

# 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-04/2017-18**

**Between**

1. Smt. Seetabai Ramchandra Naik  
R/o Chendia village Taluk Karwar.  
(Represented through Advocate Rajeshwari V Naik)

**.... Revision Petitioner**

**V/s**

1. Sri Babu Madev Naik  
R/o Chendia Village Taluk Karwar.
2. Assistant Commissioner Karwar  
Sub-division Karwar.
3. Tahasildar Karwar.  
(Represented through Advocate Sri.K.R.Desai)

**.... Respondents**

**Sub:** Revision petition filed u/s 136(3) of Karnataka Land Revenue Act against the order of Assistant Commissioner, Karwar in file No.RTS/AP/CR-33/2014-15 dated: 22-4-2016 relating to Mutation Entry No. 6602 dated: 2-1-1980 in respect of Sy.No. 275/7 an extent of 6-0-5 (A-G-A) of Chendia village in Karwar Taluk.

**Preamble:**

The instant revision petition has been filed against the order of Assistant Commissioner, Karwar in file No.RTS/AP/CR-33/2014-15 dated: 22-4-2016 notices were issued to both parties.

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

As per the certification of mutation entry no. 6602 by Tahasildar Karwar, the name of the revision petitioner was entered in the RTC. Against the certification of the entry, the respondent filed appeal before Assistant Commissioner, Karwar and who in his order dated 22-4-2016 cancelled the impugned entry. Being aggrieved by this order the revision petitioner filed the revision petition before this court.

**The argument of the Advocate for petitioner are as follows:**

1. As per mutation entry No. 6602 the revision petitioner is the owner of the suit land and still she is in possession and enjoyment of the land. The respondent No.1 has filed the appeal before AC after undue delay of 44 years. The suit property is the ancestral property and the husband of the appellant had no right to execute the sale deed.
2. After execution of the sale deed the respondent No.1 has not applied for the RTC till 44 years, it shows that the respondent No.1 has committed some fraud. The reason given for condonation of delay is not genuine.
3. The sale deed produced by the respondent No.1 is bogus. The suit property is ancestral property and the husband of the appellant has no right to execute the sale deed. So it is invalid.
4. When the execution of sale deed is disputed, the revenue courts have no jurisdiction to decide the matter.
5. The respondent No.1 played fraud against her by knowing she is poor and illiterate. Ever since 1935, the father-in-law of the appellant was the owner of the suit land and from him the appellant and her husband acquired right over the suit land.



6. The revision petitioner has no other property for her occupation other than this land. The respondent No.1 has prepared the bogus sale deed and presented after 44 years.

Hence she requested to allow the appeal and set aside the order of the Assistant Commissioner, Karwar.

**The Advocate for the respondent No.1 orally argued that**

1. As per mutation entry no. 6602 dated 12-4-1980 the name of revision petitioner was mutated to the suit property. But Ramachandra Naik the husband of revision petitioner already sold the suit land to respondent No.1 through registered sale deed dated 3-12-1970 and since then late Ramchandra Naik or his wife and children have no right title or interest over the suit land. Thus the mutation entry No. 6602 made in favour of Smt. Seetabai is illegal and void.
2. As per section 128 of KLR Act 1964 it is the duty of Revenue Authority to give effect to the 'J' Form issued by the Sub-registrar and enter the name of the purchaser in the RTC.
3. Objection regarding limitation is not maintainable as the law of limitation does not apply for mutation entry.

Hence he requested to dismiss the appeal.

On perusal of the lower court records written arguments of revision petitioner and oral argument of the respondent it reveals that as per mutation entry No.6602 dated 14-4-1980 the name of revision petitioner was entered in RTC of the suit land. But it is evident from the record that the husband of revision petitioner has sold the suit property to respondent No.1 through registered sale deed dated 3-12-1970. However the name of the seller continued in the RTC. The contention of the revision petitioner is that the sale deed produced by the respondent is bogus.

Section 128(4) of KLR Act 1964 states that "No document by virtue of which any person acquires a right in any land as holder, occupant, owner, mortgagee, landlord or tenant or assignee of the rent or revenue there under, shall be registered under the Indian Registration Act, 1908 (Central Act 12 of 1908), unless the person liable to pay the registration fee also pays to the registering authority such fees as may be prescribed for making the necessary entries in the record of rights and registers referred to in section 129; and on the registration of such a document, the registering authority shall make a report of the acquisition of the right to the prescribed officer". The mandate under this Section is supported by various Rulings produced by the learned counsel for the respondent. But it is pertinent to note that the revision petitioner has challenged very legality of the sale deed. Sec. 128 is not applicable if the validity of the sale deed itself is in dispute. The Revenue Court cannot decide validity and legality of the sale deed. The remedy available to the aggrieved party is to approach the Civil Court. But until the revision petitioner gets the registered sale deed quashed by civil court, it shall be held valid and order cannot be disputed in this court. Hence I proceed the following order.

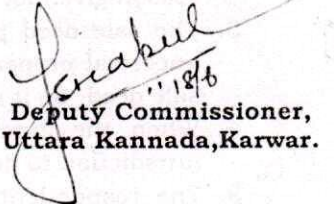
**No. RB/RTR/CR-04/2017-18**

**Date: 18-06-2018**

**Order**

Appeal is dismissed. Assistant Commissioner, Karwar order No.RTS/AP/CR-33/2014-15 dated: 22-4-2016 is upheld.

(Order dictated to the Stenographer, got computerized, verified and pronounced in open court on 18-06-2018 )

  
Seetabai  
18/6  
Deputy Commissioner,  
Uttara Kannada, Karwar.

**Copy to:-**

1. Advocate Rajeshwari V Naik and Sri. K.R.Desai for information.
2. Assistant Commissioner, Karwar for information and necessary action with Lower court file No.RTS/AP/CR-33/2014-15 dated: 22-4-2016 page No. 1 to page No.
3. Tahasildar Karwar for information and necessary action.