

**IN THE COURT OF DEPUTY COMMISSIONER UTTARA KANNADA KARWAR**

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

**No. RB/Tech Appeal/CR-07/16-17**

**Between**

1. Mukhya Prana Laxmi Venkatesh Dev Gundabala  
Nishpat Administrative Dharmadarshi  
Shri Hanumant Krishna Bhat  
R/o Gundabala Village, Taluk: Honnavar.  
(Represented through Advocate Shri N.S Bhat )

**.... Appellant**

V/s

1. DDLR Karwar
2. ADLR Kumta
3. Shri Prabhakar Madhukar Prabhu
4. Shri Kamalakar Madhukar Prabhu
5. Shri Chandrashekar Madhukar Prabhu
6. Shri Dayanand Madhukar Prabhu
7. Shri Ratnakar Madhukar Prabhu
8. Smt Sunita Kom Subray Prabhu
9. Shri Shridhar Anant Prabhu
10. Shri Marthu Damodhar Shanbhag
11. Smt. Anmari Kom Francis Disouza
12. Shri Santan Bin Costa Almeda
13. Shri Johnson Bin Santan Almeda

All are R/o Gundabala Village Tq: Honnavar

(Respondents No.3 to 7 represented by Shri N.M Madival and respondent No. 12 through Advocate Smt. A. M Rane )

**.... Respondents**

**Sub:** Appeal filed u/s 50 of Karnataka Land Revenue Act-1964 against the Hissa Phodi in respect of Sy. No. 93/1, 93/1K and 93/1A3 of Gundabala village in Honnavar Taluk.

**Preamble:**

The instant appeal has been filed against the order of Deputy Director of Land Records, Karwar in file no. ಕಂ/ಶಾಂ/ಭೂಮಾಪನ/ಭೂದಾಖಲೆ/ಮೇಲ್ಮನವಿ-97/15-16 dated: 12-1-2017. Notices were issued to both parties.

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

Originally the suit property in Sy No.93/1 of Gundabala Village totally consisted of 6-10-0 out of which an extent of 1-20-0 was purchased by respondent No. 3 to 7 through registered sale deed dated: 20-8-1970. After Hissa Phodi the Sy number has been assigned as 93/1A, 93/1B and 93/1K. The appellant has purchased an extent of 0-11-0 in Sy No. 93/1K through registered sale deed. The contention of the respondents 3 to 7 is that the Hissa map prepared by ADLR Kumta is not as per their waiwati. So they preferred appeal before DDLR Karwar and who in order dated: 12-1-2017 upheld the appeal and ordered for resurvey. Being aggrieved by this order the appellant filed by instant appeal before this court.

**The advocate for the appellant argued that**

1. Order passed by DDLR Karwar is contrary to law and true facts of the case.
2. The respondents filed application before DDLR Karwar but who wrongly considered the application as an appeal and passed the impugned order. The contention of respondent No. 3 to 7 is that the Hissa map was not in

accordance with boundaries shown in the sale deed. But DDLR Karwar without verifying the sale deed passed the order.

3. DDLR has not observed the fact that the respondents have signed the Hissa form and it was wrongly stated in the order that Sy No 93/1K and if are under the waiwati of Santan Bin Costa Almeda.
4. The appellant purchased the suit property from Santan Costa Almeda through registered sale deed infavour of Moktesar of Mukya Prana Laxmi Venkatesh Devaru. Tahasildar has also certified the Mutation Entry and Deputy Commissioner Uttar Kannada Karwar vide order dated: 29-7-2016 permitted to use the land for non-agricultural purpose.
5. There is no any proof to show that Sy No. 93/1A is shown as Sy No. 93/1K in the Hissa map.
6. There are no any mistakes in the Hissa map. It is not correct that the respondent's property is under the waiwati of appellant. During the time of survey the respondent's brother has signed the form No. 4. The contention of the respondent is Civil in nature. So he has to find relief in the Hon'ble Civil Court only.
7. It is illegal that the respondents have directly filed application before DDLR Karwar. The Deputy Commissioner Uttar Kannada Karwar has granted permission to use the suit land for non-agricultural purpose. The appellant has purchased the suit land infavour of Mukya Pran Laxmi Venkatesh Dev and developed the area for religious work. So now it is not proper to change the land.

Hence he requested to allow the appeal.

**The advocate for the respondent's No. 3 to 7 argued that**

1. It is not proper that the appellant has filed the appeal u/s 50 of KLR Act. So it is liable to be dismissed.
2. The appellant has purchased the suit land in his name through registered sale deed. But while filing the appeal he has purposely mentioned as Nishpat Administrative Dharmadarshi infavour of Laxmi Venkatesh Dev. Sy No. 93/1 of Gundabala Village totally consisted of 6-10-0 area out of which an extent of 1-20-0 was purchased by the respondent's No. 3 to 7 on 20-8-1970. After Hissa Phodi the Sy number has been assigned as 93/1A, 93/1B and 93/1K. But while preparing the Hissa map ADLR Kumta wrongly assigned the Hissa Number and also their land was not shown as per their possession and enjoyment.
3. The appellant has purchased the land from Santan Costa Almeda. During this time the Hissa Map was wrongly prepared and wrongly assigned as Sy No. 93/1K instead of Sy No. 93/1A1.
4. As per the direction of the DDLR Karwar the ADLR Kumta conducted and prepared the Hadbast survey Map and in which he mentioned that Sy No. 93/1A1 pertains to Santan Almeda and Sy No. 93/1K pertains to respondent No. 3 to 7 and also clearly mentioned that the Hissa number and waiwati Hissa in respect of the appellant and respondents are exchanged.
5. After due enquiry considering the Hadabasta map DDLR has passed the order. If the Hissa Map is prepared as per the waiwati of the parties nothing will cause any harm to anybody

Hence he requested to dismiss the appeal.

**Question before this court is**

1. Whether the prayer of the appeal can be considered?

Ans:- Affirmative.

On perusal of the lower court records and written argument of both parties it reveals that originally Sy No. 93/1 of Gundabala Village totally consisted of 6-10-0 area out of which an extent of 1-20-0 was purchased by

respondent No. 3 to 7 through registered sale deed. After Hissa phodi the Sy number has been assigned as 93/1A, 93/1B and 93/1K. The appellant purchased an extent of 0-11-0 in Sy No. 93/1K from Santan Costa Almeda. But the Taluka Surveyor prepared the Hossa Phodi map wrongly. It is evident from the Hadabasta Survey map prepared by ADLR Kumta on 12-8-2016 that there is discrepancy between the possession and the area shown in the Hissa Map in respect of suit property of both parties. After due enquiry considering all these facts DDLR has passed the order for fresh survey. So a fresh Hissa Map be prepared after considering their possession and enjoyment of their rights. Hence I proceed the following order.

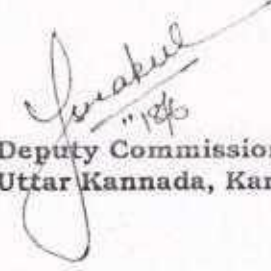
**No.RB/Tech-Appeal/CR-07/16-17**

**Date: 18-06-2018**

**Order**

Appeal is rejected. Deputy Director of Land Records, Uttar Kannada Karwar order no. ಕಂ/ತಾಂ/ಭೂಮಾಪನ/ಭೂದಾಖಲೆ/ಮೇಲ್ಮನವಿ-97/15-16 dated: 12-1-2017 is upheld.

(Order dictated to the Stenographer, got computerized, verified and pronounced in open court on 18-06-2018)

  
**Deputy Commissioner,  
Uttar Kannada, Karwar.**

**Copy to:-**

1. Advocate Shri. N. S Bhat and Shri N.M Madiwal and Smt. A M Rane for information.
2. Deputy Director of Land Records Uttar Kannada, Karwar for information and necessary action with Lower court file no. ಕಂ/ತಾಂ/ಭೂಮಾಪನ/ಭೂದಾಖಲೆ/ಮೇಲ್ಮನವಿ-97/15-16 dated: 12-1-2017 page No. 1 to page No.242.
3. Tahasildar Honnavar for information and necessary action.