Before The Honble Court of Additional commissioner
Kashmir

In the case of :

Mst Aisha

(Petitioner)

V/S

Ab Sattar kuchay & ors

(Respondent)

IN THE MATTER OF:

Objection on behalf of respondent No. 02

May it please your Lordship, sir

The objections are submitted as under

1. That the petitioner has filed an appeal before the Ld Additional Deputy Commissioner Pulwama against the mutation No 1601 dated 13.01.2001 after a period of 21 years and the appeal was not accompanied by an application for condonation of delay and the respondent filed objections and sought dismissal of the appeal on the ground that the impugned mutation is off shot of mutation No.746 dated 09/04/1976 and the appeal is not accompanied by an application for condonation of the delay and the appellant authority dismissed the appeal of the petitioner with the observation that the appellant has not filed any

Disclaimer: This is a print
For legal proceeding, cer

Scanned with CamScanner

application for seeking the condonation of the delay which is condition precedent to hear such appeal as such no illegality has been committed by the appellate court while dismissing the appeal of the petitioner hence the revision petition is liable to be dismissed

2. That the petitioner after a period of 5 months has filed a an application seeking the review of the order passed by the appellate court by projecting the grounds of appeal in review petition and appellate has rightly dismissed the review petition because the appellate court while dismissing the appeal has neither committed error of law apparent on the face of record nor any procedural illegality was committed by the appellate court in the fact under the guise of review the petitioner tried to re-agitate and re-argue the questions which have been addressed and decided by the appellate authority while deciding the appeal as such no illegality has been committed by the appellate court while dismissing the application for review as such the revision is liable to be dismissed

3. That petitioner has preferred a time barred appeal before the appeal authority and as per the mandate of section of 11 of land revenue Act the period limitation for preferring an appeal is 60 days and the appellate

Disclaimer: This is a print
For legal proceeding, cer

Scanned with CamScanner

authority while dealing with a time bared appeal as per the mandate of the order 41 Rule 3-A is required to decide the application for condonation of delay and to pass a separate order but the appeal was not accompanied by an application for condonation of delay and the appellate authority was left with no option but to dismiss the appeal keeping in view the mandate of the section 3 of the limitation Act because the appeal was admitted preferred beyond the period of limitation as such no illegality has been committed by the appellate authority

4. That the petitioners has miserable failed to demonstrate the error apparent on the face of record which the appellate authority has failed to correct or the discovery of new fact or evidence which were not within the knowledge of the petitioner consequently the there was no scope for the appellate authority to exercise the power of review under such no error has been committed by the appellate authority

5. That no illegality has been committed by the appellate authority while dismissing the review application because the review application can be entertained only if there is error apparent on the face of record but the petitioners has miserable failed to demonstrate the

Disclaimer: This is a print
For legal proceeding, cer

Scanned with CamScanner

errors which have been committed by the appellate authority infect the petitioner tried to travel beyond the prayers sought in the Original Petition and the appellate authority has rightly dismissed the review application and has passed a reasoned order

6. That the review application submitted by the petitioner was not fulfilling the requirement of the section 13 of land revenue Act read with order 47 of code of civil procedure besides the petition for review has been submitted after the period of limitation as such the revision is liable to be dismissed

In the premises it is therefore humbly prayed that this Hon'ble court may be pleased to dismiss the petition with costs in the interests of justice

Respondent through Counsel

Adv Malik Mushtaq

Disclaimer: This is a print
For legal proceeding, cer

Scanned with CamScanner