

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-31/16-17



Between

1. Smt. Parvati W/o Narayan Nayak
Since deceased by her LRS
1. Sri. Manjunath Narayan Nayak
2. Sri. Ganapati Narayan Nayak
3. Sri. Ashok Narayan Nayak
4. Sri Shankar Narayan Nayak
All are R/o Torke Village, Tq: Kumta
5. Smt Girija W/o Ganapati Nayak
R/o Vasare Tq: Ankola
6. Smt. Radha Bommaya Nayak
Tq: Ankola
7. Smt. Nagaveni Sannatamma Nayak
R/o Torke Village Tq: Kumta.
(Represented through Advocate Sri.S.K. Pawar)

.... Revision Petitioners

V/s

1. Shri.Parameshwar Linganna Nayak
R/o Kenkanishivapura, Tq: Ankola
2. The Manager
Andale Seva Sahakari Bank Ltd,
Andele, Tq: Ankola
(Represented through Advocate Sri. R. V Bhat)

.... Respondents

Sub: Revision Petition filed U/s 136 (3) of Karnataka Land Revenue Act 1964 against the Mutation Entry No. 921/2002 and Mutation Entry No. 5/2003-04 of Kenkanishivapura Village of Ankola Taluk

Preamble:

As per the order of the Hon'ble High Court of Karnataka in W.P No. 49211/2004 dated: 20-12-2006 remanding the matter to the Lower Court, the Tahasildar Ankola after due enquiry, passed the order dated: 30-6-2008 and certified the impugned mutation entry. Against the certification of this mutation entry the revision petitioners filed appeal before Assistant Commissioner, Kumta and the Assistant Commissioner, Kumta by his order dated: 5-11-2016 dismissed the appeal. Being aggrieved by this order the revision petitioners filed the instant revision petition before this court.

The Advocate for the Revision Petitioners argued that:-

1. Smt. Parvati W/o Narayan Nayak is the owner of the suit land and she got right title and interest over the suit land. But the respondent Sri. Parameshwar Nayak claimed the owner of the suit land only by adverse possession of the land. In this regard he filed O.S No. 67/2002 and R.A No. 24/2004 before Hon'ble Civil Court and which got dismissed. Against this he also filed second Appeal RSA No. 6327/2012 before Hon'ble High Court of Karnataka and which was also dismissed on 18-12-2014. Thus the respondent has no right title or interest over the suit land. But the Assistant Commissioner, Kumta without considering all these facts passed the impugned order.

2. Assistant Commissioner, Kumta failed to bring legal heirs of the appellant on records and passed the order against the dead.
3. Assistant Commissioner Kumta has wrongly observed that the appellant and respondents may find out their remedy before civil court.
4. Assistant Commissioner Kumta failed to note that the R.S.A No. 6327/2012 and the application filed for restoration also got dismissed. Thus the respondent has no right title or interest over the suit land.
Hence he requested to allow the appeal

The Advocate for the respondent argued that:-

1. The revision petition filed by the appellant is contrary to law and facts of the case.
2. The revision petition filed by the petitioner is time barred. The reasons given by the petitioner to condone delay cannot be accepted.
3. The order passed by Assistant Commissioner Kumta is self explanatory and after due enquiry he has passed the order. There are so many litigations between the parties from Tahasildar level to High Court. So many orders are passed pertaining to this property.
4. The present respondent has preferred the RSA No. 6327/2012 before Hon'ble High Court of Karnataka Circuit Bench Dharwad which is still pending. Therefore the Assistant Commissioner has stated that ultimately the matter should be decided by the Civil Court.
5. The allegations made by the petitioners are not admitted by the respondent and hence he requested to dismiss the appeal.

On perusal of the lower Court records written argument of both parties it reveals that there are so many litigations between the parties and also so many orders were passed by the Civil Court regarding this property.

It is evident from the copy of the order sheet dated 28-06-2017 produced by the respondent that RSA No. 6327/2012 is pending before the Hon'ble High Court of Karnataka Circuit Bench Dharwad. That being so as per the citation reported in 2016(1) KCCR-247, when there is civil dispute between the parties, it cannot be adjudicated by Revenue Authorities. In this regard, the Assistant Commissioner, Kumta has analyzed the entire material on records in detail and proper prospective and therefore there are no valid grounds to interfere passed by the Assistant Commissioner, Kumta.

Hence, after careful scrutiny of entire material on record I proceed to pass the following order.

No. RB/RTR/CR-31/16-17

Date: 26-3-2018

Order

Revision Petition is dismissed.

(Order dictated to the Stenographer, got computerized, verified and pronounced in open court on 26-3-2018)



J. S. Kulkarni
**Deputy Commissioner,
Uttara Kannada, Karwar.**

Copy to:-

1. Advocate Sri.S.K Pawar and Sri. R.V Bhat for information.
2. Assistant Commissioner, Kumta for information and necessary action.
3. Tahasildar Ankola for information and necessary action.