

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

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

**No. RB/RTR/CR/05/2019-20**



**Between**

Smt. Ningavva Kom Parashuram Tailor  
R/o Gundolli Taluk: Haliyal  
(Represented through Advocate Sri.Prakash B Angadi )

V/s

1. Sri. Pundalik Parashuram Tailor
2. Smt. Tulasabai Parashuram Tailor  
Both R/o Gundolli Taluk: Haliyal.
3. Smt. Rukmini Kom Pundalik Kochari  
R/o Mangalwad Village Taluk: Haliyal
4. Smt. Muktabai Kom Fakirappa Malvi  
R/o Soolikatti, Post: Sangameshwar, Taluk: Kalaghatgi
5. Sri. Tukaram Parashuram Tailor  
R/o Gundolli Taluk: Haliyal
6. Smt. Savitri Kom Vishnu Patil  
R/o Kividebail Post: Benachi Taluk Dharwad
7. Sri. Jnaneshwar Parashuram Tailor  
R/o Gundolli Taluk: Haliyal.

**.... Respondents**

**Sub:** Appeal filed U/s 136 (3) of Karnataka Land Revenue Act against the order of Assistant Commissioner, Karwar No. RTS/AP/CR-34/2017-18 dated 11-9-2018 in respect of Sy No. 97/2 and mutation entry No. H-5/2015-16 of Gundolli Village in Haliyal Taluka.

**Preamble:**

The instant appeal has been filed U/s 136(3) of Karnataka Land Revenue Act against the order of Assistant Commissioner Karwar dated 11-9-2018 in file No. RTS/AP/CR-34/2017-18.

**Brief facts of the case are as hereunder:**

The suit land Sy No. 97/2 belongs to Iravva Hanumant Tailor mother in law of appellant Smt. Ningavva Kom Parashuram Tailor and Parashuram Hanumant Tailor husband of appellant. Iravva Kom Hanumant Tailor was expired on 1-4-1989 and Parashuram Hanumant Tailor expired in the year 13-9-1999. Respondent No. 3 to 7 i.e Smt. Rukmini, Smt. Muktabai, Sri. Tukaram, Smt. Savitri, Sri, Jnaneshwar are the children of appellant Smt Ningavva Parashuram Tailor and Respondent No. 2 Smt Tulsabai Parashuram Tailor claims to be second wife of late Parashuram Tailor and Respondent No. 1 Sri. Pundlik claims to be son of Respondent No. 2 Smt Tulsabai and another daughter of the appellant Smt. Sumitra Kom Tukaram Rekade and her husband have also expired and they have got two sons and one daughter by name Kumar. Sairaj, Kumari Savita and Kumar Sunil. The appellant submitted application to delete the names of deceased Iravva Hanumant Tailor and Parashuram Hanumant Tailor and to bring the names of herself and her children respondent No. 3 to 7 as well as three grandchildren namely Kumar. Sairaj, Kumari Savita and Kumar Sunil. Mutation entry No. 5/2015-16 was processed by Village Accountant Gundolli while processing the mutation entry he committed the error by including the names of respondent No. 1 and 2. Hence the said mutation entry came to be disputed. Tahasildar Haliyal after hearing the matter passed an order in file No. RTS/Takarari/Viva-5/2016-17 dated: 23-9-2016 reasoning that Hon'ble



Civil Judge (Jr.Dn) Haliyal have passed an order in O.S No. 82/2004 that this case is pending for enquiry in Criminal Miscellaneous Case No. 3/14 and original suit No. 82/2004 is merged with Criminal Miscellaneous Case No. 3/14. Against the order of the Tahasildar Haliyal the appellant filed an appeal before Assistant Commissioner Karwar and Assistant Commissioner Karwar dismissed the appeal conforming the order of Tahasildar Haliyal. Being aggrieved by the order passed by the Assistant Commissioner, Karwar the appellant has preferred this appeal to this court.

**The Advocate for the appellant argued that-**

1. Tahasildar Haliyal and Assistant Commissioner Karwar have failed to note that Respondent No. 1 and 2 do not dispute the relationship of the appellant and her children and grandchildren as the legal heirs of the deceased and therefore ought to have certified the concerned mutation entry subject to necessary modifications to that effect.
2. That the Tahasildar Haliyal and the Assistant Commissioner Karwar have failed to note that only the legal relationship of the respondents with the deceased is disputed by the appellants and as such unless and until the said respondents do not get a decree from the competent Civil Court, their names could not be recorded as the legal heirs of the deceased along with that of the appellants.
3. That there is no need for the appellants to approach the competent Civil Court since their relationship with the deceased is not disputed and they have been declared as the legal heirs of the deceased as per the award in O.S No. 11/2004 and O.S No. 12/2004 dated: 19-6-2004 respectively.
4. That therefore it is just and necessary to record the names of the appellant and her children and the grand children as the only legal heirs of the deceased in the concerned revenue records of the concerned properties.

Hence on these among other grounds, the advocate for the appellant requested to allow the appeal and set aside the order of Assistant Commissioner Karwar and direct Tahasildar Haliyal to effect varasa entry in favour of appellant and respondent No. 3 to 7 and her three grand children.

The respondents were given time to file written arguments but they did not file any written or oral argument in the stipulated time.

**The point for consideration before this Court is-**

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

Ans. In the Affirmative.

On hearing the learned counsel for the appellant and in the background of the lower Court records, it is seen that the suit property Sy No. 97/2 belongs to Iravva Hanumant Tailor mother in law of appellant Smt. Ningavva Kom Parashuram Tailor and Parashuram Hanumant Tailor husband of appellant. Iravva Kom Hanumant Tailor was expired on 1-4-1989 and Parashuram Hanumant Tailor expired in the year 13-9-1999. Respondent No. 3 to 7 i.e Smt. Rukmini, Smt. Muktabai, Sri. Tukaram, Smt. Savitri, Sri, Jnaneshwar are the children of appellant Smt Ningavva Parashuram Tailor and Respondent No. 2 Smt Tulsabai Parashuram Tailor claims to be second wife of late Parashuram Tailor and Respondent No. 1 Sri. Pundlik claims to be son of Respondent No. 2 Smt Tulsabai and another daughter of the appellant Smt. Sumitra Kom Tukaram Rekade and her husband have also expired and they have got two sons and one daughter by name Kumar. Sairaj, Kumari Savita and Kumar Sunil. The appellant submitted application to delete the names of deceased Iravva Hanumant Tailor and Parashuram Hanumant Tailor and to bring the names of herself and her children



respondent No. 3 to 7 as well as three grandchildren namely Kumar. Sairaj, Kumari Savita and Kumar Sunil. Mutation entry No. 5/2015-16 was processed by Village Accountant Gundolli while processing the mutation entry he committed the error by including the names of respondent No. 1 and 2. Hence the said mutation entry came to be disputed. Tahasildar Haliyal after hearing the matter passed an order in file No. RTS/Takarari/Viva-5/2016-17 dated: 23-9-2016 reasoning that Hon'ble Civil Judge (Jr.Dn) Haliyal have passed an order in O.S No. 82/2004 that this case is pending for enquiry in Criminal Miscellaneous Case No. 3/14 and original suit No. 82/2004 is merged with Criminal Miscellaneous Case No. 3/14. Against the order of the Tahasildar Haliyal the appellant filed an appeal before Assistant Commissioner Karwar and Assistant Commissioner Karwar dismissed the appeal conforming the order of Tahasildar Haliyal. After details scrutiny of the documents it is seen that declaration of legal heirs by Hon'ble Civil Court in O.S No. 11/2004 and in O.S No. 12/2004. As per decree passed by Hon'ble Civil Court Haliyal in O.S No. 82/2004. It is declare that respondent No. 1 and 2 are also legal heirs of Parashuram Hanumant Tailor and the and the suit of the plaintiff in respect of declaring the award (decree) in O.S No. 12/2004 as null and void is hereby dismissed.

As per Hindu Succession Act, 1956 Section 8 the property of a male Hindu dying intestate shall devolve according to the provisions of this chapter. a) *Firstly, upon the heirs, being the relatives specified in class I of the Schedule.* As per Hindu Succession Act, 1956 Section 10 Distribution of property among heirs in class I of the Schedule. *Rule 1 - The intestate's widow or if there are more widows than one, all the widows together, shall take one share. In this case property is distributed among the legal heirs equally.* The contention of the revision petitioner that Respondent No. 1 and 2 are not class I legal heirs of late Parashuram Hanumant Tailor shall be challenged before Civil Court this does not comes under the jurisdiction of Revenue Court.

Hence, I proceed to pass the following order.

**No. RB/RTR/CR/05/2019-20**

**Date: 26-08-2019**

**Order**

Appeal is allowed. Tahasildar Haliyal is directed to mutate the name of all class I legal heirs of late Parashuram Hanumant Tailor.

(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. Advocate Sri.Prakash B Angadi for information.
2. Assistant Commissioner, Karwar for information and necessary action.
3. Tahasildar Haliyal for information and necessary action with lower court record file No. RTS/Takarari/Viva-5/2016-17 dated: 23-9-2016 page No. 1 to page No.139. and page No. 1 to 467.