

**(2013) 08 KAR CK 0203**

**In the Karnataka High Court**

**Case No :** Writ Petition No. 15615 of 2013 (KLR-RR/SUR)

N. Jagannath, N. Narayanaswamy, N. Venkatesh and N.  
Devaraj

**APPELLANT**

**Vs**

The Tahsildar, The Assistant Commissioner and State of  
Karnataka

**RESPONDENT**

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**Date of Decision :** 21-08-2013

**Acts Referred:**

**Citation :** (2013) 08 KAR CK 0203

**Hon'ble Judges :** D.V. Shylendra Kumar, J

**Bench :** Single Bench

**Advocate :** N.S. Bhat, for the Appellant; M.C. Nagashree, HCGP, for the  
Respondent

**Final Decision :** Dismissed

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## **Judgement**

D.V. Shylendra Kumar, J.—Writ petitioners claim to be legal heirs of one Narayanappa @ Nyanappa in whose favour an extent of 15 acres 26 guntas in Sy. No. 9 of Puttathimmanahalli Village, Kasaba Hobli, Chikkaballapur District, had been granted in public auction by the competent authority as per order No. 36/1936-37 dated 28.09.1936 and said Narayanappa had been put in possession of the property. It is also the case of the petitioners that their father's name figured in the record of rights in respect of this property till the year 1971. It appears, thereafter, said Narayanappa's name had been deleted from the records and therefore said Narayanappa had initiated RRT proceedings before the Assistant Commissioner, Chikkaballapur under the provisions of the Karnataka Land Revenue Act, 1964 [for short "the Act"].

2. It is also the case of the petitioners that as per order dated 1.2.2010 in RRT.CR. 1/2007-08, the Assistant Commissioner directed the Tahsildar for conducting spot inspection, change khata in respect of the property in favour of Narayanappa. It is averred that there was inaction on the part of the Tahsildar and therefore said Narayanappa had given a representation dated 4.8.2011

seeking for change of khata and for action on the part of the Tahsildar. It is the further case of the petitioners that the Tahsildar never acted upon.

3. It appears said Narayanappa died on 24.10.2012 leaving behind the petitioners as his legal heirs to succeed to the property. The petitioners though gave remainders/representation to the Tahsildar as persons claiming under said Narayanappa, to make khata in the name of the petitioners as heirs of deceased Narayanappa as per representation dated 8.3.2013 and even several oral and written representations/requests thereafter, the Tahsildar has not heeded to their request, but is blissfully silent and therefore the present writ petition for issue of writ of mandamus.

4. Sri. N.S. Bhat, learned counsel for petitioners submits that when there was clear direction by the Assistant Commissioner to conduct a spot inspection and effect change of khata, inaction on the part of the Tahsildar is failure of duty and therefore writ of mandamus should be issued.

5. Smt. M.C. Nagashree, learned Government Pleader appearing for the respondents to whom notice is directed, points out that there was no direction in favour of the petitioners even by the Assistant Commissioner for holding spot inspection and change the entries in the revenue records; that even the name of the petitioners' father did not figure in the revenue records as admitted by the petitioners from the year 1970-71 and grant order being of the year 1936 and in this state of affairs, unless all these things were clear and definite, writ of mandamus cannot be issued and petitioners have to establish their right elsewhere or approach the Assistant Commissioner for suitable directions on the premise that the Tahsildar has not acted as per his earlier direction etc.

6. There is no determined legal right in favour of the petitioners nor a statutory right discernible in the present facts. Therefore, writ of mandamus cannot be issued per se. It is open to the petitioners to work out their rights and remedies either before the Assistant Commissioner or before the civil court, in accordance with law. This writ petition is dismissed.