

(2010) 02 KAR CK 0016

In the Karnataka High Court

Case No : Misc. Civil No's. 22473 of 2009 and 2640 of 2010 in Miscellaneous
First No. 4293 of 2006

Sri Suresh and Others

APPELLANT

Vs

The Special Land Acquisition Officer

RESPONDENT

Date of Decision : 16-02-2010

Acts Referred:

Land Acquisition Act, 1894 — Section 54 (1)

Citation : (2010) ILR (Kar) 1610 : (2011) 2 KarLJ 515 : (2010) 3 KCCR 1649

Hon'ble Judges : K.N. Keshavanarayana, J;D.V. Shylendra Kumar, J

Bench : Division Bench

Advocate : Chandrakanth Koujalagi, for the Appellant;

Final Decision : Dismissed

Judgement

D.V. Shylendra Kumar, J.—Misc Civil No. 22437 of 2009 is for recalling the order dated 29-8-2007, passed by this Court dismissing the above appeal (MFA No. 4293 of 2006), which is an appeal filed u/s 54(1) of the Land Acquisition Act, for non-prosecution, not only by not making the appeal tenable and presentable, but also by not evincing any interest to prosecute the appeal, as none appeared for the appellants on that day and there was no representation for them. Misc Civil No. 2640 of 2010 is for condoning the delay of 799 days in filing the application for recalling the order dated 29-8-2007.

2. An application had come to be filed in IA 1/2007 for the purpose of recalling the order dated 29-8-2007. That application came to be, dismissed on 9-9-2008 with the following order:

The matter is posted for consideration of I.A. 1/2007 praying for recalling the order dated 29-8-2007.

On 29-8-2007 noticing the fact that there was no representation for the appellants and inspite of granting time of six occasions to comply with the office objections, as the office objections were not complied with, the appeal came to

be dismissed for non prosecution. Hence, the present application is filed.

Even today, none appears for the appellants. No representation is made. Hence, I.A. 1/2007 stands rejected for non prosecution.

3. Now, a further application in Misc. Civil No. 22437 of 2009 is filed, for recalling the order dated 29-8-2007, dismissing the main appeal for non-prosecution and another application in Misc. Civil No. 2540 of 2010 for condoning the delay in preferring the former application.

4. History repeats. There is no representation for appellants even today, though the matter was called twice during the course of the day, once in the morning session and again in the afternoon session.

5. While an earlier application filed for the very purpose of recalling the order dated 29-8-2007 has already been dismissed for non-prosecution, we fail to understand under what circumstance yet another application can be filed for the very purpose and that too at this point of time with the delay for recalling the order dated 29-8-2007. dismissing the main appeal for non-prosecution, having now assumed gigantic proportion of 799 days.

6. It is very obvious that neither the appellants nor their Counsel are keen in prosecuting the applications and the view expressed by the earlier Division Bench of this Court that they were not keen in prosecuting the appeal is only to be reiterated and these applications are also to be dismissed for the very reason. The applications are accordingly dismissed.

7. It is made clear that repeated applications of this nature cannot be a solution or a remedy provided in law, to get over an order of dismissal of an appeal for non-prosecution and this Court cannot entertain series of such applications, one after the other, when each of the application is also dismissed for non-prosecution.

8. We only feel sorry for the hapless and poor litigants who may also be ignorant about the methods of law and procedures, who approach professionals for getting such advice, but are left high and dry, with such negligent and careless manner of functioning by professionals/advocates to whom the matter is entrusted to.

9. It is made clear that the appellants will be free to proceed against their Counsel if they feel that their cause has really suffered in their getting proper or justifiable compensation due to any failure or dereliction of duty on the part of their Counsel to whom the matter was entrusted.

10. Both the applications are dismissed.