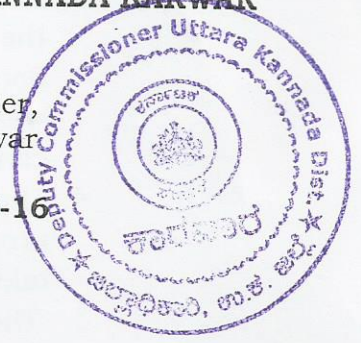


IN THE COURT OF DEPUTY COMMISSIONER UTTARA KANNADA KARWAR

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

No. RB/RTR/CR-18/15-16



Between

Sripad Mahabaleshwar Hegde
R/o Rathavidi Ta: Honnavar
(Represented through Advocate Sri. N S Bhat)

.... Revision Petitioner

V/s

1. Manager KDCC Bank Honnavar
2. Tahsildar, Honnavar
3. Asst Registrar of co-operative societies and sale officer
Canara D.C.C Bank Ltd Sirsi
4. Smt. Sumati Ganapati Hegde
5. Ganapati Mahabaleshwar Hegde
Both R/o Kalkod Post: Mugwa Ta: Honnavar
(Represented through Advocate Sri. P S Bhat)

.... Respondents

Sub: Revision petition filed u/s 136(3) of Karnataka Land Revenue Act against the order of Assistant Commissioner, Bhatkal in file No.RTS/AP/SR-73/14-15 dated: 27-08-2015 relating to Mutation Entry No. T184/14-15 in respect of Sy no.548/4 of Honnavar village in Honnavar Taluk.

Preamble:

The instant revision petition has been filed against the order of Assistant Commissioner, Bhatkal in file No.RTS-AP-SR-73/14-15 dated: 27-8-2015 notices were issued to both parties.

The brief facts of the case are as follows.

The Revision petitioner Sripad Mahabaleshwar Hegde and Respondent No 5 Ganapati Mahabaleshwar Hegde are natural brothers and Respondent No.4 Smt Sumti Ganapati Hegde is the wife of Respondent No.5. Respondent No.5 i.e., Ganapati Mahabaleshwar Hegde borrowed loan from KDCC Bank Honnavar and Respondent and Smt Sumti Ganapati Hegde and Revision petitioner Sripad Mahabaleshwar Hegde stood as surety. As per Mutation Entry No.T184/14-15 charge was created in the RTC of Sy no 548/4. But this entry was challenged by the Revision petitioner before Assistant Commissioner, Bhatkal and Assistant Commissioner, Bhatkal by his order dated:27-8-2015 dismissed the appeal on the basis that court has no jurisdiction. Being aggrieved by this order the revision petitioner filed the revision petition before this court.

The arguments of the petitioner are as follows:

1. An extent of 0-5-12 area in Sy no 548/4 of Honnavar village is the self acquired property of the revision petitioner and he purchased it through sale deed.
2. The revision petitioner does not know anything about the loan.

3. The petitioner met with an accident and admitted to hospital. Then the respondent No. 1, 4 and 5 created bogus and factious loan document and with forged signature of the petitioner and his name was shown as guarantor on the basis of the illegal loan document charge has been created in the suit property.
4. The respondent No.1 KDCC Bank Honnavar has not followed the procedures while preparing the loan documents. The Bank has not taken any documents like Adhar card from the loanee.
5. There is no any agreement between the loanee and the petitioner. The petitioner has not executed any personal guaranty deed regarding loan without considering this matter Assistant commissioner, Bhatkal has dismissed the appeal.
6. The order passed by Assistant commissioner Bhatkal is not according to law without verifying the documents and citation Assistant commissioner has passed the order.
7. The loanee and the guarantor owned many properties. Instead of recovering the dues from them, the Bank has purposely attached the property of the petitioner, though it was not mortgaged.
8. Before certifying the impugned entry no notice was served to the petitioner so taking in to consideration of the above facts, the petitioner requested to set aside the order of Assistant Bhatkal.

The advocate for the respondent for the respondent No.1 Orally argued to dismiss the appeal.

On perusal of the lower court records and the order passed by Assistant Commissioner Bhatkal it reveals that respondent No.5 Ganapati Mahabaleshwar Hegde availed loan from KDCC Bank Sy.no 548e/4 and Sy no.235/1 are shown in the Tagade patra for issued by assistant Register co-operative society for attachment. As per the Tagade patre issued by assistant Register co-operative society on 29-12-2016 revenue officials created the charge in the RTC. In this regard the petitioner has to approach competent authority under the provisions of co-operative society act for any relief. since this court cannot examine the veracity of such document issued by a competent authority. Hence I proceed the following order.

No.RB/RTR/CR-18/15-16

Date: 02-01-2017

Order

Revision petition is dismissed, Assistant Commissioner, Bhatkal Order No.RTS/AP/SR-73/14-15 dated: 27-08-2015 is upheld.

(Order dictated to the Stenographer, got computerized, verified and pronounced in open court on 02-01-2017)



Senabul
21/1/17
**Deputy Commissioner,
Uttara Kannada, Karwar.**