

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-14/2019-20

Between

Shri. Manjunath Nagappa Naik
R/o Kotebagilu, Shirali
Taluk Bhatkal.
(Represented through Advocates Sri. N.S. Bhat)

V/s

1. Deputy Director of Land Records, Karwar
2. The Assistant Director of Land Records, Bhatkal
3. Shri. Manjunath Dodtamma Naik
Kotebagilu, Shirali, Taluk Bhatkal.
4. Smt. Parvati Kom Nagappa Naik
5. Shri. Subray Shaniyar Naik
6. Shri. Vasu Krishna Naik
Kotebagilu, Shirali, Taluk Bhatkal.
(Represented through Advocate Sri. N.M. Madival)



Sub: Appeal filed U/s 50 of Karnataka Land Revenue Act 1964 against the Hissa Phodi in Sy.No. 844A of Shirali village in Bhatkal 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. 30/200/ಭೂಮಾಪನ/ಭೂವಾಳುನಿ/ಮೇಲ್ವಿನ್ಯಾಸ/82/18-19 dated 13-11-2019. Notices were issued to both the parties.

Brief facts of the case are as hereunder:

The appellant and the respondents are adjacent land owners of the suit land. The respondent No. 3 filed appeal before DDLR against the Durasthi Phodi done by ADLR Bhatkal and DDLR Karwar vide his order dated 13-11-2019 upheld the appeal and order for re-durasthi of phodi. Being aggrieved by the order, appellant filed this instant appeal before this Court.

The advocate for appellants Orally argued that-

1. Sy.No. 844A of Shirali village was sub-divided into 7 hissass. But due to non-availability of Hissa map, the respondent No. 3 filed appeal before DDLR Karwar and DDLR upheld it.
2. But without considering the facts of the case, DDLR upheld the appeal.
3. The suit land is tenanted land and the occupancy right was conferred by the Land Tribunal Bhatkal. So the Land Tribunal only has to provide the Hissa map.
4. The reasons mentioned in the impugned order do not pertain to this case. The impugned order causes great loss to the appellant. The survey Authority has no power to intervene in the matter regarding the area mentioned in the RTC. So the order passed by the DDLR is not as per Rule.

Hence, on the above among other grounds, the appellant has requested to allow the appeal.

The advocate for respondents argued that-

1. DDLR has passed the order after verifying the documents.
2. The respondent No. 3 owned an extent of 0-25-0 in Sy.No. 844A/4 of Shirali-II village which is a tenanted land. In respect of respondent No. 3 area shown in the respective RTC as 0-25-0. But in the KDT (Khayam Dhara Takte) it is shown as 0-9-0.

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3. In the same way, there is difference between the area shown in the RTC and KDT in respect of the appellant and other respondents. In the KDT hissa No. 6 & 7 are shown without owners. Thus the actual enjoyment of area and PT sheet are not tallied.

4. The PT Sheet earlier prepared by the ADLR is not tallied with the actual enjoyment of their property. So respondent No. 3 has filed an appeal before DDLR Karwar. After verifying all the documents, DDLR directed the ADLR to conduct fresh survey after giving notice to all the land owners mentioned in the RTC. So it causes no harm to the appellant.

5. The DDLR passed the order after going through the Land Tribunal order, RTC and KDT documents. The appellant has not given any proper grounds in the appeal. The appellant filed appeal on the personal gurge.

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

On perusal of the lower Courts records and the documents available in the case it reveals that the suit land is a tenanted land and as per the phodi, Sy.No. 844A of Shirali II village was divided into 7 hissass. It is evident from the records that there is difference between the areas shown in the RTC and KDT of the suit land. DDLR directed the ADLR to make phodi Durasthi after going through the RTC and considering the rights and possession (wahiwati) of the land owners. DDLR has described the matter in detail. So it is not necessary to interfere with the order of DDLR. Hence, the following order:

No. RB/TECH/APPEAL/CR-14/2019-20

Date:01-02-2021

Order

Appeal is dismissed. The order of DDLR No. ಕಂ/ತಾಂ/ಭೂಮಾಪನ/ಭೂವಾಳುನಿ/ಮೇಲ್ಕನವಿ/82/18-19 dated 13-11-2019 is upheld.

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



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Deputy Commissioner,
Uttar Kannada, Karwar.

Copy to:-

1. Advocates Sri. N.S. Bhat and N.M. Madival for information.
2. Deputy Director of Land Records, Karwar for information and necessary action with Lower court file no. ಕಂ/ತಾಂ/ಭೂಮಾಪನ/ ಭೂವಾಳುನಿ/ಮೇಲ್ಕನವಿ/82/18-19 dated 13-11-2019 page No. 1 to page No. 76.
3. Tahasildar Karwar for information and necessary action.

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