

IN THE COURT OF DEPUTY COMMISSIONER UTTARA KANNADA KARWAR

Present: Dr. Harish Kumar K., I.A.S.
Deputy Commissioner,
Uttar Kannada, Karwar.

No. RB/LND-1/CR-7/2017-18



Between

Shri. Apa Laxman Marathe
R/o Ulaga Otibhag Taluk Karwar.
(Represented through Advocate Sri. R.V. Bhat)

....Appellant

V/s

1. Shri. Narayana Bhaskar Naik
2. Shri. Devaray Bhaskar Naik
3. Shri. Gopal Bhaskar Naik
4. Shri. Seetaram Bhaskar Naik

All are R/o Ulaga Otibhag Taluk : Karwar
(Represented through Advocate Sri. U.N. Naik)

.... Respondents

Sub: Case remanded by Hon'ble Karnataka Appellate Tribunal Bangalore in respect of KAT appeal No. 405/1992 dated 21-05-1996.

Preamble:

The instant application has been filed in respect of KAT appeal No. 405/1992 dated 21-05-1996.

Notices were issued and both parties entered appearance through their counsel.

Brief facts of the case are as hereunder:

That, 1-0-0 (A-G-A) of land in Sy.No. 109/A1A1A1A2 of Ulaga village Karwar Taluk was temporarily granted (*Hangami Lagani*) to Shri. Bhaskar Gopal Marathe, the father of respondents herein for cultivating fruit bearing trees vide order No. FOR-TR-2587 dated 09-10-1963 in accordance with Rules. After the death of Shri. Bhaskar Gopal Marathe, his sons the respondents herein have sought for permanent grant of the said land in their favour. Their prayer was allowed and the land was granted to them subject to conditions vide order No. LND-1-ESR-1276-84-85 dated 26-11-1984. In the meanwhile, the appellant herein had sought for cancellation of the order by filing an application under Rule 25 of the Land Grant Rules by contending that he is in possession of 0-20-0 (A-G-A) of land out of the above said 1-0-0 (A-G-A) of land. His prayer was rejected and consequently the appellant herein challenged the order by filing appeal before the Appellate Tribunal Bengaluru in Appeal No. 405/92. The appeal was allowed vide order dated 21-05-1996 and the matter was remanded to this Court for fresh disposal in accordance with law.

The Advocate for the appellant argued that-

1. The appellant and respondent No. 2 to 4 were originally members of the same family being owners of land in Sy.No. 364 of Ulaga village Karwar Taluk which is adjacent to the granted land in Sy.No. 109/A1A1A1A2. There was partition in between the appellant and respondents long back and accordingly Sy.No. 364 was divided into three hissass as Sy.No. 364/1, 364/2 and 364/3. The appellant was allotted Sy.No. 364/2 to his share. The land measuring 1-0-0 (A-G-A) in Sy.No. 109 being situated adjacent to Sy.No. 364, both parties were in occupation of the same. The appellant was in possession of 0-20-0 (A-G-A) and the respondents were in possession of 0-20-0 (A-G-A). The appellant has constructed cattle shed and planted around 30 fruit bearing trees in the entire 0-20-0 (A-G-A) of land which was in his possession. But, suppressing all these real facts, the respondents succeeded in

getting granted the entire 1-0-0 (A-G-A) of land behind the back of the appellant. On these among other grounds, the advocate for the appellant has sought for cancellation of the grant made in favour of the respondents and further sought for granting the above said 0-20-0 (A-G-A) of land in favour of the appellant.

The advocate for respondents has argued that the appellant has not produced any documents in support of the alleged partition in the family as contended by him. He has not produced any documents to show that he was in possession of 0-20-0 (A-G-A) of land in Sy.No. 109/A1A1A1A1A2. In fact, the respondents father was cultivating 1-0-0 (A-G-A) of land in Sy.No. 109/A1A1A1A1A2 and hence the land was temporarily granted in favour of respondents father Shri. Bhaskar Gopal Marathe as per order dated 09-10-1963. This order was passed only after due enquiry regarding possession of respondents father over the land. It is respondents father who has developed the land and therefore after his death, an application being filed by his sons respondents herein, the land was permanently granted in their favour vide order dated 26-11-1984. This order was also passed only after due enquiry and therefore this Court had rightly rejected the prayer of the appellant for cancellation of the grant. The advocate has further argued that even after the remand from the Appellate Tribunal, the appellant has failed to prove his possession over 0-20-0 (A-G-A) of land in Sy.No. 109/A1A1A1A1A2. He has not substantiated his claim by producing relevant documents and hence on these among other grounds, the advocate for the respondents prayed for the dismissal of the appeal.

The point for consideration before this Court is-

1. Whether there are sufficient grounds to allow the appeal?
Ans. In the Negative.

On hearing the learned counsel for the appellant and respondent 1 to 3 in the background of the order passed by KAT Bengaluru in Appeal No. 405/1992, it is found that 1-0-0 (A-G-A) of land in Sy.No. 109/A1A1A1A1A2 of Ulaga village Karwar Taluk was earlier temporarily granted vide order dated 09-10-1963 to the respondents father Shri. Bhaskar Gopal Marathe and after his death, on an application being made by the respondents, the land was permanently granted in favour of the respondents vide order dated 26-11-1984. As rightly pointed out by the advocate for the respondents, both these orders were passed only after being fully satisfied that earlier, respondents father, and after his death, the respondents herein have been in possession and enjoyment of the said land and also considering the facts that earlier it is the respondents father and after his death, it is the respondents, who have developed the land. The appellant has miserably failed to prove the alleged partition in the family. He has also not established his possession over 0-20-0 (A-G-A) in the granted land. Except seeking cancellation of the grant, he has not produced any documents in proof of his possession over the said land. Hence, I do not find any merit in the appeal and consequently, I proceed to pass the following order.

No. RB/LND-1/CR-7/2017-18

Date: 26-08-2019

Order

Appeal is dismissed.

(Order dictated to the Stenographer, got computerized, verified and pronounced in open court on 26-08-2019)



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

Copy to:-

1. Advocates Smt. R.V. Bhat and U. N. Naik for information.
2. Tahasildar Karwar for information and necessary action.