀನಪಡಿಸಿ ವರದಿ ಮಾಡುವಂತೆ ಮೆಲ್ಟಂಡ
ನ್ಯಾಯಾಲಯದಿಂದ ಆದೇಶವಾಗಿದ್ದು ಬೆಂಗಳೂರು ನಗರ ನಾಗರೀಕ ನ್ಯಾಯಾಲಯದ
ಕೇಂದ್ರ ಪ್ರೊಸೆಸ್ ನಾಜರ್ ರವರ ಕಛೇರಿಯಿಂದ ನೀಡಲಾದ XXVI 22131/1 ಮತ್ತು
22132/1 ನೇ ನಂಬರಿನ ಸ್ಥಿರ ಸ್ವತ್ತು ಸ್ವಾಧೀನ ವಾರೆಂಟ್‌ಗಳ ಹುಕುಂ ಮೇರೆಗೆ ಈದಿನ
ಮಧ್ಯಾಹ್ನ ಸುಮಾರು 3:45 ಘಂಟೆಯ ಸಮಯದಲ್ಲಿ ಹಾಜರು ಇದ್ದ
ಪಂಚಾಯ್ತಿದಾರರುಗಳ ಸಮಕ್ಷಮ ಸ್ಥಳದ ಮಹಜರ್‌ನಲ್ಲಿ ಮೆಲ್ಟಂಡ ನನ್ನ ಸ್ವಾಧೀನಕ್ಕೆ
ತೆಗೆದುಕೊಂಡಿರುವ ಷೆಡ್ಯೂಲ್ ಸ್ವತ್ತಿನ ವಿವರ.

ಷೆಡ್ಯೂಲ್

All that piece and parcel of the immovable property bearing Sy. No. 2 and part of CTS no. 1047 situated at Belakahalli village, Civil and military station, Bengaluru and Municipal Corporation number 2/1 division no. 69 situated at Thimmaiah road, Bangalore-560001 the same in bearing ward no.79, Shivaji Nagar and old Municipal no.247/1 and now it is bearing new no.2 of Bangalore Mahanagar Palike measuring East 235 feet and north to south 165 feet in all measuring 38775 sq. feet and bounded on the East by : Corporation property now KSFC, West by: Road and railway property, North by: Kuntumane bande and railway property, South by: Thimmaiah Road.

ಮೇಲ್ಕಂಡ ಷೆಡ್ಯೂಲ್‌ನಲ್ಲಿ ಹೇಳಿದಂತೆ ವಿವರಿಸಿರುವ ಷೆಡ್ಯೂಲ್ ನ್ನಿರ ಸ್ವತ್ತನ್ನು ಸ್ಥಳ ಮಹಜರ್‌ನಲ್ಲಿ ಕಂಡಂತೆ ಸ್ವಾಧೀನಪಡಿಸುವ ಸಮಯದಲ್ಲಿ ಅಕ್ರಿಯತೆಯಾದ ನಾನು ನಿಮ್ಮ ಮುಂದೆ ಹಾಜರ್ ಇದ್ದೆ. ಹಾಜರ್ ಇದ್ದ ಪಂಚಾಯ್ತಿದಾರರುಗಳ ಸಮಕ್ಷಮ ಸ್ಥಳದ ಮಹಜರ್‌ನಲ್ಲಿ ಕಂಡಂತೆ ನ್ಯಾಯಾಲಯದ ಬೇಲೂಫಾರ ಮುಖಾಂತರ ನನ್ನ ಸ್ವಾಧೀನಕ್ಕೆ ತೆಗೆದುಕೊಂಡಿರುತ್ತೇನೆ ಎಂದು ಒಪ್ಪಿ ಬರೆಯಿಸಿ ಕೊಟ್ಟ ನ್ನಿರ ಸ್ವತ್ತು ಸ್ವಾಧೀನ ರಶೀದಿ".

18. The copy of the Execution Petition reveals that in the schedule shown in Execution No.432 of 2013 in the second line, the insertion of words "**and part of CTS No.1047**" is not disclosed in the copy of plaint pertaining to OS No.2977 and also in the judgment and decree passed City Civil Judge, Bangalore. Though there was no decree pertaining to property No.CTS 1047, without permission of the Court, without bringing to the notice of the Court or without taking necessary legal steps in this regard, the decree holder himself had incorporated

in the schedule of the execution petition the words "**and part of CTS No.1047**". Unfortunately, the trial Court has not observed the same and has mechanically issued the delivery warrant of the execution of schedule property. The concerned Court bailiff also, without observing the same, executed the delivery warrant and issued possession certificate in favour of the decree holder. Accordingly, the decree holder has accepted the possession certificate and have taken the delivery of the property shown in the schedule. When the respondent No.2- Amritlal Jain has accepted the physical delivery on 24th April 2014, there was no need to approach the survey authorities for physical possession of property pertaining to Execution No.432 of 2013. The petitioner has not explained/pleaded anything in the petition as to why he has approached the survey authorities, though he had taken the physical possession of the property in Execution Petition No.432 of 2013.

19. The writ petitioners have not explained anything as to non-pleading of CTS No.1047 in OS number 2977 of 2006, or in any proceedings, except before the survey authorities. When the physical possession of the property pertaining to Execution Petition No.432 of 2013, was delivered in favour of Amritlal P Jain and the same having been duly acknowledged

by him by affixing signature on spot mahazar, the question of identifying the property by survey authorities does not arise. If there is any order passed by the survey authorities, the same is not binding on respondent as property CTS No.1047 is not the subject matter of OS No.2977 of 2006 on the file of City Civil Judge. Writ petitioner-Amritlal P Jain, has not pleaded in OS No.2977 of 2006, regarding property CTS No.1047 in plaint schedule. Subsequently, without the knowledge or permission of the Court, suo motu he has entered the words "**and part of CTS No.1047**" and the same was blindly and mechanically accepted by the trial Court and delivery warrant was issued. This conduct of petitioners prima facie appears that both have suppressed the facts and fraudulently obtained the delivery possession in respect of property CTS No.1047 in Execution Petition No.432 of 2013. On careful examination of the entire material on record, we do not find any pleading or evidence in OS No.2977 of 2006 to show that the suit schedule property is part of CTS No.1047. Even in the sale agreement said to have been executed by vendor in favour of Amritlal Jain, there is no reference regarding property CTS No.1047.

20. On perusal of the copy of memorandum of writ petition, we do not find anything as to property CTS No.1047,

which is to be the part of plaint schedule property. The petitioners in Writ Petition No.15283 of 2015 have not pleaded anything as to incorporation of "**and part of CTS No.1047**" in Execution Petition No.432 of 2013. For the first time, the petitioners have disclosed the same, although it was not shown in the plaint OS No.2977 of 2006. Whereas, in paragraph 9 of the memorandum of writ petition, it is stated that property CTS No.1047 was also earlier identified as survey No. 475 of Bilekalli village as per the map of Cantonment of Bangalore dated 21st January, 1870 by the Chief Commissioner. One Venkata Swamy and his brothers who owned the Building constructed in survey No.475 sold the portion of property consisting of Municipal Nos.55 to 64 (ವೆರಾರ) in favour of Angadi Dasappa, son of Rangaiah Naidu under registered sale deed bearing No.335/1888-89 dated 29th June, 1888. A survey of the Bangalore Civil and Military Station was conducted in the year 1938, as per which, property Nos.27, 28, 29, 30, 31 and 32 were assigned in survey number 475 of Bilekalli Village. The building owned by the predecessors-in-title of the petitioner was numbered as property No.30. Survey numbers of Bilekalli underwent changes whenever a fresh survey was conducted. Insofar as the property bearing erstwhile survey No.475 is

concerned, it was re-numbered as survey No.2 of Bilekalli village and then CTS No.1047. The grounds taken in this writ petition have neither been pleaded in the plaint nor in the execution petition. Without disclosing anything or without permission of the Court, the decree holder has incorporated the words "**and part of CTS No.1047**". Accordingly, the petitioners have suppressed the facts before the trial Court as well as the Writ Court regarding the schedule property. Hence, the case of the petitioners, cannot be accepted.

21. It is settled principle of law that the litigant who attempt to pollute the stream of justice or who touches the pure fountain of Justice with tainted hands is not entitled to any relief, interim or final. Suppression of material facts from the Court of Law, is actually playing fraud with the Court. The legal maxim "***suppressio veri, Expressio falsi***" i.e. 'suppression of truth is equivalent to expression of falsehood' gets attracted. It is nothing but degradation of moral values in the society. The Hon'ble Supreme Court in the case of ZEBBA KHAN v. STATE OF UTTAR PRADESH AND OTHERS reported in 2026 SCC ONLINE SC 188, at paragraph 42 of the judgment, has observed as under:

"42. It has been consistently emphasised by this Court that an accused or applicant seeking bail is under a

solemn obligation to make a fair, complete and (2023) 6 SCC 144 candid disclosure of all material facts having a direct bearing on the exercise of judicial discretion. Any suppression, concealment or selective disclosure of such material facts amounts to an abuse of the process of law and strikes at the very root of the administration of criminal justice."

22. That apart, it is pertinent to mention that in the year 1994, Sri S Vazeer Ahmed filed a suit in OS No.10987 of 1994 against Railways before the X Additional City Civil Court, Bangalore seeking grant of permanent injunction in respect of land bearing CTS No.1047. Along with the suit, he has filed Interlocutory Application seeking temporary injunction. The Civil Court, though had initially granted ex-parte temporary injunction, later, upon the Railways coming on record and filing application for vacating the interim injunction, it has passed a detailed order dated 18th September, 1997, rejecting the claim of the first respondent herein i.e. the owner of property CTS No.1047 and held that the defendant-Railways is the lawful owner in possession of the said land. This was never questioned by the first respondent and said order became final, though it was an order passed on interlocutory application and eventually, by order dated 30th October, 2002, the suit was

dismissed for non-prosecution. This fact has also been suppressed by the petitioners.

23. On careful examination of the entire material on record, we are of the considered opinion that the petitioners have mis-led the learned single Judge and obtained the order by suppressing the incorporation of the words "**and part of CTS No.1047**" in Execution Petition No.432 of 2013 on the file of City Civil Court, Bangalore which arise out of suit in OS No.2977 of 2006. Hence the petitioners are not entitled for any equitable relief as prayed for. Accordingly, we proceed to pass the following:

ORDER

1. Writ Appeals are allowed;
2. Order dated 25th April 2025, passed in Writ Petition No.15283 of 2015 by the learned Single Judge is set aside. Consequently, Writ Petition stands dismissed.
3. Parties to bear their own costs.

Sd/-
(D K SINGH)
JUDGE

Sd/-
(G BASAVARAJA)
JUDGE