

Karnataka High Court Chandrashekar vs The State Of Karnataka on 1 March, 2017 Author: Ravi Malimath 1

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

ON THE 1ST DAY OF MARCH, 2017

BEFORE

THE HON'BLE MR. JUSTICE RAVI MALIMATH

WRIT PETITION NO.30014 OF 2009(KLR-LG)

BETWEEN:

MR.CHANDRASHEKAR AGED ABOUT 40 YEARS, S/O MUTHAPPA, NAVOOR, KANIYOOR VILLAGE, PUTTUR TALUK, D.K. ... PETITIONER

(BY SRI R.BHADRINATH, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA VIDHANA SOUDHA, BENGALURU, REPRESENTED BY ITS REVENUE SECRETARY.
2. THE DEPUTY COMMISSIONER D.K., MANGALURU.
3. THE ASSISTANT COMMISSIONER PUTTUR, D.K.
4. THE TAHSILDAR PUTTUR, D.K. 2
5. MR.SRINIVAS S/O CHENNAPPA, NAVOOR, KANIYOOR VILLAGE, PUTTUR TALUK, D.K. ... RESPONDENTS

(BY SRI T.S.MAHANTESH, AGA FOR R1 TO R4 SRI H.V.HARISH, ADVOCATE FOR R5)

THIS WRIT PETITION IS FILED UNDER ARTICLES

226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH ANNEXURE-B DATED 18.1.2006, PASSED IN APPEAL NO.REV.SR.68/04-05 & ANNEXURE-C, DATED 10.3.2008 PASSED IN C.DIS.REV.45/06.

THIS WRIT PETITION COMING ON FOR HEARING,

THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

The case of the petitioner is that he was granted 3 acres 40 guntas of land by the State morefully described in the schedule to the petition. All the revenue records were transferred on to his name. The 5th respondent challenged the grant before the Assistant Commissioner. The same was accepted and the grant was set aside. It was challenged before the Deputy Commissioner who dismissed the appeal. Aggrieved by the same, the instant petition is filed. 2. By the order dated 20th June, 2012, the writ petition was allowed. The impugned order was set aside. The orders of the Assistant Commissioner and Deputy Commissioner were quashed. Respondents were granted liberty to initiate proceedings in accordance with law. Thereafter, a review petition was filed. By the order dated 9-3-2015 it was held that in terms of the original records, the application for condonation of delay filed by the respondent was not considered by the Assistant Commissioner. Hence, on that ground, the Review Petition was allowed. Writ petition was restored to file. 3. The learned counsel for the petitioner contends that there was delay of more than 5 years in approaching the Assistant Commissioner. Without condoning the delay, the Assistant Commissioner could not have jurisdiction to entertain the appeal. Hence, it is pleaded that the petition be allowed on that ground itself. 4. The learned Government Advocate by relying on the records submits to the same. 5. On hearing learned counsels, I am of the considered view that in the absence of condonation of delay, no appeal could have been considered by the Assistant Commissioner. Hence, on this reasoning itself the impugned orders are liable to be set aside. Consequently, the petition is allowed. The order Annexure-C dated 10-3-2008 passed by the 2nd respondent-Deputy Commissioner and the order Annexure- B dated 18-1-2006 passed by the 3rd respondent Assistant Commissioner are quashed. The matter is remanded to the Assistant Commissioner to consider the application for condonation of delay and thereafter to consider the same on merits, if found necessary, in accordance with law without being influenced by the order of this Court or the earlier orders of Assistant Commissioner or Deputy Commissioner. Rule made absolute. SD/- JUDGE Rsk/-