

IN THE COURT OF DEPUTY COMMISSIONER UTTARA KANNADA KARWAR

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

No.RB/TECH/APPEAL/CR-11/2019-20

Between

1. Smt. Jayanti W/o Vinayak Gurjar
R/o Amadalli, Karwar
2. Smt. Shubhangi Vinayak Gurjar
R/o Bicholi, Goa
3. Sri. Ganapati Vinayak Gurjar
R/o Pali, Sattari, Goa
4. Shri. Nagesh Vinayak Gurjar
R/o Amadalli, Taluk Karwar
(Represented through Advocate Sri. P.B. Tandel)



Appellants

V/s

1. Smt. Leelavati Mahadev Naik
R/o Amadalli, Taluk Karwar
2. The Technical Assistant to D.C. & Ex-Officio
Deputy Director of Land Records, Karwar
3. The Assistant Director of Land Records
Karwar.
(Represented through Advocates Sri. V.G. Argekar
& C. D. Naik)

.... Respondents

Sub: Appeal filed U/s 50 of Karnataka Land Revenue Act 1964 against the Hissa Phodi in Sy.No. 297 of Amadalli village in Karwar Taluk.

Preamble:

The instant appeal has been filed U/s 50 of Karnataka Land Revenue Act 1964 against the order of DDLR Karwar in file No. ಕಂ/ಕಾಂ/ಭೂಮಾಪನ/ ಭೂದಾಖಲೆ/ಮೇಲ್ಮನವಿ/17-18 dated 27-09-2018. Notices were issued to both the parties.

Brief facts of the case are as hereunder:

The appellants filed appeal before the DDLR against the Hissa Phodi made in Sy.No. 297 of Amadalli village Karwar taluk as the Hissa map does not tally with possession and DDLR vide his order dated 27-09-2018 dismissed the appeal. Being aggrieved by the order, the appellants filed this instant appeal before this Court.

The advocate for appellants argued that-

1. Late Mahadev Mahabal Naik the husband of respondent No. 1 had purchased the suit land. During "Phodi Mukta Grama" campaign, the said land was bifurcated as Sy.No. 297/2. In this process, the ADLR has left an area of 0-1-0 on the eastern side of the appellant and numbered as Sy.No. 297/3. The land retained by the appellants on the western side of the sold land is numbered as Sy.No. 297/1. As per the sale deed the appellants have not retained any portion of the land on the eastern side of the land sold to respondent No.1.
2. The order passed by DDLR is contrary to law and facts of the case.
3. DDLR mechanically passed the order and has not applied his mind.
4. ADLR has done the phodi arbitrarily without taking into the boundaries mentioned in the sale deed.
5. The retention of 0-1-0 land in a triangle shape and the appellants cannot make use of the said strip. It shows that the phodi is done unscientifically.

Hence, on the above among other grounds, the appellants have requested to allow the appeal.

The advocate for respondents argued that-

1. The appeal is contrary to law and facts of the case.

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2. Respondent No. 1 purchased the suit land from appellant through registered sale deed dated 02-12-2004.

3. The respondent No. 1 husband had purchased the suit property and since 1991 they have been enjoying the suit property. They had also constructed a house and compound wall. Appellants husband has sold the suit property to respondent No. 1 husband. But after the death of her husband, she filed O.S. No. 37/1997 and O.S. No. 126/2001 against Mahadev Naik before Civil Court and as per the decision of the Civil Court, appellant himself registered the sale deed in the name of respondent.

4. As per the order passed by the Civil Court in O.S. No. 37/1997 and O.S. No. 126/2001, the respondent No. 1 is enjoying his rights and interest over the suit land. So the revenue Court has no power to change the possession.

Hence, on the above among other grounds, the respondents have requested to dismiss the appeal.

On perusal of the lower Court records and the order of DDLR, it reveals that the husband of the appellant No. 1 has sold the suit property to the husband of respondent No. 1. After the death of husband, the appellant has filed O.S. No. 37/1997 and O.S. No. 126/2001 against the respondent No.1 regarding the suit land and as per the order of the Civil Court sale deed has been registered and the boundary mark was fixed. The Hissa map was prepared as per the check bandhi shown in the sale deed. DDLR explained this matter in the order. So it is not necessary to interfere with the order of DDLR Karwar. Hence, the following order:

No. RB/TECH/APPEAL/CR-11/2019-20

Date: 01-02-2021

Order

Appeal is dismissed. The order of DDLR No. ಕಂ/ಕಾಂ/ಭೂಮಾಪನ/ಭೂದಾಖಲೆ/ಮೇಲ್ಮನವಿ/17-18 dated 27-09-2018 is upheld.

(Order dictated to the Stenographer, got computerized, verified and pronounced in open court on 01-02-2021)



**Deputy Commissioner,
Uttara Kannada, Karwar.**

Copy to:-

1. Advocates Sri. P.B. Tandel, Sri. V.G. Argekar & C.D. Naik for information.
2. Deputy Director of Land Records, Karwar for information and necessary action with Lower court file no. ಕಂ/ಕಾಂ/ಭೂಮಾಪನ/ ಭೂದಾಖಲೆ/ಮೇಲ್ಮನವಿ/17-18 dated 27-09-2018 page No. 1 to page No. 150.
3. Tahasildar Karwar for information and necessary action.

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