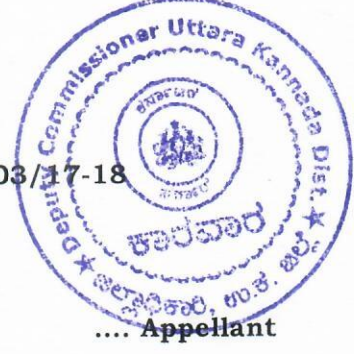


**IN THE COURT OF DEPUTY COMMISSIONER UTTARA KANNADA KARWAR**

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

**No. RB/Tech Appeal/CR-03/17-18**



**Between**

1. Sri. Hani Tulsu Gouda  
R/o Hebbarnkeri , Kadle Village, Taluk: Honnavar.  
(Represented through Advocate Smt. Padma. K. Tandel )

.... **Appellant**

V/s

1. Shri Subray Mahadev Madival
2. Shri. Mahadev Ganapati Madival
3. Shri Parameshwar Vishweshwar Shastri
4. Shri Gajanan Ramachandra Hegde  
All are R/o Hebbarnkeri, Kadle Village Tq: Honnavar
5. Taluka Survey Supervisor Honnavar  
(Represented through Advocate Smt. Rajeshwari Naik)

.... **Respondents**

**Sub:** Appeal filed u/s 50 of Karnataka Land Revenue Act-1964 against the Hissa Phodi in respect of Sy. No. 2/1A of Kadle 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/ತಾಂ/ಭೂಮಾಪನ/ಭೂದಾಖಲೆ/ಮೇಲ್ಮನವಿ-35/16-17 dated: 16-2-2017. Notices were issued to both parties.

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

Originally the suit property in Sy No.2/1A of Kadle Village consisted of 0-15-8(A.G.A) area and it belonged to one Venkatraman Ganesh Bhat out of this area 0-0-8(A.G.A) area was acquired by PWD for public road and the appellant has purchased an extent of 0-13-0(A.G.A) through registered sale deed dated: 02-01-2003. The respondent No.1 has purchased area 0-2-0(A.G.A). But the contention of the appellant is that as per the survey the original Sy No.2/1A was sub divided in to six hissass. But the P.T Sheet prepared by ADLR Kumta is not proper. So he filed appeal before DDLR Karwar and who vide his order dated: 16-2-2017 dismissed the appeal. Being aggrieved by this order the appellant filed the instant appeal before this court.

**The advocate for the appellant argued that**

1. The appellant purchased an extent of 0-13-0(A.G.A) area in Sy No. 2/1A form Venkatraman Bhat through registered sale deed dated: 2-1-2003 and the remaining area 0-2-0 (A.G.A) was purchased by respondent No. 1. After the survey the original Sy No. 2/1A was sub divided in to 6 hissass and not shown property in the map. The Hissa Map is done without considering the Tippani and Nakashe.
2. The area shown in the KJP does not tally with the area shown in the RTC.
3. The appellant's land has been assigned six hissass and they were shown in bits and pieces. So he cannot use the land for any purpose as a whole and purposely the road side land is assigned to the respondent No.1.
4. The survey has been done without considering the sale deed of the appellant
5. The appellant has not been served with any notice regarding survey work and also the appellant was not present during the survey work.

Hence he requested to allow the appeal.



**The advocate for the respondents argued that**

1. The appeal is against the true facts. So it is not maintainable.
2. The Hissa Map is prepared by the survey officials as per the actual possession and enjoyment of the respondent and appellants.
3. The survey map is prepared on the basis of the original Tippani and it is in accordance with law.
4. The survey boundaries mentioned in the Hissa Map are correct and according to their respective sale deeds of both parties.
5. The appellant purchased the suit land in bits and pieces from the original owner and now claiming falsely that he had purchased the adjacent land which is not true.
6. Notices were issued to both parties at the time of survey and both the parties were present.
7. The survey officials have followed the correct procedure and prepared the map according to their possession.

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 Sy No. 2/1A of Kadle Village consisted of 0-15-8 (A.G.A) area out of which 0-0-8(A.G.A) area was acquired by P.W.D for public road and the appellant purchased an extent of 0-13-0 (A.G.A) as per registered sale deed 942/2003 dated:2-1-2003. The respondent No.1 Shri Subray Mahadev Madival purchased an extent of 0-2-0(A.G.A) from Venkatraman Ganesh Bhat as per registered sale deed No. 838/96-97 dated: 17-10-1996. During the time of sale deed Sy No.2/1A was paiki RTC the boundary mentioned in the registered sale deed does not match with the actual phodi. Phodi Hissa was done as per Akarband Sy No. 2/1, 2/2, 2/3 and 2/4.

It is also evident from the records that the total area of Sy No. 2/1A does not tally with the actual area of Sy No. 2/1, 2/2, 2/3 and 2/4. Hence Hissa form 4, 11 issued by ADLR Kumta No. HNR/MRP/269/3686 dated: 29-12-2013 has to be canceled and is directed to do re-survey as per actual possession of the land holders, after following due process as per Karnataka Land Revenue Rules 1966. Hence I proceed the following order.

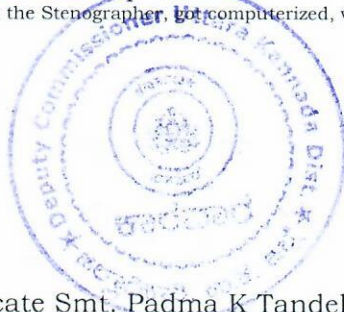
**No.RB/Tech-Appeal/CR-03/17-18**

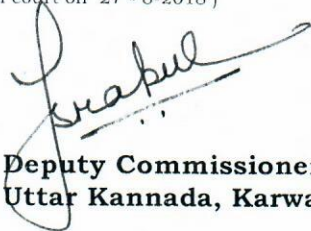
**Date: 27- 8-2018**

**Order**

Appeal is allowed. Phodi and order of Deputy Director of Land Records, Karwar in file no. ಕಂ/ತಾಂ/ಭೂಮಾಪನ/ಭೂದಾಖಲೆ/ಮೇಲ್ಮನವಿ-35/16-17 dated: 16-2-2017 is set aside. Re-survey to be done afresh by giving proper notices but ensuring Government road is not disturbed and kept intact.

(Order dictated to the Stenographer, not computerized, verified and pronounced in open court on 27 - 8-2018)



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

**Copy to:-**

1. Advocate Smt. Padma K Tandel and Smt. Rajeshwari Naik 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-35/16-17 dated: 16-2-2017 page No. 1 to page No. 198
3. Tahasildar Honnavar for information and necessary action.