

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-30/15-16



Between

1. Shri Dattanand Bhikaji Chipkar
R/o Building No.46, Room No. 1490,
Tagore Nagar, Vikroli (E)
Mumbai-400083
2. Shri Chandrakant Bhikaji Chipkar
R/o Block No.B/503, Highland Park West Colony
Mulund (W), Mumbai-400082.
(Represented through Advocate Sri. R.S Hegde Gali)

V/s

1. Smt Saroja Ganapati pednckar
R/o Nandanagadda Taluk:Karwar
2. Smt Vidhya Vidhyadhar Patrekar
Near Shivaji High School Baad Nandangadda Karwar
3. Smt Vanita Vasant Shirodkar
R/o Kodibag Taluk: Karwar.
Secretary Anjun-islam, Ankola
(R1 is Represented through Advocate
Shri Prasad Pednckar & Shri S.K Pawar)

.... Revision Petitioner

.... Respondents

Sub: Revision petition filed u/s 136(3) of Karnataka Land Revenue Act 1964 against the order of Assistant Commissioner, Karwar in file No. RTS/AP/CR-19/11-12 dated: 24-5-2013 relating to Mutation Entry No. 6323 in respect of Sy No. 257/2, 257/4 and 257/5 of Nandanagadda 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-19/2011-12 dated: 24-5-2013. Notices were issued to both parties.

The brief facts of the case are as follows:

Originally the suit land Sy No. 257-2 an extent of 0-2-14, Sy No 257/4 an extent of 0-5-0, and Sy No. 257/5 an extent of 0-8-8 of Nandangadda Village in Karwar Taluka belonged to late Smt. Priyagi W/o Bhikaji Chipkar who was the mother of revision petitioners and respondents. After the death of mother priyagi chipkar the names of revision petitioners were entered in the RTC as legal heirs vide Mutation Entry No. 6323 to the suit land. Against the certification of this entry the respondents filed appeal before Assistant Commissioner, Karwar and who by order dated: 24-5-2013 cancelled the impugned entry and ordered to enter the names of both revision petitioner and respondent jointly to the suit property. Being aggrieved by this order the revision petitioners filed the instant revision petition before this court.

The advocate for the Revision Petitioner argued that:

1. The revision petitioner are being sons and class I legal heirs as per the Hindu laws. The respondents are the married daughters and as per the Ruling 2016-

SAR (Civil) 81 reported by the Supreme Court the daughters are not entitled to inherit the share in the suit property.

2. The respondents have filed O.S No. 35/2015 before Senior Civil Judge Karwar which is pending for enquiry. The right title and share of the parties has to be decided by the civil court only. Revenue Court has no jurisdiction in the matter.
3. The respondents by the statement dated: 21-5-1991 under their signature endorsed no objection to the impugned Mutation Entry. Hence the Mutation Entry effected after the death of their mother on 20-9-1988.
4. As per the citation cited below 1)2016 SAR (Civil) 81, 2)2001 (4) KCCR 2739, 3)2005 (4)KCCR 2860, 4)2002 (4) KCCR 1140 the revision petitioner.

Hence he requested to allow the appeal.

The Advocate for the respondent No. 1 has filed written argument. The facts are as below.

1. Respondent No. 1 and petitioner are co owner and joint position of the suit land. After the death of mother of petitioner and respondents the name of the petitioners as Dattanand Bhikaji Chipkar and Chandrakant Bhikaji Chipkar were entered as per mutation entry No. 6323 without the knowledge of the respondents. There after respondents came to now the said mutation entry and were challenged before Assistant Commissioner Karwar and Assistant Commissioner Karwar passed the order to mutated the name of petitioner along with the names of respondent No. 2 and 3.
2. Order passed by the Assistant Commissioner Karwar is correct and it is in accordance with law as the respondents are class-1 heir of priyagi Bhikaji Chipkar.
3. The allegations made by the present petitioner are not sustainable.
4. The advocate for respondent No. 1 submitted that it is decided by the Hon'ble High Court of Karnataka in Division Bench Judgment in the case of Nimbavva S/o Basalingayya Hiremath and Channaveerayya S/o Gurushantaya in RFA 4150/2012 decided that 1/7th share shall be given to the present respondent as per the decision of the Court.
5. The present petitioner has approached this Hon'ble Court after a Laps of 3 years and the petitioner is also aware that there respondent has filed suit for partition and separate possession before the Hon'ble Civil Judge Karwar in O.S No. 35/2015. The present Petitioner has not brought this to the notice of Hon'ble Court similar relief cannot be claimed by the petitioner.

Hence petitioner may be dismissed with cost in the interest of justice and equity.

On perusal of the lower court records and written it reveals that the suit land originally belonged to late Smt Priyagi W/o Bhikaji Chipkar who was the mother of revision petitioners and respondents. After the death of mother Smt. priyagi chipkar the names of revision petitioners were entered in the RTC vide

Deputy Commiss

Mutation Entry No. 6323 to the suit land. Against this entry respondents filed appeal before Assistant Commissioner, Karwar and Assistant Commissioner, Karwar by his order dated: 24-5-2013 ordered to enter the names of both revision petitioners and respondents.

In this instant case there is a civil suit O.S No. 35/2015 pending between the same parties with respect to the same land for partition. This being the case, I find it only proper to issue direction as below.

No. RB/RTR/CR-30/15-16

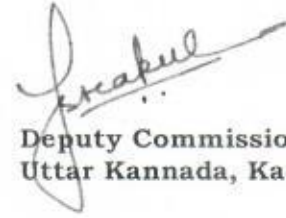
Date: 20-08-2018

Order

Case is closed with direction to approach revenue authorities after final disposal of O S. No.35/2015.

(Order dictated to the stenographer, typed, computerized, verified and pronounced in open court on 20-08-2018.)




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

Copy to:-

1. Advocate Shri R.S Hegde-Gali and Shri Prasad Pednekar & Shri S.K Pawar for information.
2. Assistant Commissioner, Karwar for information and necessary action with Lower court file No.RTS/AP/CR-19/2011-12 dated: 24-5-2013. page No. 1 to page No. 40.
3. Tahasildar Karwar for information and necessary action.

