

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-30/2017-18



Between

1. Sri. Dattatreya Venkatraman Hegde
R/o Tagginabalagar Tq:Siddapur
(Represented through Advocate Sri .V.S Hegde H)

.... Revision Petitioner

V/s

1. Assistant Commissioner, Sirsi
2. Tahasildar Siddapur

.... Respondents

Sub: Appeal filed U/s 136(3) of Karnataka Land Revenue Act 1964 against the order of Assistant Commissioner, Sirsi in file No.RRT/Viva/17/2016-17 dated: 03-07-2017.

Preamble:

The Petitioner has filed the instant petition against the order of the Assistant Commissioner, Sirsi dated: 03-07-2017 in file No.RRT/Viva/17/2016-17. Notices were issued to both parties.

The brief facts of the case are as follows:

Instant appeal has been filed by Sri Dattatreya Venkatraman Hegde, Taluk Siddapur against the order of Assistant Commissioner Sirsi No. RRT/Viva/17/2016-17 dated: 03-07-2017 in respect of cancellation of mutation entry No.5/2009-10 of Tagginabalagar village. The suit land of Sri Dattatreya Venkatraman Hegde in Tagginabalagar village in Siddapur Taluka bearing Sy No. 36/1 an extent of 0-9-4 (A.G.A) and 37/4 an extent of 0-2-10 (A.G.A) was forfeited to Government as Sri Dattatreya Venkatraman Hegde was defaulter of Rs. 5,000/- towards electricity bill as per the order of Hon'ble J.M.F.C Court Yellapur in Criminal miscellaneous Case No. 33/06 and as per the order of Assistant Commissioner, Sirsi in file No. RRC/CR/20/10-11 dated: 12-01-2011. Against this order the petitioner filed a petition before Tahasildar Siddapur and Tahasildar Siddapur gave endorsement to the petitioner that restoration of land forfeited to Government does not come under his jurisdiction and intimated the petitioner to appeal before competent authority. Against this the petitioner filed an appeal before Assistant Commissioner, Sirsi and Assistant Commissioner, Sirsi rejected his appeal reasoning that this land was forfeited to Government as per the order of Assistant Commissioner, Sirsi order No. RRC/CR/20/2010-11 dated: 12-01-2011. Once the Assistant Commissioner has made the order to forfeit the land the same order cannot be withdrawn by the same Assistant Commissioner, Sirsi. Being aggrieved by this order the Revision petitioner filed revision before this court.

The advocate for the Revision Petitioner argued that:

1. The entries or reference made under revision are not legal, valid and not maintainable in law. The act of the Revenue that not giving an opportunity of hearing is against the principles of natural justice.
2. Entire approach of the Revenue Authorities in Certifying the entries or reference under revision is erroneous so much so material illegality has been committed.
3. The Revenue Authorities should have further noted that when surety penalty amount is paid and electricity penalty bill was not in existence, removing those references in the Record of rights is the duty of the respondents.

4. The Revenue Authorities should have retained names of the revision petitioner alone in the record of right without mentioning of penalty etc as per the Land Revenue Act. Therefore the rejection of certification of the reference or entry is not only illegal but also perverse.
5. The rejection of reference or removing of entries under revision is without any basis and as such the same is liable to be set aside. The Revenue Authorities have not passed any speaking order before rejection.
6. Revision Petitioner is poor agriculturist. Due to illegal orders of the respondents, petitioner suffered huge loss like government subsidy etc. The rejection under revision is liable to be set aside.

Hence he requested to allow the Revision and set aside the order of Assistant Commissioner Sirsi dated: 03-07-2017 in the interest of justice and equity.

The Respondents side is Government and hence the case was heard on the basis of records.

On perusal of the records and written argument of petitioner it reveals that originally the suit land belongs to the petitioner Sri Dattatreya Venkatraman Hegde. This land was forfeited to Government as Sri Dattatreya Venkatraman Hegde was defaulter of Rs. 5,000/- towards electricity bill as per the order of Hon'ble J.M.F.C Court Yellapur in Criminal miscellaneous Case No. 33/06 and as per the order of Assistant Commissioner, Sirsi in file No. RRC/CR/20/10-11 dated: 12-01-2011. As per the order of Hon'ble J.M.F.C Court Yellapur in Criminal Miscellaneous Case No. 30/06 and 31/06 dated: 9-8-2010 the respondent No.2 therein Sri Dattatreya Venkatraman Hegde has already deposited 25% of the bond amount and therefore keeping the petitions alive will not serve the purpose and hence closed the miscellaneous petitions. The criminal miscellaneous cases No. 32/06 and 33/06 before the Hon'ble J.M.F.C. Court Yellapur were also closed on 29-11-2008 with similar observations. Assistant Executive Engineer HESCOM Siddapur has submitted the NOC to Sri Dattatreya Venkatraman Hegde which shows that no balance payable and also criminal case against the petitioner has been closed. After going through all the documents it is evident that there is no need for the land to be in the name of Karnataka Sarkara and this land Sy No. 36/1 an extent of 0-9-4 (A.G.A) and 37/4 an extent of 0-2-10 (A.G.A) of Tagginabalagar village in Siddapur Taluka may be restored to the petitioner.

Hence, I proceed to pass the following order.

No. RB/RTR/CR-30/2017-18

Date: 26-3-2018

Order

Petition is allowed. Order of the Assistant Commissioner, Sirsi in file No. RRT/Viva/17/2016-17 dated: 3-7-2017 is set aside. Tahasildar Siddapur is hereby directed to restore the said Sy No. 36/1 an extent of 0-9-4 (A.G.A) and 37/4 an extent of 0-2-10 (A.G.A) in the name of petitioner.

(Order dictated to type Stenographer, got computerized, verified and pronounced in open court on 26-03-2018)



**Deputy Commissioner,
Uttar Kannada, Karwar**

Copy to:-

1. Advocate Sri. V.S. Hegde, H. for information.
2. Assistant Commissioner, Sirsi for information and necessary action
3. Tahasildar Siddapur for information and necessary action