

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 01<sup>st</sup> DAY OF JULY 2009

PRESENT

THE HON'BLE MR. P.D. DINAKARAN, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE V.G.SABHAHIT

WRIT APPEAL NO.1481/2009 (GM-FOR)

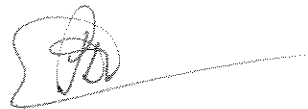
BETWEEN;

- 1 THE DEPUTY COMMISSIONER  
HASSAN DISTRICT  
HASSAN.
- 2 THE DEPUTY CONSERVATOR OF FOREST  
HASSAN DISTRICT,  
HASSAN.
- 3 THE STATE OF KARNATAKA  
REPTD. BY ITS SECREATRY,  
DEPARTMENT OF REVENUE  
M.S.BUILDING,  
VIDHANA VEEDHI  
BANGALORE 1. ....APPELLANTS

(By Sri:BASAVARAJ KAREDDY, GOVT. ADVOCATE. )

AND :

- 1 K N RAMACHANDRA  
AGED ABOUT 45 YEARS



S/O NIRVANEGOWDA  
R/O VANAGUR VILLAGE  
HETTHUR HOBLI  
SAKALESH PURA TALUK

2 H A GOVINDEGOWDA  
AGED ABOUT 52 YEARS  
S/O APPAJIGOWDA

3 H A PRAKASH  
AGED ABOUT 50 YEARS  
S/O APPAJIGOWDA

4 H R JAYAPPAGOWDA  
AGED ABOUT 52 YEARS  
S/O RAMEGOWDA

5 H S MALLESHAGOWDA  
AGED ABOUT 52 YEARS  
S/O SUBBEGOWDA

6 M K VISWANATH,  
AGED ABOUT 42 YEARS  
S/O M S KARIGOWDA

ALL ARE R/O HADLAHALLI  
VILLAGE HETTHUR HOBLI  
SAKLESH PUR TALUK.

7 V S YOGARAJ  
AGED ABOUT 52 YEARS  
S/O SIDDEGOWDA

8 V I LOKESH  
AGED ABOUT 33 YEARS  
S/O ISWAMYGOWDA

ALL ARE R/O UMMATTHUR



VILLAGE, YASALUR HOBLI  
SAKALESHPUR TALUK  
HASSAN DISTRICT REPTD. BY  
GENERAL POWER OF ATTORNEY  
HOLDER A K CHANDRA  
AGED ABOUT 35 YEARS  
S/O KAALAPPA, R/O BYKERE  
VILLAGE, KASABA HOBLI,  
SAKALESHPUR TALUK  
HASSAN DISTRICT.... RESPONDENTS

THIS WRIT APPEAL IS FILED U/S 4 OF THE  
KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE  
THE ORDER PASSED IN THE WRIT PETITION 5141/2008  
DATED 31.03.2008.

This Writ Appeal coming up for Preliminary Hearing on  
this day, the Court, delivered the following.

### **J U D G M E N T**

This appeal is filed by the State-respondents in  
W.P.No.5141/2008 being aggrieved by the order dated  
31.3.2008 wherein the learned Single Judge has allowed  
the writ petition and remitted the matter to the respondents-  
appellants herein for fresh consideration of the application of  
the petitioners in accordance with law.

2. The respondents herein filed W.P.No.5141/2008  
being aggrieved by the endorsement issued by the



respondents in the writ petition wherein the application filed for permission to fell trees as sought for by the writ petitioners was rejected by the impugned order dated 29.2.2008 and endorsement dated 12.3.2007. It is contended in the writ petition that petitioners are entitled to cut the trees by seeking permission from the respondents in the writ petition and permission ought to have been granted and the application for permission to fell the trees has been wrongly rejected by holding that no permission can be granted to fell the trees situate in the private lands as the trees were not leased in favour of the petitioners.

3. The learned Single Judge has allowed the writ petition following the decision of this court in W.P. No.3932/2007 disposed of on 15.2.2008 (M.R.Puttegowda & others vs. The Deputy Commissioner & others) and remitted the matter to the respondents for fresh consideration of the application of the petitioners in accordance with law. Being aggrieved by the said order of the learned Single Judge dated 31.3.2008 respondents in the writ petition have preferred



this appeal. There is delay of 349 days in filing the appeal and application has been filed for condoning the said delay in filing the appeal.

4. We have heard the learned Government Advocate appearing for the appellants.

5. Learned Government Advocate appearing for the appellants submitted that the delay has been satisfactorily explained and the learned Single Judge was not justified in setting aside the order and endorsement issued by the appellants refusing permission to fell the trees situate in the land belonging to the writ petitioners-respondents herein without considering the contentions raised by the appellants in the writ petition and therefore, the order passed by the learned Single Judge is liable to be set aside.

6. We have considered the contentions of the learned Government Advocate and scrutinised the material on record.



7. The material on record would clearly show that the application filed by the writ petitioners-respondents herein seeking for permission to fell the trees situate in their land has been rejected by the appellants herein. It is the contention of the writ petitioners that petitioners are entitled to cut the trees grown in their land by seeking permission to fell the same from the appellants, whereas it is contended by respondents-appellants herein that what was conveyed was the land and ownership of trees were not conveyed to the writ petitioners and therefore, question of granting permission to fell the trees belonging to the Government would not arise and that writ petitioners who are owners of the land have no right over the trees which were standing at the time of granting the lease. The learned Single Judge has followed the earlier decision in W.P.No.3932/2007 and has set aside the impugned order and endorsement and remitted the matter to the appellants for fresh disposal of the application.



8. It is clear from the perusal of the order passed in W.P.No.3932/2007 disposed of on 15.2.2008 that the order passed in the said writ petition has become final and in the said writ petition identical question arose for consideration regarding granting of permission to fell the trees in the land belonging to the writ petitioners and in the said decision, following the earlier decision of this Court in W.P.No.43003/1995 and connected matters disposed of on 19.7.1996 (M.L.KRISHNE GOWDA & ANOTHER vs. DEPUTY COMMISSION AND ANOTHER) while considering the similar matter detail guidelines have been laid down for consideration of the application for seeking permission to fell the trees situate in the land belonging to the writ petitioners and following the said decision in W.P.No.43003/1995 the matter was remitted to the respondents in the writ petition for fresh disposal in accordance with law in the light of the observations made in the order. In view of the fact that the order passed in the said W.P.No.3932/2007 dated 15.2.2008 has become final and detail guidelines have been laid down



by this court in W.P.No.43003/1995 disposed of on 19.7.1996 hence, it is clear that the application is now required to be considered by the appellants in accordance with the directions issued in W.P.No.3932/2007 disposed of on 15.2.2008. The learned Single Judge has not decided the contentions of the parties on merits and all contentions are kept open to be urged before the Authority and accordingly, we hold that the order passed by the learned Single Judge is justified and does not suffer from any error or illegality as to call for interference in this intra court appeal.

9. There is delay of 349 days in filing the appeal and on perusal of the affidavit filed in support of the application, it is clear that the averments made in the application would only explain as to how the delay has occurred in filing the appeal and no cause much less sufficient cause is made out for condoning the inordinate delay of 349 days. Accordingly, we hold that there is no merit in this application filed for condoning the delay in filing the appeal and pass the following order:





The writ appeal is dismissed on the ground of delay  
and also on merits.

Sd/-  
Chief Justice

Index: Yes/No ✓  
Web Host: Yes/No ✓

Sd/-  
Judge

Msk/Ia\*\*