

IN THE COURT OF DEPUTY COMMISSIONER UTTARA KANNADA KARWAR

Present: Dr. Harish Kumar K., I.A.S.

Deputy Commissioner,
Uttar Kannada, Karwar.

No. RB/RTR/CR/35/2017-18



Between

Shri. Shambulingayya Nagayya Mathapati
R/o Agadi Taluk Hubballi,
District: Dharwad
(Represented through Advocate Sri N.M Madiwal)

....Revision petitioner

V/s

1. Shri Neelakantha Bhimappa Ajjammanavar
R/o Kathor Taluk: Mundgod
2. Shri Basavanyappa Gadigyappa Ajjammanavar
R/o Kathor Taluk: Mundgod
3. Gadigyavva Iranagouda Patil
R/o Kathor Taluk: Mundgod
4. The Manager
Agriculture Co-operative Society
R/o Kathor Taluk: Mundgod
(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, Sirsi No. RTS/AP/CR-14/2017-18 dated 13-11-2017 in respect of Sy No. 119/1 of Katur Village in Mundgod Taluka.

Preamble:

The instant appeal has been filed U/s 136(3) of Karnataka Land Revenue Act against the order of Assistant Commissioner Sirsi dated 13-11-2017 in file No. RTS/AP/CR-14/2017-18.

Notices were issued to both parties. Respondents No. 1 entered appearance through their counsel. Respondent No. 2, 3 & 4 remained absent despite service of notice.

Brief facts of the case are as hereunder:

The suit Sy No. 119/1 with an extent of 1-37-0(A-G-A) was owned by respondent No. 2 Basavanyappa Gadigyappa Ajjammanavar as per registered sale deed No. 252/78-79 dated: 9-5-1978. He sold the said Sy no 119/1 to revision petitioner Shambulingayya Nagayya Mathapati as per registered sale deed No. 52/16-17 dated: 21-04-2016. Based on the registered sale deed mutation entry was made and land was transfer in the name of revision petitioner. Respondent No. 1 Neelakantha Bhimappa Ajjammanavar filed appeal before Assistant Commissioner Sirsi reasoning that he is the grandson of respondent No. 2 Basavanyappa Gadigyappa Ajjammanavar and the property sold by his grandfather is their ancestral joint family property, all the family members got the right and sale of the property is illegal. The property got the bhoja from Agricultural Co-operative Society Katur Taluk Mundgod and liabilities of Agricultural Co-operative Society Katur is entered in RTC. The Manager Agricultural Co-operative Society Katur also objected that liabilities lies with Agricultural Co-operative Society Katur and the seller Basavanyappa Gadigyappa Ajjammanavar have not taken any NOC from Society prior to the sale of the suit land Sy No. 119/1. This violet Section 32 of Karnataka Co-operative Society Act 1959. Assistant Commissioner Sirsi heard the case and allowed the appeal transfer the land to the seller Basavanyappa Gadigyappa Ajjammanavar. Aggrieved by the order passed by the Assistant Commissioner, Sirsi, the revision petitioner has preferred this appeal on various grounds.

ay
+

The Advocate for the revision petitioner argued that-

1. The Assistant Commissioner Sirsi has allowed the appeal without considering facts of the cases
2. The Sold property is self acquired property of respondent No.2 Basavanyappa Gadigyappa Ajjammanavar since he purchased the property from earlier owner on 9-5-1978. The Basavanyappa Gadigyappa Ajjammanavar sold the property to revision petitioner due to his financial problem.
3. Respondent No. 1 Neelakantha Bhimappa Ajjammanavar is the grandson of respondent No. 2 and he does not have any legal right on the property.
4. Loan availed from the Agricultural Co-operative Society Katur is paid by revision petitioner Shambulingayya Nagayya Mathapati and Chief Executive Officer Agricultural Co-operative Society Katur has issued no objection certificate to revision petitioner.

Hence on these among other grounds, the advocate for the appellant requested to allow the appeal and set aside the order of Assistant Commissioner Sirsi.

The advocate for contesting respondent has not given any written arguments to this office.

The point for consideration before this Court is-

1. Whether there are sufficient grounds to allow the appeal?

Ans. In the Affirmative.

On hearing the learned counsel for the revision petitioner and in the background of the lower Court records, it is seen that the suit property Sy No.119/1 of Katur Village was sold by Basavanyappa Gadigyappa Ajjammanavar to revision petitioner Shambulingayya Nagayya Mathapati through registered sale deed and Chief Executive Officer Agricultural Co-operative Society Katur has issued no objection certificate to revision petitioner. After the scrutiny of the materials in the case it is known that this case is also based on registered sale deed, Revenue officials are duty bound to mutata based on J-form issued by Sub registrar with respect to sale deed or partition deed. In this regard Hon'ble High Court of Karnataka has passed ruling 2010(4) KCCR Page no. 3037 and 2007 (3) KCCR Page no. 2069. In this contention decisions are relied 197(3) KLJ Pg. 120DB registered sale deed entry made on the basis of registered deed revenue court not to set aside the deed and there by the entry made on it remedy of the aggrieved party to approach Civil Court.

In view of facts of the case mentioned above and citation referred above. Hence, I proceed to pass the following order.

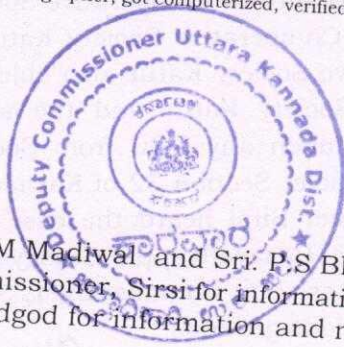
No. RB/RTR/CR/35/2017-18

Date: 19-08-2019

Order

Appeal is allowed. The impugned order No. RTS/AP/CR-14/2017-18 dated 13-11-2017 passed by Assistant Commissioner is set aside.

(Order dictated to the Stenographer, got computerized, verified and pronounced in open court on 19-08-2019)



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

Copy to:-

1. Advocate Sri N M Madiwal and Sri. P.S Bhat for information.
2. Assistant Commissioner, Sirsi for information and necessary action
3. Tahasildar Mundgod for information and necessary action.