

(2006) 10 KAR CK 0004
In the Karnataka High Court
Case No : Writ Petition No. 43821 of 2004

Mallanaika and Another

APPELLANT

Vs

The Deputy Commissioner and Others

RESPONDENT

Date of Decision : 19-10-2006

Acts Referred:

Karnataka Land Revenue Act, 1964 — Section 136 (2)

Citation : (2007) 4 KarLJ 715

Hon'ble Judges : V.G. Sabhahit, J

Bench : Single Bench

Advocate : N. Vageesh, for the Appellant; R.K. Hatti, for Respondents 1 and 2 and Y.D. Harsha, for Respondent 3, for the Respondent

Final Decision : Dismissed

Judgement

V.G. Sabhahit, J.—This writ petition is filed being aggrieved by the order passed by the Deputy Commissioner, Mysore dated 2-3-1994 confirming the order passed by the Assistant Commissioner, Hunsur Sub-Division, dated 27-7-2004 who has dismissed the appeal filed by the petitioners u/s 136(2) of the Karnataka Land Revenue Act, 1964 on the ground that no sufficient cause is made out for condoning the delay of 24 years in filing the appeal.

2. I have heard the learned Counsel appearing for the petitioners.

3. The petitioners filed appeal before the Assistant Commissioner being aggrieved by an entry made in ICR No. 1/80-81 since there was delay of 24 years, the Assistant Commissioner held that no sufficient cause is made out for condoning the delay and accordingly, dismissed the appeal. In revision, the Deputy Commissioner has confirmed the order passed by the Assistant Commissioner dismissing the appeal on the ground of delay. It is also made clear in the order of the Deputy Commissioner that it is open to the petitioners to approach the Civil Court and obtain necessary declaration from the Civil Court. In view of the fact that there was delay of 24 years in filing the appeal before the

Assistant Commissioner and both the Assistant Commissioner and Deputy Commissioner have held that no sufficient cause is made out for condoning the delay of 24 years. I do not find any reason to interfere with the finding of fact arrived at by the Assistant Commissioner and confirmed by the Deputy Commissioner and in view of the fact that it is always open to the petitioners to approach the Civil Court and obtain necessary declaration. I hold that the order passed by the Deputy Commissioner impugned in the writ petition does not suffer from any error or illegality as to call for interference and accordingly, I pass the following order:

The writ petition is dismissed. However, dismissal of the writ petition will not preclude the petitioners to obtain necessary declaration from the Civil Court and thereafter make an application for change of entry, in accordance with law.