

(1986) 01 KAR CK 0035
In the Karnataka High Court
Case No : W.P. No. 1349 of 1986

State of Karnataka and Another

APPELLANT

Vs

N.K. Agrawal and Another

RESPONDENT

Date of Decision : 24-01-1986

Acts Referred:

Karnataka Land Revenue Act, 1964 — Section 95

Citation : (1986) 1 KarLJ 258

Hon'ble Judges : M. P. Chandrakantharaj Urs, J

Judgement

1. This is a writ petition by the State directed against the order of the Karnataka Appellate Tribunal, Bangalore, in Appeal No. 211/82 (Rev. 3).

2. By the said order, the appeal of one N.K. Agrawal was allowed directing the Special Deputy Commissioner, Bangalore, to grant conversion of 1 acre 19 guntas of agricultural land for non-agricultural use. Before the Tribunal, the State raised two grounds for rejecting the appeal which may be noticed by this Court. One was that the appeal was barred by time and the other was that there was prohibition under the Karnataka Town and Country Planning Act, 1961 as evidenced by the order of the Special Deputy Commissioner refusing conversion and, therefore, conversion could not be granted.

3. The first contention regarding the limitation, the tribunal has chosen to condone the delay on the application made by the appellant. That being a discretionary order, this Court will not interfere.

4. The second ground urged has been negated with reference to the decisions of this Court in the case of Channabasappa v State of Mysore, W.P. 1144/67 and also the case of Irannavar v State of Mysore, W.P. 2121/71. The said decisions essentially deal with the scope of investigation by the Deputy Commissioner and the matters which are to be taken into consideration in refusing or according permission for conversion of agricultural land for non-agricultural use. That cannot be found fault with. The Tribunal is bound by the decisions rendered by this Court.

5. But the learned Government Pleader urged that under Section 14 of the Town and Country Planning Act, there is a prohibition and as the Town Planning Authority informed the Special Deputy Commissioner that the land in question was not fitted into the commercial or residential zone in the outline development plan, the appellant's claim to convert the land for erecting commercial shed was rightly refused. Section 14 of the Town and Country Planning Act says that the land situate in the area within the outline development plan approved, shall not be made use of for purposes other than the one mentioned in the outline development plan except with the previous consent of the Planning Authority, such consent being given in writing.

6. It is a matter between the user of the land and the Planning Authority. The Deputy Commissioner need not concern himself at the stage of granting permission under Section 95 of the Karnataka Land Revenue Act as to whether the Town Planning Authority may or may not give the permission which the owner of the land may seek in terms of the approved outline development plan.

7. For the above reasons, the order of the Tribunal does not call for interference. Petition is rejected.