

IN THE COURT OF DEPUTY COMMISSIONER UTTARA KANNADA KARWAR

Present: Sri. S S Nakul, I.A.S
Deputy Commissioner,
Uttar Kannada, Karwar.

No. RB/RTR/CR-03/16-17



Between

1. Smt. Ramabai W/o Venkatesh Naik
R/o Baigarkeri, Haldipur, Tq: Honnavar
(Represented through Advocate Sri. M.L. Naik)

.... Revision Petitioners

V/s

1. Tahashildar Honnavar
2. Revenue Inspector, Honnavar
3. Village Accountant Navilgon
4. Sri K.P Shankar
R/o Navilgon Tq: Honnavar
5. Smt. Usha W/o Vishnu Hegde
R/o Kavalakki Tq: Honnavar
6. Sri Ganapati Subraya Bhat Agni
R/o Subramanya Nagar, Navilgon Tq: Honnavar
7. Smt. Sarswati W/o Sadanand Hegde
R/o Raychitte, Navilgon, Tq: Honnavar
8. Sri. Ganapati Shivram Hegde
R/o Hindmane, Kharva, Tq: Honnavar
9. Smt. Vasanti @ Lata Vishnu Beerakodi
R/o Subramanya Nagar, Navilgon, Tq: Honnavar
10. Sri Rama Yesu Deshbhandari
R/o Manaki, Tq: Kumta
11. Smt Sharada W/o Venkatraman Bhat
R/o Subramanya Nagar, Navilgon, Tq: Honnavar
12. Sri. Venkatesh Manjunath Naik
R/o Baigarkeri, Haldipur, Tq: Honnavar
13. Sri Ashok Ramkrishna Bhat
R/o Navilgon, Tq: Honnavar
14. Sri Vishnu Ganesh Hegde
R/o Kavalakki, Tq: Honnavar
(Represented through Advocate Sri. ~~D.R.~~ Bhat)

NS.

.... Respondent

Sub: Revision petition filed u/s 136(3) of KLR Act 1964 against the Order of Assistant Commissioner, Bhatkal No. RTS-AP-SR-66/13-14 dated: 24-03-2016 relating to Mutation Entry No. T3/2012-13 dated 16-07-2012 in respect of Sy. No.457A an extent of 27-9-0(A-G-A) of Navilgon village in Honnavar Taluk

Preamble:

The instant revision petition has been filed against the order of Assistant Commissioner, Bhatkal No. RTS-AP-SR-66/13-14 dated: 24-03-2016. Notices were issued to both parties.

The brief facts of the case are as follows:

The suit property Sy. no. 457A total extent 27-9-0 (A-G-A) kharab area 2-14-0 (A-G-A) and actual extent 24-35-0 (A-G-A) of Navilgon village in Honnavar Taluka out of which the revision petitioner claims that he has purchased an area 5-14-0 from previous owners and he also purchased an extent of land 0-20-0 (A-G-A) in S.y No. 457B of Navilgon Village as per registered sale deed dated: 22-9-2007. This land was sub divided by Tahasildar Honnavar as per DDLR Uttara Kannada

Karwar order No. ಕಂ/ತಾಂ/ಭೂಮಾಪನಾ/ಭೂದಾಖಲೆ/ಮೇಲ್ಕನವಿ/52/2009-10 Dated: 22-04-2010. per this order Mutation Entry No. 77/2009-10 was done. During the time of mutation entry instead of mentioning the name of revision petitioner to the kuski land of 5-14-0 (A-G-A) only an extent of 5-2-0 (A-G-A) was mention. The NA land extent of 0-20-0 (A-G-A) was mention correctly. In this regard the for correction of RTC revision petitioner filed an application to Tahasildar Honnavar. Tahasildar Honnavar replied stating to prefer appeal to Assistant Commissioner Bhatkal or to implead in the pending case No. RTS/AP/SR/111/2011-12. The revision petitioner filed an appeal against mutation entry No. 77/2009-10 at Assistant Commissioner Bhatkal. Assistant Commissioner Bhatkal dismiss the appeal as per the order passed in RTS/AP/SR/111/2011-12 since the mutation entry No. 77/2009-10 is already canceled and there is no need to passed order. As per this order mutation entry No. T3/2012-13 dated: 16-07-2012 and mutation entry No. T10/2012-13 dated: 28-07-2012 was mutated. Against this the revision petitioner filed an appeal before to Assistant commissioner Bhatkal. After hearing the case Assistant Commissioner, Bhatkal in his order date 24-03-2016 dismissed. Being aggrieved by this order the revision petitioner filed the revision petition before this court.

The advocate for the appellant argued that

1. The Assistant Commissioner, Bhatkal failed to understand the grievance of the appellant and he has shrink his responsibility stating there was already order passed by Assistant Commissioner Bhatkal.
2. Mutation Entry No. T3/2012-13 is quite contrary to law, facts of the case, as such the extent of land in the record of rights is to be corrected in accordance with the Registered sale deed dated: 21-01-2006.
3. Tahasildar Honnavar, Revenue Inspector Honnavar and Village accountant Navilgon failed to note that the registered sale deed is document of title and extent is to be mentioned in accordance with the sale deed.
4. The Respondent No.1 to 3 i.e. Tahasildar Honnavar, Revenue Inspector Honnavar and Village accountant Navilgon failed to note that in in conformity with the 'J' Form the extent is to be mentioned in the record of rights.
5. The Respondent No.1 to 3 i.e. Tahasildar Honnavar, Revenue Inspector Honnavar and Village accountant Navilgon without any reason reduce the extent which is contrary to law and facts.
6. The Respondent No.1 to 3 i.e. Tahasildar Honnavar, Revenue Inspector Honnavar and Village accountant Navilgon failed to note the Law applicable to the facts of the case.

Hence he requested to allow the revision petition and set-aside the order of the Assistant Commissioner, Bhatkal dated: 24-03-2016,

The advocate for the respondent argued that

1. The appeal filed by the appellant is quite contrary to law and true facts of the and deserves to be dismiss.
2. Mutation Entry No.T3/2012-13 dated:16-07-2012 was mutated as per the order passed by DDLR Karwar which is undisputed. Revision petitioner and her husband while purchasing the land Sy.No.457A, at the time of registration did not marked the boundary of the purchase land. With the attention of marking of boundary the revision petitioner and respondents filed appeal before DDLR Karwar and DDLR Karwar order No. ಕಂ/ತಾಂ/ಭೂಮಾಪನಾ/ಭೂದಾಖಲೆ/ಮೇಲ್ಕನವಿ/52/2009-10 Dated: 22-04-2010 was passed with the consensus of revision petitioner, husband of the revision petitioner and all 12 Respondents.

3. As per the order of the DDLR Karwar the Sy.No 457A was subdivided.
4. S.y No 457A total extent of 27-9-0(A-G-A) kharab area 2-14-0 (A-G-A) and actual extent 24-35-0 (A-G-A) of Navilgon village out of which an area of 4-8-0 (A-G-A) was purchase by Respondent No.5 Usha Vishnu Hegde, an area of 4-14-8 (A-G-A) was purchase by Ganapati Subray Bhat Agni Respondent No.6 as per registered sale deed dated: 26-10-2005. Respondent No.10 Shri Rama Yesu Deshbhandari purchased an area of 2-0-0(A-G-A) As per Registered sale deed dated: 24-09-2001. Respondent No.11 Smt. Sharadha Venkatraman Bhat has purchase extent of 0-2-0 (A-G-A) as per gift-deed and Respondent No.14 Shri Vishnu Ganesh Hegde has purchased an area of 0-37-8 (A-G-A) as per registered sale deed.
5. Revision petitioner purchase the suit land from previous owner Smt Vidya vinod Bhat as per registered sale deed dated: 21-01-2006. During the time of sale deed 11-E sketch was prepared. Before purchasing the land by revision petitioner the total extent of land was 20-13-0 (A-G-A) and the remaining extent of 4-22-0 was sold but at the time of effecting the mutation entry by mistake an area was mentioned as 5-14-0 (A-G-A). There was mismatch in the RTC column No.3 and 9. Taking consensus of all respondents and revision petitioner the Hissa Form No XII was mutated.
6. Revision petitioner did not confirm the exact extent of the survey no. 457 at the time of registration of sale deed. The respondents are not responsible for not mentioning of correct extent of purchased land at the time of registration.
7. The respondent No 10 Shri Rama yesu Deshbhandari and respondent No. 9 Smt Vasanti Lata Vishnu Birkodi has filed suit before Hon'ble Civil Court in O.S.No. 10/2014 is pending before the court. Shri Ganapati subray Bhat Agni has produced all registered sale deeds with 11-E sketch and filed an appeal for survey the suit land Sy No. 457A by civil court order.
Hence he requested to dismiss the revision petition.

After perusal of the lower court records and written argument of both parties it reveals that the suit property Sy. no. 457A total extent 27-9-0 (A-G-A) kharab area 2-14-0 (A-G-A) and actual extent 24-35-0 (A-G-A) of Navilgon village in Honnavar Taluka out of which the revision petitioner claims that he has purchase an area 5-14-0 from previous owners and he also purchase an extent of land 0-20-0 (A-G-A) in S.y No. 457B of Navilgon Village as per registered sale deed dated: 22-9-2007. This land was sub divided by Tahasildar Honnavar as per DDLR Uttara Kannada Karwar order No. ಕಂ/ತಾಂ/ಭೂಮಾಪನಾ/ಭೂದಾಖಲೆ/ಮೇಲ್ಮನವಿ/52/2009-10 Dated: 22-04-2010. As per this order Mutation Entry No. 77/2009-10 was done. During the time of mutation entry instead of mentioning the name of revision petitioner to the kuski land of 5-14-0 (A-G-A) only an extent of 5-2-0 (A-G-A) was mention it was mentioned 4-8-0 and N.A land extent of 0-20-0 (A-G-A) was mention correctly. In this regard the for correction of RTC revision petitioner filed an application to Tahasildar Honnavar. Tahasildar Honnavar replied stating to prefer appeal to Assistant Commissioner Bhatkal or to implead in the pending case No. RTS/AP/SR/111/2011-12. The revision petitioner filed an appeal against mutation entry No. 77/2009-10 at Assistant Commissioner Bhatkal. Assistant Commissioner Bhatkal dismiss the appeal as per the order passed in RTS/AP/SR/111/2011-12 since the mutation entry No. 77/2009-10 is already canceled and there is no need to passed order. As per this order mutation entry No. T3/2012-13 dated: 16-07-2012 and mutation entry No. T10/2012-13 dated: 28-07-2012 was mutated. Against this the revision petitioner filed an appeal before to Assistant commissioner Bhatkal. After hearing the case Assistant Commissioner, Bhatkal in his order date 24-03-2016 dismissed. The details of the area of Sy.No. 457/A is mentioned below.

Before M.R T3-2012-13				After M.R T3 2012-13			Difference
S.L No	S.No	Name	Area	S.No	Name	Area	
1	457/A	Smt. Ramabai W/o Venkatesh Naik	5-2-0	457/A	Smt. Ramabai W/o Venkatesh Naik	4-22-0	0-20-0 Less
2		Sri K.P Shankar	3-7-8		Sri K.P Shankar	3-7-0	0-0-8 More
3		Usha W/o Vishnu Hegde	3-19-4		Usha W/o Vishnu Hegde	3-30-8	0-11-4 More
4		Ganapati Subraya Bhat Agni	3-19-0		Ganapati Subraya Bhat Agni	3-31-4	0-12-4 More
5		Sarswati W/o Sadanand Hegde	0-1-12		Sarswati W/o Sadanand Hegde	0-1-12	
6		Ganapati Shivram Hegde	2-29-0		Ganapati Shivram Hegde	2-29-0	
7		Vasanti @ Lata Vishnu Beerakodi	1-34-0		Vasanti @ Lata Vishnu Beerakodi	1-34-0	
8		Rama Yesu Deshbhandari	1-34-0		Rama Yesu Deshbhandari	1-34-0	
9		Sharada W/o Venkatraman Bhat	0-2-0		Sharada W/o Venkatraman Bhat	0-2-0	
10		Venkatesh Manjunath Naik	0-20-0		Venkatesh Manjunath Naik	2-0-0	
11		Ashok Ramkrishna Bhat	0-6-0		Ashok Ramkrishna Bhat	0-6-0	
12		Vishnu Ganesh Hegde	0-34-8		Vishnu Ganesh Hegde	0-37-8	0-3-0 More
		Venkatesh Manjunath Naik	0-20-0				
		Smt. Ramabai W/o Venkatesh Naik	0-20-0 NA				
			24-9-0			24-35-0	1-6-8

Further it is finding that revision petition had purchased an extent of 5-14-0 and 0-20-0 from the seller (1) Narayan Ram Hegde, (2) Ishwr Ram Hegde, (3) Subray Ram Hegde GPA holder of Smt Radha Mohan Hegde, (4) Balchandra Ram Hegde (5) Smt Rahda Mohan Hegde (6) Smt Vidhya Vinod Bhat (7) Smt Sandya Ashok Hegde, GPA holder of Smt Vidhya Vinod Bhat and Kumari Medha Mohan Hegde GPA holder Smt Vidhya Vinod Bhat. But while preparing hissa podi the sale deed No.2642/07-08 dated 22-9-2017 was taken into consideration. There is a discrepancy in the area mentioned in the while preparing Phodi Hissa. The disputed P.T.Sheet is rejected and case remanded back to DDLR Karwar for fresh survey and after due process as laid down in the Karnataka Land revenue rules 1966. Hence I proceed to order as follows.

No. RB/RTR/CR-3/16-17

Date: 14-8-2017

Order

Revision petition is partly allowed and case is remanded back to Deputy Director of land records, Uttar Kannada Karwar to pass appropriate order after fresh enquiry.

(Order dictated to the stenographer, got computerized, verified and pronounced in open court on 14-8-2017)



**Deputy Commissioner,
Uttar Kannada, Karwar**

Copy to:-

1. Advocate Sri M.L Naik and Sri.D.R.Bhat for information.
2. Assistant Commissioner, Bhatkal for information and necessary action with Lower court in file No. RTS-AP-SR-66/13-14 dated:24-03-2016 page No.1 to page No.147.
3. DDLR Uttar Kannada Karwar for information and necessary action.