

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-14/15-16



Between

1. Smt. Sushila Datta Deshbhandari
 2. Kashinath Datta Deshbhandari
 3. Vijay Subramanya Deshbhandari
 4. Sudha Keshav Deshbhandari
 5. Reshma Raju Deshbhandari
 6. Kavya Kashinath Deshbhandari
 7. Rajesh Datta Deshbhandari
- Ali are R/o Divagi Tq: Kumta
(Represented through Advocate Sri N. S. Bhat)

.... Revision Petitioners

V/s

1. ADLR Kumta
2. DDLR Karwar
3. Laxman Janna Deshabhandari
R/o Divagi Tq: Kumta
(Represented through Advocate Sri. P. S. Bhat)

.... Respondent

Sub: Appeal filed u/s 49 of Karnataka Land Revenue Act-1964 against the KJP and PT Sheet prepared in respect of Sy. No. 42/4th of Divagi village in Kumta Taluk.

Preamble:

The instant appeal has been filed against the order of Deputy Director of Land Records, Karwar in file no. 60/200/ಭೂಮಾಪನ/ಭೂದಾಖಲೆ/ಮೇಲ್ವಿಚಾರಣೆ 48/14-15 dated: 17-12-2015. Notices were issued to both parties.

The brief facts of the case are as follows:

Assistant Director of Land Records, Kumta vide his letter no. ಭೂಮಾ/ವಿವ 29/14-15 dated: 27-10-2014 sent a report to DDLR Kwr stating that the Hissa podi made in respect of Sy No. 42/4 of Divagi village is not as per rules. Further he requested to consider it as appeal. DDLR Karwar after due enquiry vide order no. 60/200/ಭೂಮಾಪನ/ಭೂದಾಖಲೆ/ಮೇಲ್ವಿಚಾರಣೆ 48/14-15 dated: 17-12-2015 cancelled the P, T, Sheet and KJP and ordered for re-survey. Being aggrieved by this order the appellants filed the instant appeal before this court.

The advocate for the appellant argued that

1. The impugned order is contrary to law and facts of the case
2. Actually the respondent no. 3 has not filed any appeal before DDLR Karwar.
3. DDLR has passed the order without giving any opportunity to the appellants and only on the basis of report of ADLR Kumta.
4. Without considering the Civil suit pendency in civil court and temporary injunction is issued by the Civil court. DDLR has wrongly passed the order.
5. The impugned order causes great harm to the right and waivati of the appellant.

Hence he requested to set aside the order of DDLR Karwar.

The advocate for the respondent argued that

1. The suit property is the joint property of Ganapati Deshabhandari, Krishna Deshbhandari, Laxman Deshbhandari and Datta Deshbhandari and now by Appellant no. 1 to 7 who also got joint right in the suit property but this land was not bifurcated.

2. The land existed a joint family house in the suit property which was granted under Ashraya Housing Scheme stood in the name Datta Deshbhandari. During his life time it was transferred in the name of Kashinath Deshbhandari without the consent of the other members. Kashinath sold this property to Kavya Deshbhandari.
3. Laxman Deshbhandari has filed O. S. No. 54/2013 in civil court Kumta and the court issued status qua order. But Kashinath sold the land which is illegal.
4. The appellant no. 2 knowing fully that the family house existed in the suit land got prepared 11 E sketch from Timmanna Hebbar who got right in undivided family of an area 0-3-0. Taking General Power of Attorney from Timmanna Hebbar and others executed registered sale deed in favour of his wife Kavya Deshbhandari, Appellant no. 6. It is clear from the 11 E sketch that there existed family house of appellants and respondent no.7
5. The said 11E sketch is void considering all these facts DDLR cancelled the Hissa phodi and PT Sheet. The appellants admitted that civil suit is pending in the court in respect of this property and temporary injunction is issued by the court.

Hence he requested to set aside the appeal.

After perusal of the lower court records written argument of both parties and the report of ADLR Kumta it reveals that Sy no. 42/4 e of divagi village Kumta Taluka is joint family property of appellants. Total extent of Sy no. 42/4 e was 0-15-6 (A-G-A) out of which 0-1-6 is pot kharab remaining area is 0-14-0 (A-G-A). Timmamma Parameshwar Hebbar, Umesh Parameshwar Hebbar and Vishnu Ganapati Hebbar was having a extent of 0-3-0. Ganapati Jannu Bhandari, Krishna Jannu Bhandari, Laxman Jannu Bhandari, Sushila Datta Bhandari, Kashinath Datta Bhandari, Janardhan Datta Bhandari, Rajesh Datta Bhandari, Vijaya Subrahmanya Deshbhandari, Sudha Keshav Deshbhandari & Reshma Raju Deshbhandari were the joint owners for and extent of 0-11-0 as per record of rights. An extent of 0-3-0 (A-G-A) of this Sy no. was sold by Timmanna Parameshwar Hebbar to Smt. Kavya Kom Kashinath Deshbhandari by register sale deed no. 1057 dated: 31-12-2013. At the time sale deed it is mentioned that the land for sale does not consider any building but only plain land. 11 E sketch was made by ADLR Kumta of this land dated: 30-11-2013. Smt Sushila Datta Bhandari and Vijaya Subrahmanya Deshbhandari have signed at the time of preparing 11 E sketch. Other joint owners have not signed the 11 E sketch. Laxman Jannu Deshbhandari have filed O.S. No. 54/2013 before Hon'ble Civil Judge (Jr. Dn) JMFC Kumta and JMFC Kumta has ordered temporary injunction in this case. DDLR, Karwar rightly observed that this 11 E sketch was not prepared as per possession of the joint owners in the RTC and he rejected form no. 4, 11 and 12 and ordered for resurvey. Since this property is joint family property and bifurcation has not been made by all the joint owners of the land it is necessary to reject the 11 E sketch and form 4, 11 and 12 prepared by ADLR Kumta, since consent of the joint owners not been taken at the time of phodi. Hence I proceed the following order.

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Date: 16-01-2017

Order

Appeal dismissed .

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



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