

**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-5/17-18**

**Between**

1. Sri Parameshwar Sukru Patagar  
R/o Khaire, Mirjan Taluk : Kumta  
(Represented through Advocate Sri.P.S Bhat )

.... Revision Petitioner

V/s

1. Shri.Panduranga Baburao Halkar  
R/o Halkar Tq: Kumta  
2. Tahasildar Kumta  
3. Assistant Commissioner, Kumta  
(Represented through Advocate Sri. N.S.Bhat for R1)

.... Respondents

**Sub:** Revision Petition filed U/s 136 (3) of Karnataka Land Revenue Act 1964 against the Mutation Entry No. 54/06-07 of Mirjan Village in Kumta Taluka.

**Preamble:**

The revision petition has been filed against the order of Assistant Commissioner, Kumta in file No.RTS/AP/SR-44/2013-14 dated: 9-2-2016. Notices were issued to both parties.

**The brief facts of the case are as follows:**

The Suit property originally belonged to (1) Mukta Sitaram Shanabhag (2) Vimala Sitaram Shanabhag and (3) Ramakant Sitaram Shanabhag jointly and they were unmarried. It is seen from the records that during her life time Vimala Sitaram Shanabhag has executed a Will dated: 24-12-2003 infavour of revision petitioner. Again on January 2003 she has executed another Will infavour of respondent No.1 and as per the later Will wide Mutation Entry No. 54/06-07 the suit property was mutated in the name of respondent No.1. Against the certification of this entry the revision petitioner filed appeal before Assistant Commissioner, Kumta and Assistant Commissioner Kumta vide his order dated: 09-2-2016 dismissed the appeal. Being aggrieved by this order the appellant filed the instant revision petition before this court. Case was called on 14-08-2017, 25-9-2017, 16-10-2017, 27-11-2017, 8-01-2018 and 29-1-2018.

**After providing multiple opportunities Advocate for the Revision Petitioner and Respondent has not filed any written argument. So it has been decided to dispose the case on the records available in the file.**

On perusal of the lower Court records order of Assistant Commissioner Kumta and appeal memo it reveals that the suit property originally belonged to (1) Mukta Sitaram Shanabhag, (2) Vimala Sitaram Shanabhag and (3) Ramakant Sitaram

Shanabhag jointly and they were unmarried. Vimala Shanabhag during her life time executed one Will dated January 2003 infavour of respondent No.1 Pandurang Baburao Halkar and again on 24-12-2003 executed another Will infavour of revision petitioner Parameshwar Sukru Patagar. Thus it is evident from the records that two wills have been executed to two persons regarding same property. So there is dispute between the two parties. As per the decision of Hon'ble High Court published in KLJ 2002 part (6) page 391 " The Revenue Court have no jurisdiction to enquiry about the validity of the Will" Hence, deciding validity or non validity of the Will is left to the jurisdiction of the Civil Court. As per citation reported in 2002(4) KCCR 2285 the revision petition has to challenge the Will before Civil Court only. But until the will is probated by Hon'ble civil court the rights of the property should to be in the name of original owners of the property. Mutation entry No. 54/2006-07 of Mirjan village is rejected. Tahasildar Kumta is hereby directed to enter the name as per earlier mutation in the Record of Rights. Hence, I proceed to the order as follows.

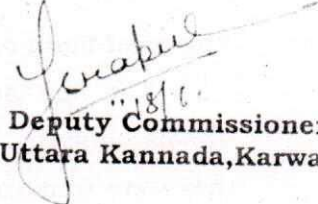
**No. RB/RTR/CR-5/17-18**

**Date:** 18 -6-2018

**Order**

Appeal is dismissed. Mutation entry No. 54/2006 is hereby cancelled Tahasildar to take steps to revert back in column no.9 as per earlier mutation.

(Order dictated to the Stenographer, got computerized, verified and pronounced in open court on 18 -6-2018)

  
"18/6"  
**Deputy Commissioner,  
Uttara Kannada, Karwar.**

**Copy to:-**

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