HC-KAR

NC: 2026:KHC:59491
WP No. 16145 of 2024

CNR: KAHC010317412024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MS. JUSTICE JYOTI M

WRIT PETITION NO. 16145 OF 2024 (SC/ST)

BETWEEN:

SRI KEMPE GOWDA
S/O LATE JAVAREGOWDA,
SINCE DEAD BY HIS LRS

1. SMT. KEMPAMMA,
W/O LATE KEMPEGOWDA,
AGED ABOUT 74 YEARS,

2. SRI ERABASAVEGOWDA,
S/O LATE KEMPEGOWDA,
AGED ABOUT 57 YEARS

3. SRI BASAVARAJU,
S/O LATE KEMPEGOWDA,
AGED ABOUT 55 YEARS,

SRI SHIVALINGEGOWDA
S/O LATE KEMPEGOWDA,
SINCE DEAD BY HIS LRS

4. SMT. SUMA,
W/O LATE SHIVALINGEGOWDA,
AGED ABOUT 42 YEARS,

5. SMT. SUMANTH,
D/O LATE SHIVALINGEGOWDA,
AGED ABOUT 22 YEARS,

Digitally signed by
PREMCHANDRA M R
Location: HIGH
COURT OF
KARNATAKA

6. BHOOMIKA,
D/O LATE SHIVALINGEGOWDA,
AGED ABOUT 20 YEARS,

SRI SOMAPPA GOWDA,
S/O JAVAREGOWDA,
DEAD BY HIS LRS

7. SMT. MAHADEVAMMA,
W/O LATE SOMAPPA GOWDA,
AGED ABOUT 70 YEARS,

8. SRI DAYANANDA,
S/O LATE SOMAPPA GOWDA,
AGED ABOUT 50 YEARS,

9. A.S.MAHADEVSWAMY @ MAHADEVA,
S/O LATE SOMAPPA GOWDA,
AGED ABOUT 48 YEARS,

PETITIONERS NO.1 TO 9 ARE
RESIDING AT AGASANAPURA VILLAGE,
KASABA HOBLI, MALAVALLI TALUK,
MANDYA DISTRICT - 571401.

…PETITIONERS

(BY SRI. RAJA L., ADVOCATE)

AND:

1. THE ASSISTANT COMMISSIONER
SUB-DIVISION MANDYA,
MANDYA TALUK,
MANDYA DISTRICT - 571401

2. THE DEPUTY COMMISSIONER
MANDYA
MANDYA DISTRICT - 571401.

3. SRI GOPAL BOYEE
S/O KENCHA BHOYEE ALIAS
ANNAKKA BOYEE
AGED ABOUT 70 YEARS,
RESIDENT OF KALLAHALLI VILLAGE,
KANAKAPURA TALUK,
RAMANAGARA DISTRICT - 571401

…RESPONDENTS

(BY SMT. SAVITHRAMMA, AGA FOR R1 AND R2;
SRI. A.GOVINDARAJU, ADVOCATE FOR R3)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, SEEKING CERTAIN RELIEFS.

THIS WRIT PETITION IS LISTED FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, AN ORDER IS MADE AS UNDER:

ORAL ORDER

Sri.Raja.L., counsel for the petitioners; Smt.Savithramma., Additional Government Advocate for respondent Nos.1 and 2, and Sri.A.Govindaraju., counsel for respondent No.3 appeared in person.

In PTCL writ petitions, the orders passed by the Assistant Commissioner and the Deputy Commissioner are ordinarily called into question. This Court has frequently

noticed discrepancies in the names of the original grantees and the dates of grant and alienation recorded in the impugned orders. Hence, for the sake of convenience, this Court refers to the parties as the "original grantee" and the relevant years of grant and alienation, instead of reproducing the names and dates.

2. The petition is filed seeking a writ of certiorari to quash the order passed by the Deputy Commissioner. This order is challenged in this writ petition on several grounds as set out in the memorandum of the writ petition.

3. Counsel for the respective parties advanced several contentions.

Counsel for the petitioners submits that the Assistant Commissioner rejected the claim by order dated 29.11.1990. However, the appeal before the Deputy Commissioner was filed after a lapse of 24 years. It is contended that the Deputy Commissioner, having

overlooked the inordinate delay, erroneously passed the order of remand. Accordingly, counsel seeks to have the order passed by the Deputy Commissioner quashed and the order of the Assistant Commissioner upheld.

Counsel for respondent No.3 submits that detailed statement of objections has been filed and the same be taken note of. He argued that there was no delay in preferring the appeal before the Deputy Commissioner and he justified the action on the part of the Deputy Commissioner in remanding the matter. Urging additional grounds, he submits that the petition lack merits and it may be dismissed.

4. The Court heard the arguments and carefully perused the papers.

5. The present issue is confined to the resumption proceedings. It is sufficient to note that the land in question was granted in 1951 and was alienated in 1965. However, the resumption proceedings were initiated only

in 1981, after a lapse of nearly 16 years from the date of alienation. The Assistant Commissioner, by order dated 29.11.1990, rightly rejected the claim. Thereafter, the appeal before the Deputy Commissioner was filed after an inordinate delay of nearly 24 years. In the considered opinion of this Court, the Deputy Commissioner could not have entertained the appeal after 24 years.

Furthermore, the Deputy Commissioner, while passing the order of remand, failed to consider the inordinate delay and laches in initiating the resumption proceedings and subsequently preferring the appeal. The Deputy Commissioner ought to have examined whether the proceedings could be entertained after such an unreasonable and unexplained delay, particularly when the rights in respect of the land had been settled pursuant to the sale deed executed in 1965.

The failure to consider the aspect of delay and laches, which was a material and relevant consideration, has vitiated the order of remand. In the circumstances,

the Assistant Commissioner was justified in rejecting the claim, and the Deputy Commissioner erred in remanding the matter without addressing the issue of delay and laches in filing the appeal and also in seeking resumption.

The Division Bench clarified that laches should be regarded as the primary requirement when resuming lands. It also held that if restoration action is filed after a significant delay, it could be barred by laches.

In the facts and circumstances of the case, this Court is of the considered view that the order passed by the Deputy Commissioner, cannot be legally sustained. Accordingly, the impugned order is liable to be set aside.

6. For the foregoing reasons, the order of the Deputy Commissioner is liable to be set aside.

7. The writ of certiorari is ordered. The order dated 23.01.2024 passed by the Deputy Commissioner vide Annexure-F is quashed. As this Court has quashed the order, the authority concerned is hereby directed to

mutate / restore the petitioner's name in the subject land in the revenue records.

8. Resultantly, the writ petition is ***allowed***.

On disposal of the Writ Petition, any interim order stands discharged, and any pending interlocutory applications, if any, are disposed of.

Sd/-
(JYOTI M)
JUDGE

CH
List No.: 1 Sl No.: 33