

**IN THE COURT OF DEPUTY COMMISSIONER UTTARA KANNADA-KARWAR**

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

No. RB/LND-1/AP/CR-2/2016-17



**Between**

1. Shri Dinakar Satanna Naik  
R/o Hankon Taluk: Karwar  
(Represented through Advocate Sri. K. R Desai)

.... Appellant

V/s

1. Tahasildar Karwar
2. Smt Prema D/o Rama Gurav
3. Satish Ganapati Gunagi
4. Usha Krishna Gunagi
5. Chandraksha Ganapati Gunagi  
All are R/o Hebbalbag, Hanakon Taluk: Karwar  
(Represented through Advocate Shri M.M Malajja )

.... Respondents

**Sub:** Appeal filed u/s 50 (1) (A) of Karnataka Land Revenue Act 1964 against the order of Assistant Commissioner Karwar file No.ಭೂಮಿ /ಹ.ಲಾ /ಎವ-84/ 2016-17 dated: 16-12-2016.

**Preamble:**

The instant appeal has been filed against the order of Assistant Commissioner, Karwar in file No.ಭೂಮಿ /ಹ.ಲಾ /ಎವ-84/ 2016-17 dated: 16-12-2016. Notices were issued to both parties.

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

Originally the suit land Sy No. 288A1A1A1A1/4 an extent of 0-34-0 (A-G-A) of Hanakon Village in Karwar Taluka was forest land granted to Rama S Gurav the father of respondent No. 2 as Hangami Lagani. Later as per Deputy Commissioner order No.ಕಂಡಾ/ಅರಣ್ಯ/ಎವ-3/94-95 dated: 21-4-1994 it was granted on Khayam lagani along with some conditions. As per the grant order vide mutation entry No. 4371 dated: 12-12-1994 the name of Rama Gurav was mutated. The contention of the appellant is that there is violation of grant condition. So he moved application to Tahasildar Karwar to cancel the grant order. Tahasildar Karwar after enquiry dismissed the application. Against this order the appellant filed appeal before Assistant Commissioner Karwar and Assistant Commissioner, Karwar by his order dated: 16-12-2016 dismissed the appeal. Being aggrieved by this order the appellant filed the instant appeal before this court

**The advocate for the appellant orally argued that:**

1. The suit land is not granted for a upset price or it is not a regular grant. The land was granted only on lease.
2. As per the condition lease cannot alienate the land. The land was granted on temporary basis only to plant trees without creation ownership right. But respondent No. 2 violated the condition of the grant by transferring the ownership right infavour of respondent No. 3 to 5.

3. As per the condition of grant, the grantee should plant fruit yielding trees within two years from taking the possession of the land. But the father of the respondent No. 2, the original grantee has not planted any fruit yielding trees as per the condition of temporary grant or permanent grant. But as per the sale deed no trees are there.
4. The father of the respondent No. 2 Shri Rama Gurav has destroyed the public way shown by survey Map and thus caused problem to the adjoining holders of the agriculture land and the public have been using the said way since immemorial times. The appellant has approach the Hon'ble Civil judge Court Karwar by filing O S No. 210/12 against respondent No. 2. Seeking declaration that he has got the right to use more than 15 feet wide existing public road as of right since immemorial time by way of lost grant and prescription, as clearly demarcated. Map produced with the separate list in disputed Sy No. 288/A1A1A1A1/4 area 0-34-0 (A-G-A) of Hankon village granted to the father of respondent No 2 and now sold to respondent No 3 to 5 excluding 0-9-0 is violation of court order and grant condition.
5. Thus the grantee has violated the conditions of grant. Karnataka Land Grant Rules Section 18. Hence in order to protect the interest of Government the grant should be cancelled and the land to be resumed to Government.

Hence he requested to allow the appeal.

**The Advocate for the respondent orally argued and also filed written argument. The facts are as below.**

1. In 1955 the suit property was granted on Hangami Lagani to the father of respondent No. 2. Later in 1995 it was regularized by Khayam Lagani along with some conditions. As per the grant order vide Mutation Entry No. 4371 the name of the original grantee was mutated. As per the grant condition the grantee has grown mango, coconut and cashew plants.
2. The original grantee had not alienated the land within 15 years from the grant order. After the death of father Rama Gurav the name of respondent No. 2 was mutated as legal heirs. In 1994-95 the land was granted on Khayam Lagani and respondent No. 2 has made sale deed in 2011.
3. Assistant Commissioner Karwar have visited the spot and observed that there is 12 fit width of public pathway and has passed the order.
4. The respondents have not violated any conditions of grant. The appellant filed the appeal only to harass the respondents.
5. Appellant is a 3<sup>rd</sup> party and he cannot objected that the respondents have violated the grant conditions.
6. Access of road is available for the use of appellant.

Hence he requested to dismiss the appeal.

On perusal of the lower court records, arguments of both parties and the records available in the case reveals that the suit land was forest land and which



was granted to late Rama Gurav on Hangami Lagani Later as per Deputy Commissioner order No.ಕಂಠಾ/ಅರಣ್ಯ/ವವ-3/94-95 dated:21-4-1994 it was granted on Khayam Lagani along with some conditions. Accordingly vide Mutation Entry No. 4371 dated: 12-12-1994 the name of Rama Gurav was mutated after his death the name of respondents No. 2 was mutated to the suit property as a legal heir. Respondent No. 2 sold the property through registered sale deed 2013. It clearly reveals that the respondent No. 2 has not alienated the land within 15 years from the grant order. Thus there is no breach of condition of the grant.

Hence I proceed the following order.

**No. RB/LND-1/AP/CR-2/16-17**

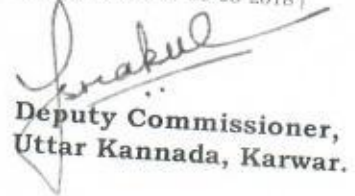
**Order**

**Date: 20-08-2018**

Appeal is dismissed

(Order dictated to the Stenographer, got computerized, verified and pronounced in open court on 20-08-2018)



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

Copy to:-

1. Advocate Sri. K. R. Desai and Shri M. M. Manajja for information.
2. Assistant Commissioner, Karwar for information and necessary action with Lower court file No.ಕಂಠಾ/ಅರಣ್ಯ/ವವ-84/ 2016-17 dated:16-12-2016.page No.1 to page No. 179
3. Tahasildar Karwar for information and necessary action.