

**(1982) 10 KAPT CK 0001**

**Karnataka Appellate Tribunal**

**Case No:** Appeal No. 243/81 (Rev-I)

Rudregowda

APPELLANT

Vs

State of Karnataka

RESPONDENT

**Date of Decision:** Oct. 13, 1982

**Citation:** (1982) 1 KarLJ 121

**Hon'ble Judges:** K. B. Rangappa, Member; K. V. Narayana Raju, J

### **Judgement**

Per K.V. Narayana Raju, M.-This appeal under S. 49 of the Karnataka Land Revenue Act is from the order dated 7-7-1981 passed by the learned Deputy Commissioner, Chickamagalur in M 4.-LND.CR. 1025/80-81 rejecting the request of the appellant for grant of 10 acres out of Survey Number 235 of Doddamagaravally village, Chickamagalur Taluk for coffee cultivation on the ground that the appellant already owned 26 acres of coffee land. The learned Deputy Commissioner has further directed that the Tahsildar may find landless persons for grant after bringing the land on the availability list for disposal according to Rules.

2. The appellant has contended inter alia that the learned Deputy Commissioner ought to have taken into account the recommendation dated 2-8-1970 of the Land Grant Committee and also of the Revenue Authorities; that there was no landless person at all at the time the appellant applied for grant in 1965, etc.

3. We have heard the counsel for the appellant and the learned Assistant State Representative. It is clear that this land which is out of gomal had not been appropriated for purposes of cultivation till 30-8-1974, which date is more than nine years after the appellant made his application. Curiously the revenue officers have done a lot of things to facilitate the grant of land which was not at all brought on the availability list. There can be no doubt that the land to be granted for coffee cultivation also should be brought on the availability list so that all eligible persons are given an opportunity of putting forth their claims. When that has not been done it is impossible for the revenue officers to prefer a lone applicant of their choice.

4. What is more, admittedly the appellant is already holding 26 acres of land. No doubt that without infringing the Rules 10 acres could be granted. But it is not possible to say that a Deputy Commissioner has no discretion at all to refuse land to a person who already owns a viable unit of land for coffee cultivation and think of granting land to other persons who do not own any land. Whatever that may be, we are of the opinion that since availability list had not been prepared and eligible persons had no opportunity of claiming the land, there was no scope at all for the appellant making an application. For that reason we must say that it is not necessary to examine the merits of the claim of the appellant. The appeal is dismissed.