



**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO. OF 2026
(@ Special Leave Petition (Civil) No.10183 of 2024)

BASAMMA & ANR.

... APPELLANT (S)

Versus

GOPARAPPA AND ORS.

... RESPONDENT (S)

J U D G M E N T

SANJAY KAROL, J.

1. Leave Granted.

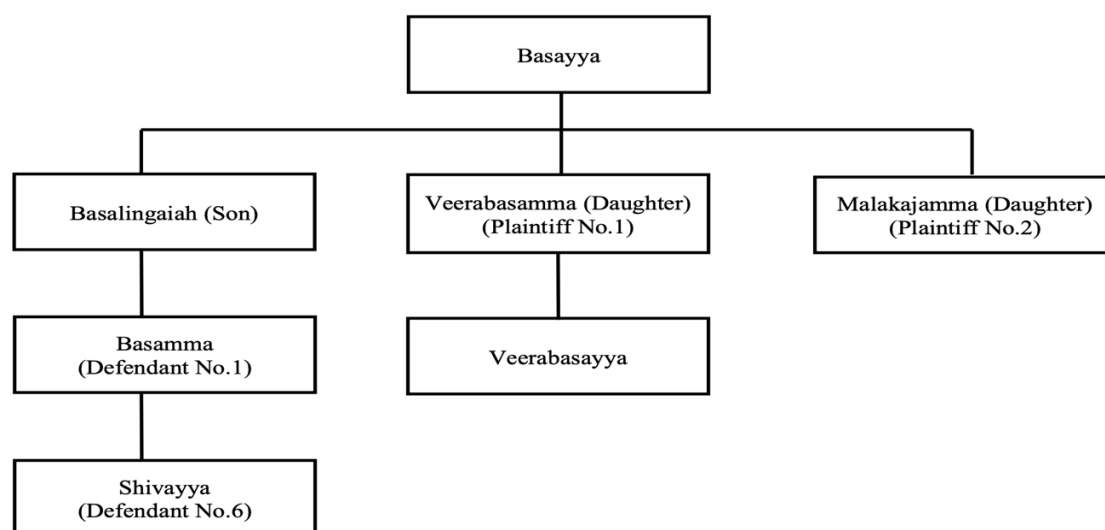
2. The present appeal arises out of the impugned judgment and order dated 22.02.2023 passed by the High Court of Karnataka, Dharwad Bench in Writ Petition No.102875 of 2021 (GM-CPC), whereby the High Court allowed the writ petition preferred by respondent no.1 herein¹ and set aside the findings returned by the First Appellate Court² in Paragraph 24. Aggrieved thereof, the appellants³ are before us.

¹ Defendant No.5 (Goparappa) in OS No.165 of 1999.

² Court of Senior Civil Judge at Kushtagi in R.A.98/2015.

³ Defendant No.1 (Basamma) and Defendant No.6 (Shivayya) in OS No.165 of 1999.

3. The genesis of the present case lies in a suit for partition and separate possession being O.S. No.165 of 1999 instituted before the Court of Civil Judge & JMFC at Kushtagi⁴ by the plaintiffs, Veerabasamma (predecessor-in-interest of respondent no.2 herein) and Malakajamma (predecessor-in-interest of Respondent Nos.11 to 14 herein). The plaintiffs sought relief of partition and separate possession of 2/3rd share in the suit schedule properties. According to the plaintiffs, the suit properties originally belonged to one Basayya⁵. He had a son, namely Basalingaiah, and the plaintiffs were Basayya's daughters, and sisters of Basalingaiah. Upon the demise of Basayya, the *khata* in respect of the suit properties was mutated in the name of Basalingaiah, being the male descendant in the family. However, despite the mutation, the plaintiffs claim that they continued to remain in joint possession thereof. It is further the case of the plaintiffs that Basalingaiah died in the year 1983, leaving behind defendant no.1 (appellant no.1 herein), Basamma (daughter) as his sole heir. Thereafter, the defendant no.1 allegedly got *khata* of the suit properties mutated in her name without the knowledge or consent of the plaintiffs and subsequently began asserting exclusive ownership over the suit schedule properties by creating third-party interests. Aggrieved thereby, the suit for partition and separate possession came to be instituted. For ready reference, below is the family genealogy:



⁴ Hereinafter referred to as 'Trial Court'.

⁵ Also referred to as 'Basaiah'.

4. The suit was contested by Basamma (defendant no.1) and the subsequent purchasers, who disputed the plaintiffs' claim over the suit schedule properties. Defendant No.1, in her written statement, though admitted the relationship between the plaintiffs and her father Basalingaiah, however, contended that the plaintiffs had no kind of interest in the suit properties, as they were self-acquired. The subsequent purchasers, specifically defendant nos.2, 5, and 6, consistently supported the stand taken by defendant no.1 and contended that they were the *bona fide* purchasers of the suit schedule properties.

5. The Trial Court, *vide* judgment dated 20.04.2015, dismissed the suit for partition and separate possession. The Court held that the plaintiffs had failed to prove their right over the suit schedule properties and further observed that defendant no.1, being the owner, had every right to alienate the suit properties. It was also observed that the possession of the purchasers over the suit schedule properties cannot be disbelieved. Relevant part thereof is extracted hereunder for ready reference:

"25. For the reasons stated above come to conclusion that, plaintiffs have failed to prove that the suit properties were acquired by Basaiah. Though defendant No. 1 & 6 failed to prove the alleged partition, have succeeded in establishing that suit item 1, 4 & 5 was self-acquisition of defendant No.1. Accordingly, I answer issue No.1 & 2 in the negative and Issue No.3 in the affirmative.

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29. **Additional issue No.1 to 4:-** Defendant No.1 sold suit item No.2 under Ex..D-4 sale deed dated 23-01-2001 in favour of defendant No.2. She sold suit item No.1 under Ex.D-10 sale deed dated 10-11-1999 in favour of defendant No.3. She sold suit item No.3 under Ex.D-9 sale deed dt: 16-7-1999 to an extent of 10 guntas in favour defendant No.4 and an extent of 8 guntas in favour of defendant No.5 under Ex.D-7 sale deed dt: 16-07-1999. Suit was filed on 17-12-1999. Hence, sale transaction under Ex.D-4 is subsequent to suit and the other two transaction are prior to suit. The evidence on record does not disclose that, defendant No.2 to 5 have purchased the properties though having knowledge of the suit. I already held that plaintiffs have failed to establish their right over suit properties. The defendant no. 1 being the owner had right to alienate the properties. The possession of the purchasers cannot be disbelieved. Hence, I answer Additional issue No.1 to 4 are in the negative.

30. **Additional issue No.5 & 6:-** Defendant No.1 sold suit item No.2 in favour of defendant No.2 under Ex.D-4, who in turn sold in favour of defendant No.6 under Ex.D-15 sale deed dt:19-10-2010. As already held that plaintiffs have failed to prove their right over the property. The defendant No.1 had right to alienate the property. Therefore, the sale transaction in favour of defendant No.2 & 6 cannot be treated as invalid or void. Hence, I answer Additional-issue No.5 & 6 are in the negative.

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ORDER

Suit of the plaintiffs is dismissed.

Parties to bear their costs own.

Draw preliminary decree accordingly.”

(emphasis supplied)

6. In appeal, the First Appellate Court, *vide* judgment dated 02.08.2021, dismissed the appeal filed by the plaintiffs. The First Appellate Court concurred with the Trial Court that the plaintiffs had failed to establish that the suit schedule properties were ancestral/family properties. However, the Court found that the sale deeds executed by defendant no.1 in favour of the other contesting defendants (purchasers) were not valid and recorded that defendant no.1 (Basamma) was the owner in possession of such suit schedule properties. The same was observed in Paragraph 24, which reads as under:

“24. Suit schedule properties.

1) Sy.No.18 Hiss-C measuring 6 acre 25 guntas

This property is sold by Basamma to Defendant No.3 Sharanappa, said property is in the name and occupation of Defendant No.3.

2) Sy.No.9 Hissa 6-A measuring 1 Acre 22 guntas

This property was sold by Basamma to Defendant No.2 Syed Zilani, thereafter the son of Basamma has sold it to Defendant No.6 Shivayya, said property is in the name and occupation of Defendant No.6.

3) Sy.No.8 Hissa-6 measuring 28 guntas.

On 16.07.1999 by committing fraud without the knowledge of Basamma sale deed qua said property is executed. In O.S.No.165/1999 Hon'ble Civil Court has observed that sale deeds were executed during the pendency of the suit. Whereas, the sale deeds were executed 6 months prior to filing of Suit. It is marked as Ex.D7, Ex.D8 and Ex.D9.

In Ex.D7 sale deed name is shown as Goparappa S/o. Sanganasappa Kudtini whereas name of Defendant No.5 in the suit

is Goparappa S / o. Mudukappa Kudtini. In the sale deed only 8 guntas was given.

In Ex.D8 sale deed dated 16.07.1999 out of 25 guntas 10 guntas is transferred in the name of Smt. Apsara W/o. Syed Tajudding but in the suit the name of Defendant No.4 is shown as Zainab W/o. Tajuddin.

In Ex.D9 sale deed dated 16.07.1999 out of 28 guntas 10 guntas is transferred in the name of Smt. Zainabiban W/o. Md. Zakirhussain, but she is not made party to the suit.

4) On 16.07.1999 3 sale deeds are executed. But O.S.No.165/1999 is filed on 17.12.1999. But said people have not got mutation entries done till date. They say there is stay in O.S.No.165/1999. But there is no such stay in this proceedings. To get mutation entries done only 41 days is there. During the pendency of the suit or even after disposal of suit in 2015 only the mutation entries is not done and they are not in occupation. As 12 years has elapsed the time period of said sale deed is over. All three sale deeds dated 16.07.1999 measuirng 28 guntas are in valid. There duration is also over. Till date defendant Basamma is owner and in possession of proeprty. The name is said three sale deeds and the names in suit don't match with each other.

5) Suit property 4,5 and 6 Basamma is the owner in possession.”

(emphasis supplied)

7. It is this limited finding returned by the First Appellate Court in Paragraph 24 that came to be challenged before the High Court by Goparappa, defendant no.5 (respondent no.1 herein), being one of the purchasers claiming under the sale deed dated 16.07.1999, by way of a writ petition. Defendant No.5 prayed that a writ of *certiorari* be issued and the observations made in Paragraph 24 be quashed on the ground that the said findings were returned without appreciating the material on record and did not arise either from pleadings, issues or evidence led by the parties.

8. The High Court, *vide* the impugned judgment and order dated 22.02.2023, allowed the writ petition and set aside the findings and observation recorded by the First Appellate Court in Paragraph 24. The relevant part of the order is extracted hereunder:

“THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT OF CERTIORARI OR A WRIT OF ANY OTHER NATURE,

QUASHING THE IMPUGNED FINDINGS/ OBSERVATIONS
MADE BY THE LEARNED SENIOR CIVIL JUDGE, KUSHTAGI IN
THE JUDGMENT DATED 02.08.2021 IN R.A.NO.98/2015 AT
PARAGRAPHS NO.24(3)(4) AND (5) VIDE ANNEXURE-A.

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3. Respondent No.1 having been served with notice of the petition, but has chosen to remain unrepresented and has not contested the petition.

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5. As stated supra, the 1st respondent/plaintiff having been served with notice of this petition, but has remained unrepresented and has not contested this petition.

6. As rightly contended by the learned counsel for petitioner, a perusal of the findings and observations recorded in paragraph. No.24 of the judgment and decree passed by the 1st appellate Court in R.A.no.98/2015 will clearly indicate that the said findings and observations have been recorded and rendered by the 1st Court without there being any pleadings, issues or evidence and consequently, I am of the considered opinion that while the impugned judgment and decree deserves to be upheld in all other aspects, the findings and observations recorded in paragraph No.24. of the impugned Judgment deserve to be set aside. In the result, I pass the following:

ORDER

- (i) The petition is hereby allowed.
- (ii) The findings and observations recorded by the 1st appellate Court in RA.No.98/2015 at paragraph No.24 of the impugned judgment are hereby set aside.
- (iii) It is however made clear that the remaining portion of the impugned judgment including dismissal of the appeal preferred by respondent No.1/plaintiff is hereby confirmed.
- (iv) Liberty is reserved in favour of the petitioner to produce a copy of this order before the revenue authorities for appropriate action.”

(emphasis supplied)

9. Aggrieved thereby, the appellants, the defendant no.1 (Basamma/owner) and defendant no.6 (subsequent purchaser/son of Basamma), are before this Court. The appellants contend that the High Court erred in allowing the writ petition without affording them an opportunity to be heard. It is further alleged that the High Court wrongly and without recording any reason dispensed with service of notice upon the appellants, despite the fact that the findings under challenge directly affected their rights and interests in the suit schedule property.

10. We have heard learned counsel for the appellants and learned senior counsel for the respondents and perused the material-on-record.

11. The issues that arise for our consideration are – *(i)* whether a writ petition, seeking a writ of *certiorari*, under Articles 226 of the Constitution of India, was maintainable in the facts of the present case, particularly when the subject matter of the dispute had already been tried and adjudicated by way of a civil suit; and *(ii)* whether the High Court erred in setting aside the findings more so of facts recorded by the First Appellate Court in Paragraph 24 without hearing the present appellants.

12. At the outset, it would be apposite to briefly recapitulate the settled principles of law governing the exercise of extraordinary and *certiorari* jurisdiction under Article 226 of the Constitution. It is trite law that while exercising such jurisdiction, the High Court does not act as a Court of appeal over findings, more so, of facts recorded by the subordinate Courts or Tribunals. The High Court does not review or reweigh the evidence upon which the determination of the subordinate Courts is purported to be based. Such a writ jurisdiction may be invoked in cases where there is an error of law, jurisdictional error, or patent illegality.

12.1. A Constitution Bench of this Court in *Hari Vishnu Kamath v. Syed Ahmad Ishaque*⁶, while relying on an earlier Constitution Bench decision in *T.C. Basappa v. T. Nagappa*⁷, laid down the following propositions with regard to the writ of certiorari:

“24. ... There was considerable argument before us as to the character and scope of the writ of certiorari and the conditions under which it could be issued. ... On these authorities, the following propositions may be taken as established:

⁶ (1954) 2 SCC 881.

⁷ (1954) 1 SCC 905.

24.1. Certiorari will be issued for correcting errors of jurisdiction, as when an inferior court or tribunal acts without jurisdiction or in excess of it, or fails to exercise it.

24.2. Certiorari will also be issued when the court or tribunal acts illegally in the exercise of its undoubted jurisdiction, as when it decides without giving an opportunity to the parties to be heard, or violates the principles of natural justice.

24.3. The court issuing a writ of certiorari acts in exercise of a supervisory and not appellate jurisdiction. One consequence of this is that the Court will not review findings of fact reached by the inferior court or tribunal, even if they be erroneous. This is on the principle that a court which has jurisdiction over a subject-matter has jurisdiction to decide wrong as well as right, and when the legislature does not choose to confer a right of appeal against that decision, it would be defeating its purpose and policy, if a superior court were to rehear the case on the evidence, and substitute its own findings in certiorari. These propositions are well settled and are not in dispute.”

(emphasis supplied)

12.2. In ***Syed Yakoob v. K.S. Radhakrishnan***⁸, P.B. Gajendragadkar, C.J., speaking for the Constitution Bench, held that the writ of *certiorari* can be issued only to correct errors of jurisdiction committed by Courts or Tribunals, but not for the purpose of reappreciation of evidence or acting as a Court of appeal.

“7. The question about the limits of the jurisdiction of High Courts in issuing a writ of certiorari under Article 226 has been frequently considered by this Court and the true legal position in that behalf is no longer in doubt. A writ of certiorari can be issued for correcting errors of jurisdiction committed by inferior courts or tribunals : these are cases where orders are passed by inferior courts or tribunals without jurisdiction, or is in excess of it, or as a result of failure to exercise jurisdiction. A writ can similarly be issued where in exercise of jurisdiction conferred on it, the Court or Tribunal acts illegally or properly, as for instance, it decides a question without giving an opportunity, be heard to the party affected by the order, or where the procedure adopted in dealing with the dispute is opposed to principles of natural justice. There is, however, no doubt that the jurisdiction to issue a writ of certiorari is a supervisory jurisdiction and the Court exercising it is not entitled to act as an appellate Court. This limitation necessarily means that findings of fact reached by the inferior Court or Tribunal as result

⁸ 1963 SCC OnLine SC 24.

of the appreciation of evidence cannot be reopened or questioned in writ proceedings. An error of law which is apparent on the face of the record can be corrected by a writ, but not an error of fact, however grave it may appear to be. In regard to a finding of fact recorded by the Tribunal, a writ of certiorari can be issued if it is shown that in recording the said finding, the Tribunal had erroneously refused to admit admissible and material evidence, or had erroneously admitted inadmissible evidence which has influenced the impugned finding. Similarly, if a finding of fact is based on no evidence, that would be regarded as an error of law which can be corrected by a writ of certiorari. In dealing with this category of cases, however, we must always bear in mind that a finding of fact recorded by the Tribunal cannot be challenged in proceedings for a writ of certiorari on the ground that the relevant and material evidence adduced before the Tribunal was insufficient or inadequate to sustain the impugned finding. The adequacy or sufficiency of evidence led on a point and the inference of fact to be drawn from the said finding are within the exclusive jurisdiction of the Tribunal, and the said points cannot be agitated before a writ Court. It is within these limits that the jurisdiction conferred on the High Courts under Article 226 to issue a writ of certiorari can be legitimately exercised (vide *Hari Vishnu Kamath v. Syed Ahmad Ishaque* [(1955) 1 SCR 1104] *Nagandra Nath Bora v. Commissioner of Hills Division and Appeals Assam* [(1958) SCR 1240] and *Kaushalya Devi v. Bachittar Singh* [AIR 1960 SC 1168])”

(emphasis supplied)

12.3. This Court, succinctly, in *Central Council for Research in Ayurvedic Sciences v. Bikartan Das*⁹, expounded on the scope of *certiorari* jurisdiction and held as under:

“49. The first cardinal principle of law that governs the exercise of extraordinary jurisdiction under Article 226 of the Constitution, more particularly when it comes to the issue of a writ of certiorari is that in granting such a writ, the High Court does not exercise the powers of the Appellate Tribunal. It does not review or reweigh the evidence upon which the determination of the inferior tribunal purports to be based. It demolishes the order which it considers to be without jurisdiction or palpably erroneous but does not substitute its own views for those of the inferior tribunal. The writ of certiorari can be issued if an error of law is apparent on the face of the record. A writ of certiorari, being a high prerogative writ, should not be issued on mere asking.

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61. In the aforesaid context, it will be profitable for us to refer to the decision of this Court in *Indian Overseas Bank v. Staff Canteen*

⁹ (2023) 16 SCC 462.

Workers' Union [Indian Overseas Bank v. Staff Canteen Workers' Union, (2000) 4 SCC 245 : 2000 SCC (L&S) 471] . This Court observed as under : (SCC pp. 259-60, para 17)

“17. ... The findings of fact recorded by a fact-finding authority duly constituted for the purpose and which ordinarily should be considered to have become final, cannot be disturbed for the mere reason of having been based on materials or evidence not sufficient or credible in the opinion of the writ court to warrant those findings, at any rate, as long as they are based upon some material which are relevant for the purpose or even on the ground that there is yet another view which can reasonably and possibly be taken.”

62. However, we may clarify that findings of fact based on “no evidence” or purely on surmises and conjectures or which are perverse points could be challenged by way of a certiorari as such findings could be regarded as an error of law.

63. ...To put it pithily, certiorari shall issue to correct errors of jurisdiction, that is to say, absence, excess or failure to exercise and also when in the exercise of undoubted jurisdiction, there has been illegality. It shall also issue to correct an error in the decision or determination itself, if it is an error manifest on the face of the proceedings. By its exercise, only a patent error can be corrected but not also a wrong decision. It should be well remembered at the cost of repetition that certiorari is not appellate but only supervisory.

64. ... We may only say that while adjudicating a writ application for a writ of certiorari, the court is not sitting as a court of appeal against the order of the tribunals to test the legality thereof with a view to reach a different conclusion. If there is any evidence, the court will not examine whether the right conclusion is drawn from it or not. It is a well-established principle of law that a writ of certiorari will not lie where the order or decision of a tribunal or authority is wrong in matter of facts or on merits. (See : *R. v. Nat Bell Liquors Ltd.* [*R. v. Nat Bell Liquors Ltd.*, (1922) 2 AC 128 (PC)])”

(emphasis supplied)

13. Keeping in view the aforesaid principles, we are of the considered opinion that the High Court clearly transgressed the limited contours of the *certiorari* jurisdiction under Article 226 of the Constitution while setting aside the findings recorded by the First Appellate Court in Paragraph 24. The High Court, in the impugned order, took the view that the findings returned by the First Appellate Court were unsupported by pleadings or evidence on record. However, a careful perusal of the judgment of the First Appellate Court reveals the evidence

produced during the trial was independently examined and appreciated by them. It is only after perusing the pleadings, mutation entries, sale deeds and the conduct of the parties regarding possession and ownership of the suit schedule properties that the findings impugned before the High Court came to be returned.

14. Pertinently, it has to be borne in mind that the dispute in the present case arose out of a civil suit for partition and separate possession wherein issues relating to title, nature of suit schedule properties, possession and validity of alienations effected by defendant no.1 were decided by the competent civil Courts upon appreciation of oral and documentary evidence. The observations made in Paragraph 24 were not returned *dehors* the evidence placed on record or in the absence thereof but were arrived at upon consideration of evidence adduced by the parties during the course of trial. Therefore, once the First Appellate Court, being fully competent to adjudicate the appeal, had returned findings after due consideration of the evidence on record, it cannot be said that such findings were tendered without jurisdiction or in excess of it. Thus, in our considered opinion, the High Court, while exercising the jurisdiction under Article 226 of the Constitution, could not have set aside the findings returned in Paragraph 24.

15. The said conclusion is fortified by yet another reason. The findings recorded in Paragraph 24 directly affected the ownership, possession and rights of the appellants over the suit schedule properties. Despite this, the High Court proceeded to decide the writ petition, *ex parte*, after dispensing with service of notice to the present appellants, which, in our considered opinion, was definitely not a correct or proper course to adopt. Any finding on ownership and possession by the Court would, obviously, directly impact the parties against whom these findings have been returned. In such a circumstance, the least expectation that a litigant is entitled to have from a Court, much less a constitutional Court, is that they would be heard before being condemned. For whatever reason, the High

Court in the present case thought it not to be so. As such, despite it being a general principle of law, we may underscore the importance of a party being heard.

15.1. A three-Judge Bench of this Court in *State of U.P. v. Sudhir Kumar Singh*¹⁰, expounded on the scope of principles of natural justice in the following words:

“42. An analysis of the aforesaid judgments thus reveals:

42.1. Natural justice is a flexible tool in the hands of the judiciary to reach out in fit cases to remedy injustice. The breach of the audi alteram partem rule cannot by itself, without more, lead to the conclusion that prejudice is thereby caused.

42.2. Where procedural and/or substantive provisions of law embody the principles of natural justice, their infraction per se does not lead to invalidity of the orders passed. Here again, prejudice must be caused to the litigant, except in the case of a mandatory provision of law which is conceived not only in individual interest, but also in public interest.

42.3. No prejudice is caused to the person complaining of the breach of natural justice where such person does not dispute the case against him or it. This can happen by reason of estoppel, acquiescence, waiver and by way of non-challenge or non-denial or admission of facts, in cases in which the Court finds on facts that no real prejudice can therefore be said to have been caused to the person complaining of the breach of natural justice.

42.4. In cases where facts can be stated to be admitted or indisputable, and only one conclusion is possible, the Court does not pass futile orders of setting aside or remand when there is, in fact, no prejudice caused. This conclusion must be drawn by the Court on an appraisal of the facts of a case, and not by the authority who denies natural justice to a person.

42.5. The “prejudice” exception must be more than a mere apprehension or even a reasonable suspicion of a litigant. It should exist as a matter of fact, or be based upon a definite inference of likelihood of prejudice flowing from the non-observance of natural justice.”

15.2 In *Central Organisation for Railway Electrification v. ECI SPIC SMO MCML (JV)*¹¹, a five-Judge Bench of this Court described the object of observing the principles of natural justice as under:

“80. ... The object of observing the principles of natural justice is to ensure that “every person whose rights are going to be affected

¹⁰ (2021) 19 SCC 706.

¹¹ (2025) 4 SCC 641.

by the proposed action gets a fair hearing” [*State Bank of Patiala v. S.K. Sharma*, (1996) 3 SCC 364, para 29 : 1996 SCC (L&S) 717] . The non-observance of natural justice is itself a prejudice to any person who has been denied justice depending upon the facts and circumstances of each case. [*S.L. Kapoor v. Jagmohan*, (1980) 4 SCC 379, para 24] The principle of procedural fairness is rooted in the principles of the rule of law and good governance. [*Dharampal Satyapal Ltd. v. CCE*, (2015) 8 SCC 519, para 26 : (2015) 33 GST 1] In *Madhyamam Broadcasting Ltd. v. Union of India* [*Madhyamam Broadcasting Ltd. v. Union of India*, (2023) 13 SCC 401, para 55.1.] , this Court held that the requirement of procedural fairness “holds an inherent value in itself”. It was further observed : (SCC p. 447, para 45)

“45. Inherent value in fair procedure : Fair procedure is not only a means to the end of achieving a fair outcome but is an end in itself. Fair procedure induces equality in the proceedings. The proceedings “seem” to be and are seen to be fair.””

(emphasis supplied)

15.3 Recently, this Court in *Krishnadatt Awasthy v. State of M.P.*¹², held as under:

“38. This brings us to the second limb of the principle of natural justice i.e. audi alteram partem and whether the demonstration of prejudice is mandatory for raising a claim of violation of right of hearing. The principle of audi alteram partem lies at the very heart of procedural fairness, ensuring that no one is condemned or adversely affected, without being given an opportunity to present their case. The decision in *Ridge v. Baldwin* [*Ridge v. Baldwin*, 1964 AC 40 : (1963) 2 WLR 935 (HL)] is regarded as a significant landmark decision in British administrative law and is often referred to as a magna carta of natural justice. This decision has resonated deeply in the Indian legal context where natural justice principles are firmly entrenched with constitutional guarantees.

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43. The opportunity of hearing is considered so fundamental to any civilised legal system that the courts have read the principles of natural justice into an enactment to save it from being declared unconstitutional on procedural grounds [*Olga Tellis v. Bombay Municipal Corpn.*, (1985) 3 SCC 545] .

44. It has been argued before us that if the failure to provide hearing does not cause prejudice, observing the principle of natural justice may not be necessary. In this context, a three-Judge Bench of this Court in *S.L. Kapoor v. Jagmohan* [*S.L. Kapoor v. Jagmohan*, (1980) 4 SCC 379] speaking through Chinappa Reddy, J. considered such arguments to be “pernicious” and held that “[t]he non-observance of natural justice

¹² (2025) 7 SCC 545.

is itself prejudice to any man and proof of prejudice independently of proof of denial of natural justice is unnecessary". The Supreme Court, however, has drawn out an exception where "on the admitted or indisputable facts only one conclusion is possible, and under the law only one penalty is permissible, then the Court may not compel the observance of natural justice" [Swadeshi Cotton Mills v. Union of India, (1981) 1 SCC 664 : (1981) 51 Comp Cas 210; Aligarh Muslim University v. Mansoor Ali Khan, (2000) 7 SCC 529 : 2000 SCC (L&S) 965] .”

(emphasis supplied)

16. In view of the above exposition of law, we are of the considered opinion that the course adopted by the High Court resulted in a clear violation of the doctrine of *audi alteram partem*, which constitutes one of the foundational principles of natural justice. In the facts of the instant case, we find that, *prima facie*, prejudice has been caused to the present appellants. The findings which were challenged in the impugned judgment pertained to the ownership, possession and rights of the present appellants, and any interference with the said finding would necessarily entail adverse civil consequences and would in effect cause prejudice to them. That being the case, the present appellants were not merely proper parties but necessary ones to effectively adjudicate the writ petition.

17. Accordingly, the impugned judgment and order dated 22.02.2023 passed by the High Court of Karnataka, Dharwad Bench is set aside. The judgment and order dated 02.08.2021, passed by the First Appellate Court, is restored in its entirety. It must be noted that nothing contained in the present judgment shall be construed as an expression of opinion on the merits of the case. Parties are at liberty to espouse remedies, as may be available, in accordance with law, if so advised. Should the respondents choose to pursue such alternative remedies, they may do so within three months from today. Limitation should not come in the way of adjudication on merits.

18. In view of the above, the appeal is allowed. Pending application(s), if any, shall stand disposed of.

.....**J.**
(SANJAY KAROL)

.....**J.**
(VIPUL M. PANCHOLI)

**NEW DELHI;
16 JULY 2026**