

IN THE COURT OF DEPUTY COMMISSIONER UTTARA KANNADA KARWAR

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

No. RB/Tech Appeal/CR-17/15-16



**Between**

1. Shri Vishnu Narayan Naik  
R/o Near Sri. Vithobha Devastan, Heravatta Kumta
2. Shri Dattatraya Parameshwar Naik  
R/o Jali, Tq: Bhatkal
3. Shri Laxman Masti Naik  
R/o Chitrangi Tq: Kumta  
(Represented through Advocate Sri R. S. Hegde Gali)

.... Appellants

V/s

1. Smt. Devamma Kom Venkataraman Naik  
R/o Hiregutti Tq: Kumta
2. Shri Anand Venkataraman Naik  
R/o, Upparkeri Kumta  
(Represented through Advocate Sri. M.L.Naik)

.... Respondents

**Sub:** Appeal filed u/s 56 of Karnataka Land Revenue Act-1964 against the KJP and PT sheet prepared in respect of Sy no. 17 of Baggon and Sy no. 56/2A, 2B and 2K of Heravatta village in Kumta Taluk.

**Preamble:**

The instant appeal has been filed against the order of Deputy Director of Land Records, Karwar in file no. ಕಂ/ತಾಂ/ಭೂಮಾಪನ/ಭೂದಾಖಲೆ/ಮೇಲ್ಮನವಿ/8/14-15 dated: 19-11-2015. Notices were issued to both parties.

**The brief facts of the case are as follows:**

Revision petitioner no. 1 has purchased an extent of 0-5-10 (A-G-A) in Sy no. 56/2A of Heravatta village in Kumta Taluk. Later he sold an extent of 0-2-4 (A-G-A) to revision petitioner no. 2 i.e, Sri. Laxman Masti Naik. An extent of 0-19-0 (A-G-A) in Sy no. 17 of Baggon village originally belonged to respondent no. 1. The respondent no. 1 alleged that while fixing the boundary between the two villages i.e, Baggon and Heravatta villages. Survey was not done properly, so she filed appeal before DDLR Karwar against the Hissa Form IV 11 12 and PT Sheet prepared by Tahashildar Kumta and DDLR Karwar by his order dated 19-11-2015 allowed the appeal and ordered for re-survey. Being aggrieved by this order the appellants filed the instant appeal before this court.

As per the memo submitted by the Advocate for the appellant the appeal memo is considered as his written argument and it is as follow.

1. The impugned order is illegal and unjust and against to the settled principles of law.
2. The appellant purchased the property through registered sale deed and the 11E map furnished by the appellant was not considered by the lower court.
3. As per the sale deed, phodi was done. No excess land is given to appellant.
4. The appellant sought N.A permission in respect of 0-5-10 (A-G-A) for construction of house. It was not considered by DDLR.
5. The alleged report of ADLR is not as per the actual measurement. and measurement was not done in the presence of the appellants.
6. DDLR has acted beyond his jurisdiction by cancelling the Tippan Map.



7. The civil suit is pending between the parties and interference with the map amounts in using the power of Civil Court. The appellant is being a bonafide purchaser and he cannot be penalized for the wrong act of the vendor.

Hence he requested to allow the appeal by setting aside the order of Deputy Director of Land Records Uttara Kannada, Karwar.

The advocate for the Respondent not produced any written or oral argument. So it has been decided to dispose the case with the records available in the case.

**Question before this court is**

1. Whether the prayer of the revision petitioner can be considered?

Ans:- Affirmative.

On perusal of the lower court records appeal memo and the report submitted by ADLR Kumta reveals that the disputed properties are in between the two villages i.e, Baggon and Heravatta villages of Kumta taluka. ADLR Kumta in his report dated 8-10-2015 clearly mentioned that Baggon village Sy no. 17 an total extent of 0-19-0 (A-G-A) which is divided in three Hissas i.e, Sy no. 17/1 an extent of 0-7-8(A-G-A), Sy no. 17/2 an extent of 0-4-0(A-G-A) and 17/3 an extent of 0-7-8(A-G-A) which tallies in total extent and Heravatta village Sy no. 56 which is south side of Sy no. 17 of Baggon village is divided into 5 hissas and Sy no. 56/1 an extent of 0-11-0(A-G-A), Sy no. 56/2 an extent of 0-19-0(A-G-A) is further divided as Sy no. 56/2A an extent of 0-5-10(A-G-A), Sy no. 56/2B an extent of 0-7-0(A-G-A) and Sy no. 56/2K an extent of 0-7-0(A-G-A), Sy no. 56/3 an extent of 0-11-6(A-G-A). ADLR Kumta has reported that as per Tippam Map of Sy no. 17 of Baggon village is found correct and Sy no. 56 of Heravatta there is difference in Tippans scale and Map in accordance to possession of revision petitioner and respondent. On the basis of the spot inspection report of the ADLR Kumta, Deputy Director of Land Records, Karwar after hearing the matter rightly ordered for re-survey. The appellant stated that civil suit is pending between the parties. But he has not produced any documents.

After careful scrutiny of the material on record it can be said that, there is dispute between the boundaries of two villages i.e. Baggon village and Herwatta village and the boundary of the village Baggon Sy.No.17 is shifted towards the west side of Herwatta village Sy.No. 56 about 5 meters and also according to the Tippam the boundary does not fix towards the southern side of Baggon village Sy. No 17. It is also observed that Sy. No. 56/2A an extent of 0-5-10 land has been converted to non agriculture as per DC order dated: 8-12-2011 and and phodi was done in the year 2013. Map cannot be changed after the conversion of the land. Hence I proceed the following order.

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**Date: 25-09-2017**

**Order**

*g* **Appeal.**

Revision ~~petitioner~~ is allowed. Matter remanded to Deputy Director for Land records, Uttar Kannada, Karwar for resurvey after consideration of original Tippam and fix the boundaries of Baggon and Herwatta village and make phodi according to the rights and wahiwati of the possessor's.

(Order dictated to the Stenographer, got computerized, verified and pronounced in open court on 25-09-2017)

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

**Copy to:-**

1. Advocate Sri. R. S. Hegde Gali & Sri. M. L. Naik for information.
2. Deputy Director of Land Records Uttara Kannada, Karwar for information and necessary action with Lower court file no. ಕಂ/ಕಾಂ/ಭೂಮಾಪನ/ಮೇಲ್ಮನವಿ/8/14-15 dated: 19-11-2015 page No. 1 to page No. 242
3. Tahasildar Kumta for information and necessary action.

