

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-09/2017-18



Between

Shri.Mohammed Gouse Nannesab Dundse
R/o Mundgod, Taluk Mundgod.
(Represented through Advocate Sri N.S.Bhat)

....Revision Petitioner

V/s

1. Tahasildar Mundgod.
2. Assistant Commissioner Sirsi.
3. Shri Hazarath Khan M Patan
4. Smt. Maimunnisa Mehboob Ali Patan
5. Shri Shakeel Ahmed Patan
6. Smt Naseema Begum Patan
7. Smt Haseena Begum Miraj
8. Smt Sabeena Begum Miraj
9. Smt Nusrath Begum Khavas
10. Smt. Shakeela Begum Patan.

All are R/o Lakkoli, Taluk: Mundgod.
(Represented through Advocate Sri. N.M. Madiwal)

.... Respondent

Sub: Revision petition filed U/s 136 (3) of Karnataka Land Revenue Act against the order of Assistant Commissioner, Sirsi in file No. RTS/AP/CR/62/15-16 dated 22-05-2017 in respect of mutation entry No. H-6/2012-13.

Preamble:

The instant revision petition has been filed U/s 136(3) of Karnataka Land Revenue Act against the order of Assistant Commissioner Sirsi dated 22-05-2017 in file No. RTS/AP/CR/62/2015-16.

Notices were issued to both parties. The counsel for revision petitioner has filed amended revision petition since proposed Respondent filed memo to implead them.

Brief facts of the case are as hereunder:

The suite land Sy.No.7b/plot39 an extent of 3-0-0 is purchased by the revision petitioner through auction conducted by sale officer Chetana Co-operative Bank Ltd., Sirsi after paying the auction amount of Rs 40,786/-. The sale certificate has been confirmed on 28-5-2005. In the terms of the sale deed the J-Form is issued by sub-registrar office Sirsi and on the basis of J-From mutation entry No. 6/12-13 was processed. Tahasildar Mundgod canceled the mutation entry against this the petitioner preferred an appeal before Assistant Commissioner Sirsi and the Assistant Commissioner Sirsi dismissed the appeal on the grounds that the grant order of original grantee is rejected before the sale deed, hence this is forfeited to Government land. Being aggrieved by this the Revision Petitioner filed an appeal before this court.

The Advocate for the revision petitioner argued that:-

1. The order of the Assistant Commissioner Sirsi is contrary to law and facts of the case.
2. Lakolli village Sy.No. 7B/plot 39 is purchased land by the petitioners after paying the amount of Rs 40786/-, since the original owner of the land

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- Mehboob Ali Hazarath Khan who mortgage his property to Chetana Co-operative Bank Ltd., Sirsi and was defaulter to the Bank.
3. The cancellation of grant of original grantee due to violation of grant conditions was not known to revision petitioner nor to the Bank.
 4. The petitioner has paid the amount of the loan with interest prevailed by the respondent.
 5. It is the prime duty of Revenue department to enter the name of the petitioner in the RTC, since land is in the possession of revision petitioner.
 6. Respondent No. 2 to 10 are not the legal heirs of the original grantee and they do not have any rights in the property.

Hence on these among other grounds, the advocate for the revision petitioner requested to allow the revision petition.

The advocate for respondents has argued that:-

1. This land Sy.No. 7b/plot 39 is granted to my husband and name of my husband is entered as per mutation entry No.682 and this land is cultivated by us and we are enjoying the property.
 2. That the loan availed from Chetana Co-operative bank and paid all dues to the bank. The Chetana co-operative Bank without issuing the notice they have conduct the auction. The appellant Mohammed Gouse Nannesab Dundase who is the bidder, purchase the land. Tahasildar mundgod rejected the appellant mutation entry and confirmed grantees name in the RTC.
 3. That the Assistant Commissioner order to enter the as forest in the RTC is illegal and inconvenience to the respondents and liable to be set aside.
- Hence, he prayed for dismissal of the revision petition.

The point for consideration before this Court is-

1. Whether there are sufficient grounds to allow the revision petition?
- Ans. In the Negative.

On perusal of the records written argument of both parties it is pertinent to note that the disputed land Sy.No.7b/plot No.39 was granted to one Mehboob Ali Hazrath Khan on the basis of Kayam Lagani as per then Deputy Commissioner order No.Kamsha:Aranya:viva:13:94-95 dated 28-06-1994. At present land is in the possession of the respondents. As per the sale certificate issued by recovery officer Deputy Registrar Co-operative Society land was mortgage by original grantee Mehboob Ali Hazrath Khan and he failed to pay the loan amount and this land was purchased by the Mohammed Gouse Dundse in the auction after paying amount of Rs.40,786/-. After the scrutiny of the entire materials in records, the procedure of auction of land taken place is itself illegal. The financial institution would have approached Revenue Dept. before auction or before confirming the bid as per the provisions laid down in the Karnataka Land grant rules 1969. But in the instant case the financial institution has violated all provisions of law and further proceeded to confirm the title in favour of the Revision Petitioner which lacks legal sanctity. As per Rule 9 (2) (a) of Karnataka Land Grant Rules 1969. " The following shall not be regarded as alienation for purpose of sub rule (1)

- (a) Mortgage of the land in favour of State Government or a Co-operative Society or the Indian Coffee Board or a Scheduled Bank or the Agricultural Refinancing Corporation or the Karnataka State Agro Industries Corporation or loans obtained for improvement of such land or for buying cattle or agricultural implements for the cultivation of such land

Therefore, this court feels is that father of the respondent had taken the loan amount of Rs.11,662/- as agricultural loan and it is not proper to transfer the property in the name of appellant as per sale certificate issued by sale officer Chetana Co-operative Bank Ltd., Sirsi dated: 28-05-2005. The financial institution would have approached Revenue Department before auction or before confirming the bid as per the provisions laid down in the Karnataka Land grant rules 1969. But in the instant case the financial institution has violated all the provisions of the law and further proceeded to confirm the title in favour of the Revision petitioner which lacks legal sanctity. Hence, I proceed to pass the following order.

No. RB/RTR/CR-9/2017-18

Date: 26-08-2019

Order

Revision petition 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. Advocate Sri. N.S. Bhat and Sri N.M. Madiwal for information.
2. Assistant Commissioner, Sirsi for information and necessary action with Lower court file no. RTS/AP/CR/62/15-16 dated 22-5-2017 page No. 1 to page No.30.
3. Tahasildar Mundgod for information and necessary action.