

COURT OF DEPUTY COMMISSIONER UTTARA KANNADA KARWAR

Present: Dr. Harish Kumar K., I.A.S.

Deputy Commissioner,
Uttar Kannada, Karwar.

No. RB/RTR/CR/12/2019-20

Between

1. Ibrahim Khan Wallad Abdul Majeed Khan by his LRs
 - a) Smt. Bibi Sahinabi Kom Ibrahim Khan
 - b) Sri. Alikhan Ibrahim Khan
 - c) Sri. Rafiqkhan Ibrahim Khan
 - d) Sri. Abdulkarim Khan Ibrahim Khan
 - e) Sri Irashad Khan Ibrahim Khan
 - f) Smt. Jainnuddin Kom Usman Sab D/o Ibrahim KhanAll are R/o Magod in Honnavar Taluka
(Represented through Advocate Sri. A.M. Shirwadkar).....**Revision Petitioners**

V/s

1. Khan Jafar bin Since deceased by his LRs
 - a) Bibi Sakhinabi W/o Jaffar Khan
 - b) Ashraf Khan S/o Jaffar Khan
 - c) Anvar Khan S/o Jaffar Khan
 - d) Hasham Khan S/o Jaffar Khan
2. Khan Ali Bin Idrus
3. Khan Hasan Bin Idrus
4. Abdul Zabbar Khan, Khan Wallad Mohamood Khan,
Since deceased by his LRs
 - a) Smt. Bibi Nasimabi W/o Abdul Zabbar Khan
 - b) Nazir Khan Wallad Abdull Zabbar Khan
 - c) Shafi Khan S/o Abdull Zabbar Khan
 - d) Ismail Wallad Abdul Zabbar Khan
5. Smt. Fatima Kom Hameed Khan
6. Akbbar Mohamood Khan
Since deceased by his LRs
 - a) Smt. Bibi Janamunnisa W/o Akbar Khan
 - b) Anis Khan Wallad Akbar Khan
 - c) Hammeed Khan Wallad Akbar Khan
 - d) Tabrej Khan Wallad Akbar Khan
 - e) Sattar Khan Wallad Akbar Khan
 - f) Haleem Khan Wallad Akbar Khan
7. Smt. Tayira Kom Yakub Sab
Since deceased by LRs.
 - a) Zia S/o Yakub Sab
R/o Magod, Kuchhodi, Taluk Honnavar
 - b) Sayeed S/o Yakub Sab
R/o Magod, Kuchhodi, Taluk Honnavar
8. Rashidabi Kom Hussien Khan
9. Smt. Shakinabi Kom Jaffar Khan
10. Smt. Kathija Kom Sattar
Since deceased by LRs
 - a) Nissar S/o Sattar
R/o Magod, Kuchhodi, Taluk Honnavar
 - b) Samivulla S/o Sattar
R/o Magod, Kuchhodi, Taluk Honnavar
11. Smt. Shakirabi Bin Mohamood Khan
12. Abdul Quaam Bin Gani Khan
13. Rahiman Khan Bin Budan Khan
14. Isub Khan Bin Budan Khan
15. Bahadoor Khan Bin Budan Khan
Since deceased by his LRs
 - a) Smt. Bibi Kom Budan Khan
 - b) Hassan Khan Wallad Budan Khan
 - c) Fayaz Khan Wallad Budan Khan
 - d) Rizwan Khan Wallad Budan Khan
 - e) Ajfal Khan Wallad Budan Khan



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- f) Arif Khan Wallad Budan Khan
j) Samad Khan Wallad Budan Khan
16. Inus Khan Bin Budan Khan
17. Ameenar Khan Bin Budan Khan
18. Zaibabi Kom Kashim Sab
19. Smt. Jaidabi Kom Gafar Khan
20. Smt. Ranibi Kom Ibrahim Sab
21. Smt. Meharunnisa Kom Karim
22. Smt. Chand Bibi Kom Kashim Saheb
23. Smt. Zeenath Kom Rehaman Sab
24. Ayub Bin Afan Khan
Since deceased by his LRs
a) Smt. Bibi Kulasumbi W/o Ayub Khan
b) Alfah Khan Wallad Ayub Khan
c) Majeed Khan Wallad Ayub Khan
25. Khan Usman Bin Asadulla
Since deceased by his LRs
a) Imran Khan Wallad Usman Khan
b) Asadulla Khan Wallad Usman Khan
26. Adam Khan Bin Asadulla
27. Khan Abdul Gaffer Bin Asadulla
Since deceased by his LRs
a) Smt. Bibi Jubedabi W/o Abdul Gafar Khan
b) Khauam Khan Wallad Abdul Gafar Khan
c) Manjur Noman Khan Wallad Abdul Gafar Khan
28. Husain Khan Bin Majid Khan
29. Jamil Khan Bin Kashim Khan
30. Mohamood Aslam Kashim Khan
31. Mohamood Azmal Kashim Khan
32. Mohammod Iqbal Kashim Khan
33. Mohammod Khalid Kashim Khan
34. Bebi Balikish Isub Khan
Since deceased by LRs
a) Ankram S/o Isub Khan
R/o Kollegadde, Magod, Taluk: Honnavar
b) Nasir Khan S/o Isub Khan
R/o Kollegadde, Magod, Taluk: Honnavar
35. Farzanbi Kom Isbub Khan
36. Asimabi Kom Latif Sab
Since deceased by LRs
a) Fazal S/o Latif Sab
R/o Magod, Kuchhodi, Taluk Honnavar
b) Fowzia D/o Latif Sab
R/o Magod, Kuchhodi, Taluk Honnavar
c) Shakira D/o Latif Sab
R/o Magod, Kuchhodi, Taluk Honnavar
37. Smt. Tasavar Khan Kom Asifulla
38. Aajidabi Kom Kashim Khan
Since deceased by LRs
a) Jamal Khan S/o Kashim Khan
R/o Upponi, Basavanabetta, Taluk Honnavar
b) Aslam Khan S/o Kashim Khan
R/o Upponi, Basavanabetta, Taluk Honnavar
39. Ramijabi Kom Bashir Khan
40. Smt. Yasir Khan Bin Bashir Khan
41. Mohammeduvel Bin Bashir Khan
Minor by mother Ramaji Yane Ramijabi
42. Manidabi Bin Bashir Khan
Minor by mother Ramaji Yane Ramijabi
43. Rafiyaji Bin Bashir Khan
Minor by mother Ramaji Yane Ramijabi
44. Mohammod Khan Wallad Abdul Majeed Khan
Since deceased by his LRs
a) Smt. Bibi Mariyambi W/o Mahoomad Khan



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- b) Kashim Khan S/o Mohamood Khan
 c) Akbar Khan Wallad Mohamood Khan
 d) Mathim Khan Wallad S/o Mohamood Khan
45. Latif Khan Wallad Abdul Majeed Khan
 Since deceased by his LRs
 a) Smt. Bibi laishabi Kom Latif Khan
 b) Altaf Khan Wallad Latif Khan
 c) Pharuk Khan S/o Latif Khan
 d) Hasan Khan Wallad S/o Latif Khan
46. Bhanabi Kom Abdul Karim Sab
 Since deceased by her LRs
 a) Adam Khan S/o Abdul Karim Sab
 R/o Magod, Kuchhodi, Honnavar
47. Alambi Kom Abbu Saliya
 48. Sharifabi Kom Usman Khan
 All are major resident of Magod, Taluk Honnavar
49. Tahasildar, Honnavar
 50. Asst. Commissioner, Bhatkal Sub Division, Bhatkal
 51. Sri. Imitiyaz Khan Ibrahim Khan
 52. Smt. Jakirbi Kom Adam Sab
 53. Smt. Shagutabi Kom Raju Divanale
 Respondent No. 51 to 53 are the legal heirs of
 original appellant Ibrahim Khan,
 R/o Magod village Honnavar Taluka
 Represented through Advocate Sri. M.L. Naik,
 J.M. Mirashi V.M. Kuvalekar & Others)



.... Respondents

Sub: Revision Petition filed U/s 136 (3) of Karnataka Land Revenue Act 1964 against the order of Assistant Commissioner, Bhatkal in file No. RTS/AP/SR/40/2016-17 dated 08-03-2018.

Preamble:

The instant revision petition has been filed U/s 136 (3) of Karnataka Land Revenue Act 1964 against the order of Assistant Commissioner, Bhatkal in file No. RTS/AP/SR/40/2016-17 dated 08-03-2018.

Notices were issued to both the parties. Petitioners and respondents entered appearance through their counsel.

Brief facts of the case are as hereunder:

That M.E. No. 5/2014-15 based on judgement and decree in O.S. No. 280/1960 in respect of the properties bearing Sy.No. 1/1, 1/2, 1/3, 2/1, 2/2, 2/3, 2/4, 2/5, 2/6, 2/7, 2/8, 3/1, 3/2, 3/3, 3/4, 3/5, 3/6, 3/7, 22/1, 22/2, 22/3, 22/4, 22/5, 22/6, 22/7, 22/8 & 22/9 in the name of the petitioners was later cancelled by the Tahasildar on the basis of the objections filed by respondent No. 1 to 48. This order of Tahasildar was challenged by the petitioners before the Assistant Commissioner Bhatkal. But the appeal was dismissed by upholding the order of the Tahasildar.

Being aggrieved by the order of the Assistant Commissioner, the revision petitioner preferred revision petition before this Court on various grounds.

The Advocate for the petitioner argued that-

1. The impugned order passed by the Assistant Commissioner is contrary to law and true facts of the case.
2. The Assistant Commissioner has not appreciated the factual matrix in proper perspective.
3. The Assistant Commissioner ought to have allowed the appeal as the mutation entry was made on the basis of judgement and decree in O.S. No. 280/1960.

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4. The Assistant Commissioner has failed to note that the revenue courts are bound to make entries based on the judgement and decree of Civil Court.

Hence on these among other grounds, the advocate for the revision petitioner requested to allow the revision petition in the interest of justice and equity.

The point for consideration before this Court is-

1. Whether there are sufficient grounds to interfere with the impugned order passed by the Assistant Commissioner Bhatkal?

Ans. In the Negative.

On perusal of the impugned order in the background of the documents on record, it is found that the disputed ME No. 5/2014-15 was entered based on the judgement and decree in O.S. No. 280/1960. Admittedly, the suit was for partition of immoveable properties. In such suits after passing preliminary decree, final decree proceedings should be initiated by the plaintiffs therein. But in the case on hand, there is nothing in the records to show about either final decree proceedings or execution of the decree. That being so, the Tahasildar is justified in cancelling the ME No. 05/2014-15 and Assistant Commissioner is further justified in dismissing the appeal. There are no valid grounds to allow the appeal. Hence, I proceed to pass the following order:

No. RB/RTR/CR/12/2019-20

Date:01-02-2021

Order

Revision petition is dismissed. The order dated 08-03-2018 passed by Assistant Commissioner, Bhatkal is upheld.

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



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

Copy to:-

1. Advocates Sri A.M. Shirwadkar, Jyoti Mhasani, M.L. Naik & Others for information.
2. Assistant Commissioner, Bhatkal for information and necessary action with Lower court file no. RTS/AP/SR-40/2016-17 dated 08-03-2018 page No. 1 to page No.88.
3. Tahasildar Bhatkal for information and necessary action.

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