

**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-03/16-17**

**Between**

1. UFM Suneeta Shivanand Honnavar  
R/o Kelaginapalya, Honnavar  
(Represented through Advocate Sri N.S.Bhat )

**.... Appellant**

V/s

1. Sri. Vittal S/o Ramachandra Mesta,  
R/o Prabhat Nagar, Taluk: Honnavar  
2. Tahasildar Honnavar,  
3. The Taluka Surveyor,  
Tahasildar Office Honnavar  
(Represented through Advocate Sri. D.R Bhat )

**.... Respondents**

**Sub:** Appeal filed u/s 49A and 50 of Karnataka Land Revenue Act-1964 against the Hissa Phodi in respect of Sy. No. 260/1E of Honnavar Village in Honnavar Taluk.

**Preamble:**

The instant appeal has been filed against the order of Deputy Director of Land Records, Karwar in file no. ಕಂ/ಶಾಂ/ಭೂಮಾಪನ/ಭೂವಾಳುನಿ/ಮೇಲ್ಕನಡಿ-43/15-16 dated: 07-01-2016. Notices were issued to both parties.

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

The suit land is tenanted land and as per the Land Tribunal order occupancy right has been conferred and surveyor prepared the sketch by bifurcating the survey number as 260/1E. There after the Taluka Surveyor prepared another map on 30-05-2014 contrary to the land tribunal order and the decree passed in O.S. No. 1/1995 and changed the position of the copy. Being aggrieved by the Hissa Phodi map prepared by the Taluka surveyor the respondent No.1 filed appeal before DDLR Karwar and DDLR Karwar by his order dated: 7-1-2016 set aside the appeal. But against this order the appellant filed the instant appeal before this Court.

**The advocate for the appellant has not filed any written argument so the appeal memo is considered as the written argument.**

1. The Land Tribunal Honnavar by its order dated:25-7-1981 granted occupancy right infavour of Appi mother Shivamma to an extent of 0-10-0 (A-G-A) in Sy No.260/1 of Honnavar Village and an extent of 0-0-12 infavour of respondent No.1 as per the Land Tribunal order and the decree passed in O.S No.1/1995 the surveyor prepared the sketch and the Sy No was bifurcated as Sy No. 260/1E. In the mean time the Taluka Surveyor prepared another map on 30-5-2014 contrary to the Land Tribunal order and the decree passed in O.S No. 1/1995 and changed the position of the property.
2. The Survey map done by the Taluka Surveyor dated: 30-5-2014 is illegal and contrary to the survey rules.
3. No mandatory notice was issued to the land holders. So it is against to the principles of natural justice.



4. Before preparing the Hissa Phodi the Taluka Surveyor has to note the possession of the property allotted to the respective parties by the Land Tribunal and the decree passed in O.S No. 1/1995.

Hence he requested to allow the appeal and to direct the Surveyor to divide the land as per the Land Tribunal order and court decree.

**The advocate for the respondent No. 1 prayed to consider the order of DDLR Karwar as his argument.**

1. The total suit land consisted of 0-10-12 (A-G-A) (Kharab 0-4-0) actual area 0-6-12 (A-G-A) and the Kharab land 0-4-0 (A-G-A) is left for house and well. Hence there is no need for fresh survey. Hence requested to dismiss the appeal.

On perusal of the lower Court records and appeal memo it reveals that Vittal Ramachandra Mesta filed appeal before DDLR Karwar and DDLR Karwar dismissed the appeal. But however the respondent has filed the instant appeal before this Court. In the Land Tribunal order dated: 25-7-1981 it was clearly mentioned that as per the Court order and checkbandi, Appi Mother Shivamma was granted occupancy right to an extent of 0-10-0 (A-G-A) in Sy No. 260/1 of Honnavar Village and Vittal Mesta was granted 0-0-12 (A-G-A) area. But from the Hissa Namuna 11 it is clear that out of 0-10-12 (A-G-A) area 0-4-0 (A-G-A) is kharab and it is left for house and well. The 0-4-0 gunta kharab land is included in 0-10-0 guntas of land assigned infavour of Appi Mother Shivamma. Therefore the surveyor is justified in making the hissa phodi in accordance with the decree in O.S. No. 1/1995 and the order of the Land Tribunal. The alleged non issuance of notice to all the joint owners of the land during the time of the survey is not fatal as it will not affect merit of the case. Hence after considering the entire material on record, I am of the opinion that there is no error committed by DDLR Karwar in dismissing the appeal. Consequently, I proceed to pass the following order.

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**Date: 26-03-2018**

**Order**

Appeal is dismissed.

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



*[Signature]*  
**Deputy Commissioner,  
Uttara Kannada, Karwar.**

**Copy to:-**

1. Advocate Sri N.S Bhat and Sri. D.R Bhat for information.
2. Deputy Director of Land Records Uttara Kannada, Karwar for information and necessary action with Lower court file no. ಕಂ/ತಾಂ/ಭೂಮಾಪನ/ಭೂದಾಖಲೆ/ಮೇಲ್ಮನವಿ-43/15-16 dated: 7-1-2016 page No. 1 to page No.58
3. Tahasildar Honnavar for information and necessary action.