

IN THE COURT OF DEPUTY COMMISSIONER UTTARA KANNADA KARWAR

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

No. RB/Tech Appeal/CR-12/15-16



Between

1. Shri Shambu Subray Bhat
R/o Basavanabetta, Upponi, Tq: Honnavar
(Represented through Advocate Sri N. M. Madival)

.... Revision Petitioner

V/s

1. Shri Chintamani Ganesh Hegde
2. Shri Narayan Subha Hegde
Since deceased by his L.R
3. Smt Baby Kom Gajanan Hegde
4. Shri Shivaram Gajanan Hegde
5. Shri Subramanya Gajanan Hegde
6. Shri Ishwar Parameshwar Hegde
7. Shri Subray Shambu Bhat
All are R/o Basavanabetta, Upponi Ta: Honnavar
8. Deputy Director of Land Records Uttara Kannada, Karwar
(Represented through Advocate Sri. N. S. Bhat,
P. S. Bhat, D. R. Bhat & M. L. Naik)

.... Respondent

Sub: Appeal filed u/s 56 of Karnataka Land Revenue Act-1964 against the Hissa phodi in Sy. No. 109 of Upponi village in Honnavar Taluk.

Preamble:

The instant appeal has been filed against the order of Deputy Director of Land Records, Karwar in file no. 30/300/ಭೂಮಾಪನ/ಭೂದಾಖಲೆ 24/15-16 dated: 7-1-2016. Notices were issued to both parties.

The brief facts of the case are as follows:

As per the order of ADLR Kumta survey was done in respect of Sy. No. 109 of Upponi village Ta: Honnavar and the survey number was divided in 6 hissas. But it was alleged by Respondent no. 1 that hissa phodi was not done as per the waiwati. So he filed appeal before Deputy Director of Land Records Uttara Kannada, Karwar against the KJP and PT Sheet prepared by ADLR Kumta, Deputy Director of Land Records Uttara Kannada, Karwar by his order dated: 7-1-2016 cancelled the KJP and PT Sheet. Being aggrieved by this order, the appellant filed the instant appeal before this court.

The advocate for the appellant argued that

1. Deputy Director of Land Records Uttara Kannada, Karwar failed to note that the appellant is the owner of an extent of 0-9-0 in Sy No. 109/6 of Upponi village and also he was not made a party before DDLR.
2. Deputy Director of Land Records Uttara Kannada, Karwar failed to issue notice to the appellant though his name appeared in the RTC.
3. Hissa phodi prepared by ADLR Kumta is correct and proper. At the time of survey the respondents made no disputes and all the respondents signed the Form no. 4. The respondents have not given proper reasons in their appeal before Deputy Director of Land Records Uttara Kannada, Karwar.
4. As per the RTC the appellant got right in the disputed land. But he was not made a party before Deputy Director of Land Records U.K Karwar.

The suit property was gifted by the father to the appellant through Registered Bhakshish Patra. As per the boundary shown in the gift deed, ADLR has prepared PT sheet so the survey map prepared by ADLR as per the enjoyment is correct. Deputy Director of Land Records Uttara Kannada, Karwar has no right to cancel the PT Sheet prepared on the basis of boundary shown in the gift deed. Hence he requested to set aside the order of Deputy Director of Land Records Uttara Kannada, Karwar.

The advocate for the Respondent no. 1

Orally argued that the appellant is the son of Respondent no. 7. At the time of appeal before Deputy Director of Land Records Uttara Kannada, Karwar, the appellant was not made a party. But his father was present.

The advocate for the Respondent no. 4

Orally argued that carlier phodi was not done according to possession. So Deputy Director of Land Records Uttara Kannada, Karwar has ordered for re-survey.

The advocate for the Respondent no. 6

Produced the copy of the Civil Court proceeding OS No. 7/296 and stated that the appellant has knowledge about the appeal which was filed before the Deputy Director of Land Records Uttara Kannada, Karwar. So the appeal may be set aside.

On perusal of the lower court records written argument of the appellant and the copy of the Civil Court proceeding produced by the Respondent no. 6 it reveals that the appellant has filed OS No. 7/2016 before the JMFC Honnavar for Temporary Injunction. It means he is aware of the appeal filed before Deputy Director of Land Records Uttara Kannada, Karwar. Since OS no. 7/2016 is pending before Hon'ble Civil Court Honnavar. Further I find that appellant has not raised any technical contention for setting aside Deputy Director of Land Records Uttara Kannada, Karwar order apart from not being made party. As observed carlier appellant was well aware of it while filing O.S. no. 7/2016. Hence I proceed the following order.

No. RB/Tech Appeal/CR-12/15-16

Date: 16-01-2017

Order

Appeal dismissed

(Order dictated to the Stenographer, got computerized, verified and pronounced in open court on 16-01-2017)



[Handwritten Signature]
16/1/17
**Deputy Commissioner,
Uttara Kannada, Karwar**