

Damayanthi Vs The Deputy Commissioner and Another

Court: Karnataka High Court

Date of Decision: Sept. 19, 2006

Citation: (2007) 1 KarLJ 493

Hon'ble Judges: V.G. Sabhahit, J

Bench: Single Bench

Advocate: K. Srihari, for the Appellant; R. Kumar, HCGP. for R1, B.V. Krishna and Prasanna Deshpande, for R2, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

V.G. Sabhahit, J.

This Matter is taken up for final hearing with the consent of the learned Counsel appearing for the parties.

2. This Writ Petition is filed being aggrieved by the order passed by the Deputy Commissioner, Mangalore, Dakshina Kannada District, in Case

No. CDS:RAP:20/2002-03 dated 25.11.2003., allowing the revision and remitting the matter to the Assistant Commissioner, Puttur.

3. It is the contention of the petitioner that the Deputy Commissioner having remitted the matter to the Assistant Commissioner was not justified in

making certain observations on the merits of the case, which would prejudicially affect the rights of the petitioner.

4. I have heard the learned Counsel appearing for the petitioner and the learned High Court Government Pleader appearing for respondent No. 1

and the learned Counsel appearing for respondent No. 2.

5. Learned Counsel appearing for the petitioner submitted that the only apprehension of the petitioner is that the observation made in the order of

remand passed by the Deputy Commissioner would prejudicially affect the merits of the case of the petitioner before the Assistant Commissioner.

6. Learned Counsel appearing for the respondent No. 2 submitted that the observations made are regarding the irregularities committed by the

revenue authorities and not on the merits of the case.

7. Learned High Court Government Pleader appearing for respondent No. 1 argued in support of the order.

8. I have considered the contentions of the learned Counsel appearing for the parties.

9. It is clear from the contentions of the learned Counsel appearing for the petitioner that the only apprehension of the petitioner is that the Deputy

Commissioner having remanded the matter to the Assistant Commissioner could not have made any observation on the merits of the case as the

same would amount to deciding the case on authorities. When the matter is remitted by the Deputy Commissioner to the Assistant Commissioner,

the Assistant Commissioner, being a subordinate officer, would be bound by the observations made in the judgment passed by the Deputy

Commissioner. It is well settled that when the matter is remitted to a subordinate authority by the revenue authorities, the authority remanding the

case should refrain from making any observation as the same would cause prejudice to the case of the parties before the authority to whom the

matter is remanded, who is subordinate to the authority passing the order of remand. Under the circumstances, the apprehension of the petitioner

can be safeguarded by observing that the Assistant Commissioner shall dispose of the proceeding afresh without being influenced by any

observation made by the Deputy Commissioner on the merits of the case of the parties.

The Writ Petition is disposed of with the above said observations.