

**IN THE COURT OF DEPUTY COMMISSIONER, BALLARI  
APPEAL No.18/2014-15**

**Present: Sameer Shukla, IAS  
Deputy Commissioner,  
Ballari**

**BETWEEN:**

Smt Mariyavva D/O Late Hanumanthappa,  
Huguluru Village and post. Hadagali Taluk.  
(rep by sri. Thippeswamy.K. & H. Dadapeer , advocates,  
Ballari)

**...Appellants**

**V/s**

- 1.Sri. Mariyappa S/O Late Hanumanthappa,  
Huguluru Village and Post, Hadagali Taluk.
- 2.The Assistant Commissioner, Hospet.
3. The Tahsildar, Hadagali Taluk, Ballari District.
4. The Revenue Inspector, Ittigi Village.

(rep.by sri )

**.... Respondents**

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This revision petition is filed against the orders of the Assistant Commissioner Hosapete in appeal No. Pahani/ Appeal/39/2012-13 dated 31-8-2013 passed in respect of Sy.No.5 J measuring 2-00 acres of Huguluru Village, in Hadagali taluk.

**[A] Facts of the case:**

1) The land bearing Sy. No. 5 J measuring 2.00 acres was gifted to the revision petitioner by her father and her elder brother on 8-9-1991. Subsequently vide M.R.No. 6/1991-92 dt: 20-11-1991 the changes have been carried out in the name of the Revision petitioner.

2) After the demise of Hanumanthappa, his brother filed an appeal before the Assistant Commissioner Hosapete (R2)in R.A. No. 39/2012-13 seeking cancelation of the said mutation.

3) The Respondent No.2 passed the impugned order on 31-8-2013 canceling the mutation effected in M.R.No.6/1991-92.

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4) Aggrieved by the said orders the present Revision petition is filed:

Notices were issued and the matter was taken up for enquiry.

**[B]** The advocate for the Revision Petitioner in his appeal petition and the written arguments submitted the following grounds in support of his claim:

1) The passed by R2 is against the law, weight of evidence and probabilities of the case. The R2 has not given any opportunity to the Revision Petitioner before passing the said orders. The R2 did not look into the records before passing the said orders on 31-8-2013.

2) The land was gifted by Hanumanthappa father of the Revision petitioner to the revision petitioner. Though it is an un-registered gift deed it has been acted upon immediately on 20-11-1991 vide M.R.No.6/1991-92.

3) The said mutation was accepted by all the interested parties till 2012-13 and after the lapse of 21 years an appeal was filed in R.A. No.39/2012-13 before the R2 and the R2 passed the impugned orders canceling the mutation dt: 20-11-1991.

4) The respondent has not given any reasons in his orders that necessitated to condone the delay of 21 years. Therefore, the revision petitioner requested the court to set-aside the orders passed by R2 as it is illegal.

**[C]** The respondent though served with the notice has appeared only once on 20-5-2015 but, not filed any objections or written arguments inspite of providing adequate opportunity. Hence, it was decided to post the matter for orders based on the available records.



[D] The records connected with the case were examined along with the mutation order and the orders passed by the R2 on 31-8-2013 in Apl.No.39/2012-13. The verification of the records revealed as below:

- 1) The verification of the ROR for the year 1990-91 reflects that Hanumanthappa S/o Hanumanthappa father of the respondent owned 6.07 acres and the respondent Mariyappa owned 2.00 acres as per the entries in the ROR
- 2) On 8-9-1991 Hanumanthappa executed a gift deed ( un-registered) bequeathing 2.00 acres to his daughter the present revision petitioner 2 acres of land.
- 3) As per the said gift deed mutation came to be effect vide M.R.No.6/1991-92 in the name of revision petitioner on 20-11-1991.
- 4) This mutation was sustained upto 31-8-2013 till the impugned orders was passed by the R2.
- 5) The question that needs consideration of this court is whether the Assistant Commissioner is right in ordering the cancelation of the settled right of 21 years acquired through mutation dt: 20-11-1991 bearing M.R.No.6/1991-92. In this case the mutation has been effected on 20-11-1991 and it reveals that the gift has been made by father to the daughter. When fact being so if at all the respondent is aggrieved by the said mutation he could have immediately appealed in the right form. But, in this case he remained silent for almost 21 years and the order of the Assistant Commissioner does not speak any reasons that necessitated to condone the delay of such a gap. More over when it has been acted upon and objected to after the gap of 21 years the Assistant Commissioner could have directed the respondent to approach the jurisdictional

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civil court and to seek confirmation of the right. But instead canceling the settled rights after long gap will open for multiple litigations. Therefore, it is a fit case calling for intervention of this court and hence the following order.

**ORDER**

**APPEAL No.18/2014-15**

**Dated: 27-4-2016**

The appeal is allowed. The orders of the Assistant Commissioner Hosapete No. appeal/39/2012-13 dated 31-8-2013 is set aside. The Tahasildar Hadagali is directed to restore back the entries as they stood in the ROR before passing the impugned orders dated 31-8-2013 by the Assistant Commissioner Hosapete, in respect of 5J measuring 2 acres of Huguluru village in Hadagali taluk. Order dictated and computerized copy edited and pronounced by me, in the open court on 27-4-2016.

  
Deputy Commissioner  
Ballari.