

IN THE COURT OF DEPUTY COMMISSIONER UTTARA KANNADA KARWAR

Present: Sri S S Nakul I.A.S.
Deputy Commissioner,
Uttar Kannada, Karwar

No. RB/RTR/CR-22/17-18



Between

1. Vyavasaya Seva Sahakari Sangh Niyamita Ummachagi Yellapur
Represented by Executive Officer
(Represented through Advocate Sri N.S Bhat)

V/s

1. Tahasildar Yellapur
2. Assistant Commissioner, Sirsi
3. Karnataka Vikas Grameen Bank Ummachagi Tq: Yellapur
4. Shri Shrikant Ganapati Bhat
R/o Totadakallalli, Taluk: Yellapur
(R3 is represented through Advocate Sri P.S. Bhat, & R4 is represented by
through Advocate Shri D. R Bhat)

.... Petitioner

.... Respondents

Sub: Revision petition filed u/s 136(3) of Karnataka Land Revenue Act 1964 against the order of Assistant Commissioner, Sirsi in file no. RRC-Vasuli-Viva-01/12-13 dated: 12-01-2016.

Preamble:



This Revision Petition has been filed against the order of Assistant Commissioner, Sirsi in file no. RRC-Vasuli-Viva-01/12-13 dated: 12-01-2016. Notices were issued to both parties.

The brief facts of the case are as follows:

The Respondent No.4 Shri Shrikant Ganapati Bhat availed loan from the respondent No.3 Karnataka Vikas Grameen Bank Ummachagi Taluk Yellapur by mortgaging the property Sy No.9/3 an extent of 0-16-11, Sy No.10/1 an extent of 0-34-0, Sy No. 15/2 an extent of 0-19-0, Sy No.16 an extent of 2-29-0 and Sy No.59/1 an extent of 1-5-0 of Totadakallalli village in Yellapur Taluka. But he defaulted in making repayment. So the Bank initiated legal proceedings against him and Assistant Commissioner Sirsi passed an order for attachment of the property. In the mean while the respondent No. 4 Shri Shrikant Ganapati Bhat had also availed loan from petitioner i.e Vyavasaya Seva Sahakari Sangh Niyamita Ummachagi by mortgaging the property Sy No.9/3 an extent of 0-16-11, Sy No. 15/2 an extent of 0-19-0, and Sy No.59/1 an extent of 1-5-0 of Totadakallalli village in Yellapur Taluka. The respondent No. 4 failed to repay the loan. Assistant Commissioner, Sirsi has passed the order by substituting the name of Karnataka Sarakar and to note the encumbrances in Column-11 of the RTC of the suit land. Being aggrieved by this order the appellant filed this Revision Petition before this court.

The Advocate for the appellant argued that.

1. The order passed by the Assistant Commissioner, Sirsi is contrary to law and against facts of the case.

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2. Assistant Commissioner has not considered the interest of the petitioner Vyavasaya Seva Sahakari Sangh Niyamita Ummachagi Yellapur in the suit property.
 3. The Assistant Commissioner, Sirsi did not issue notice to the petitioner before passing the attachment order. The respondent No.4 has availed more amount of loan from Vyavasaya Seva Sahakari Sangh Niyamita Ummachagi Yellapur than that of respondent No.3 Karnataka Vikas Grameen Bank Ummachagi by mortgaging the same property.
 4. Assistant Commissioner Sirsi without making a detailed enquiry and without giving notice to the petitioner passed an order on 12-1-2016 to enter the name of government in the said Survey Number only on the basis of report of the Tahasildar Sirsi.
 5. The respondent No.4 Shri Shrikant Ganapati Bhat availed loan from the petitioner much earlier than the loan of respondent No.3 i.e Karnataka Vikas Grameen Bank Ummachagi Taluk: Yellapur. The order passed by Assistant Commissioner, Sirsi to substitute the name of Government by deleting the name of respondent No.4 is contrary to law.
 6. At this point of time the name of the petitioner Vyavasaya Seva Sahakari Sangh Niyamita Ummachagi should have been present in RTC as otherwise the Vyavasaya Seva Sahakari Sangh Niyamita Ummachagi would suffer heavy loss. This was intimated to respondent No.1 & 2 but respondent No.1 & 2 has not taken any action in accordance to law.
Hence he requested to allow this Revision Petition and enter the name of Vyavasaya Seva Sahakari Sangh Niyamita Ummachagi in RTC.

The Advocate for the Respondents did not file any written argument or orally argued the matter despite giving sufficient opportunities to submit argument. Hence it was decided to pass the order as per the records available in the file.

After going through the records available in file and written argument of petitioner, it is pertinent to note that Respondent No.4 availed loan from the Karnataka Vikas Grameen Bank Ummachagi by mortgaging the property Sy No.9/3 an extent of 0-16-11, Sy No.10/1 an extent of 0-34-0, Sy No. 15/2 an extent of 0-19-0, Sy No.16 an extent of 2-29-0 and Sy No.59/1 an extent of 1-5-0 of Totadakallalli village in Yellapur Taluka and he was defaulter in making repayment. So the Bank initiated legal proceedings against him and Assistant Commissioner Sirsi passed an order for attachment of the property. In the mean while the respondent No. 4 Shri Shrikant Ganapati Bhat had also availed loan form Petitioner i.e Vyavasaya Seva Sahakari Sangh Niyamita Ummachagi by mortgaging the property SyNo.9/3 an extent of 0-16-11, Sy No. 15/2 an extent of 0-19-0, and Sy No.59/1 an extent of 1-5-0 of Totadakallalli village in Yellapur Taluka. The respondent No.4 failed to repay the loan. Assistant Commissioner, Sirsi has passed the order by substituting the name of Karnataka Sarakar and to note the encumbrances in Column-11 of the RTC of the suit land. The Assistant

Commissioner Sirsi has passed the order as part of recovery proceedings and not as per Section 136(2) of Karnataka Land Revenue Act 1964. The respondent No.4 has not only availed loan from Vyavasaya Seva Sahakari Sangh Niyamita Ummachagi but also from Varada Grameen Bank Kundargi, Totagars Co-operative sale society Ltd Sirsi and Syndicate Bank Manchikeri as per entries in RTC column No.11. It is pertinent to note that the petitioner has not produced any documents before the Assistant Commissioner or before this Court to show that loan recovery proceedings have been initiated against respondent No. 4 in respect of the loan availed by him. Therefore the petitioner has no right to challenge the order passed by the Assistant Commissioner. I do not find any merit in the instant Revision Petition.

Hence, after careful scrutiny of entire material on record I proceed to pass the following order.

No. RB/RTR/CR-22/17-18

Date: 26-3-2018

Order

Revision Petition is dismissed.

(Order dictated to the Stenographer, got computerized, verified and pronounced in open court on 26-03-2018)



**Deputy Commissioner,
Uttara Kannada, Karwar.**

Copy to:-

1. Advocate Sri N.S Bhat and Sri. P.S.Bhat & Sri D.R. Bhat for information.
2. Assistant Commissioner, Kumta for information and necessary action.
3. Tahasildar Ankola for information and necessary action.