

(2003) 05 KAR CK 0033
In the Karnataka High Court
Case No : Writ Appeal No. 3157 of 2003

Rayanagouda

APPELLANT

Vs

The Deputy Commissioner and Others

RESPONDENT

Date of Decision : 06-05-2003

Acts Referred:

Citation : (2003) 4 KarLJ 518

Hon'ble Judges : K. Bhakthavatsala, J;A.M. Farooq, J

Bench : Division Bench

Advocate : F.V. Patil, for the Appellant; Chandrashekar P. Patil, for Caveator-Respondent-2, for the Respondent

Final Decision : Dismissed

Judgement

A.M. Farooq, J.—This is a writ appeal directed against the order passed by the learned Single Judge in Rayanagouda Vs. The Deputy Commissioner and Others, . The petitioners had filed the writ petition challenging the order dated 1-6-2001 passed by the Deputy Commissioner, Gadag District, under which mutation entries were made in favour of respondents 2 to 5 on the basis of a compromise decree entered into between the parties in the year 1947. The learned Single Judge, on consideration of the entire materials on record came to the conclusion that admittedly, the parties are joint family members and that there is a compromise decree passed on 19-8-1947 and by virtue of the partition deed, the respondents 3 to 5 are entitled to be in possession of the properties now mutated which is under challenge.

2. The contention of Sri F.V. Patil is that even though the parties are joint family members and that there is a compromise decree of the year 1947, still, the respondents who are parties to the suit having not taken possession of the properties are not entitled to take possession of the properties by merely getting their names mutated in the revenue records. We fully agree with the learned Single Judge to the fact that the parties who are joint family members, being in joint possession, can be put in possession at any stage and it will not be in the

interest of justice to dispossess the petitioners who have been put into possession by virtue of the decree they have obtained and that too, under a compromise which cannot be interfered with in a writ petition. The contention of the learned Counsel that the order is obtained by fraud is also without any basis when the fact regarding the compromise decree had been admitted.

There is no merit in the writ appeal, it is accordingly dismissed.