

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/07/2019-20



Between

Shri. Dileep Manohar Patil
R/o 517 Londa Post: Londa
Taluk: Khanapur Dist: Belgaum.
(Represented through Advocate Sri. A. N Talgeri)

....Revision petitioner

V/s

1. Tahasildar Ankola
2. Revenue Inspector Ankola Hobli
Taluk Ankola.

.... Respondents

Sub: Revision petition filed U/s 136 (3) of Karnataka Land Revenue Act against the order of Assistant Commissioner, Kumta in file No. RTS/AP/SR-01/2016-17 dated:02-6-2018 in respect of Sy No. 22K1 and mutation entry No. H-13/2012-13 of Kodlagadde Village in Ankola Taluka.

Preamble:

The instant revision petition has been filed U/s 136(3) of Karnataka Land Revenue Act against the order of Assistant Commissioner Kumta dated 02-6-2018 in file No. RTS/AP/SR-01/2016-17.

Brief facts of the case are as hereunder:

The suit land Sy No. 22K1 with an total extent of 0-25-0(A-G-A) out of which 0-14-0(A-G-A) is owned by 1) Smt Aminabi Kom Dawood Shaikh, 2) Sri. Abdul Mutaleeb Mohiddin Mulla., 3) Smt. Nazamunnissa Mohiddin Mulla, 4) Sri. Ismail Mohiddin Mulla and 5) Smt. Rashidabi Mohiddin Mulla have executed registered general power of attorney in favour the revision petitioner Dileep Manohar Patil as per registered GPA No. KRW-4-00086-2012-13 dated: 19-11-2012. On the basis of this registered GPA revision petitioner Dileep Manohar Patil executed sale deed of Sy No. 22K1 to an extent of 0-9-0 to himself as per sale deed No. KRW-1-03224-2012-13 dated: 23-3-2013. As per J-Form mutation entry No. H-13/2012-13 was effected and it was rejected by Revenue Inspector Ankola. Against this the revision petitioner filed an appeal before Assistant Commissioner Kumta and Assistant Commissioner Kumta also rejected the appeal reasoning that the revision petitioner did not produced the relevant document during the time of hearing the matter. Being aggrieved by the order passed by the Assistant Commissioner, Kumta the revision petitioner has preferred this appeal before this court.

The Advocate for the revision petitioner argued that-

1. The order passed by the Assistant Commissioner Kumta is contrary to law and true facts of the case.
2. The Assistant Commissioner Kumta ought to have called for the records from the Tahasildar Ankola which was essential for the adjudication of the case. The Revision petitioner cannot be made to suffer for non production of paper by the Tahasildar. Therefore the order of the learned Assistant Commissioner is liable to be set aside.
3. The Assistant Commissioner Kumta has failed follow the provisions of Karnataka Land Revenue Act and wrongly passed order challenged in this appeal.

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

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. 22K1 with an total extent of 0-25-0(A-G-A) out of which 0-14-0(A-G-A) is owned by 1) Smt Aminabi Kom Dawood Shaikh, 2) Sri. Abdul Mutaleeb Mohiddin Mulla., 3) Smt. Nazamunnissa Mohiddin Mulla, 4) Sri. Ismail Mohiddin Mulla and 5) Smt. Rashidabi Mohiddin Mulla have executed registered general power of attorney in favour the revision petitioner Dileep Manohar Patil as per registered GPA No. KRW-4-00086-2012-13 dated: 19-11-2012. On the basis of this registered GPA revision petitioner Dileep Manohar Patil executed sale deed of Sy No. 22K1 to an extent of 0-9-0 to himself as per sale deed No. KRW-1-03224-2012-13 dated: 23-3-2013. As per J-Form mutation entry No. H-13/2012-13 was effected and it was rejected by Revenue Inspector Ankola. Against this the revision petitioner filed an appeal before Assistant Commissioner Kumta and Assistant Commissioner Kumta also rejected the appeal reasoning that the revision petitioner did not produced the relevant document during the time of hearing the matter. In the instant case it is seen that there is no valid reason for rejection of the J-Form mutation entry H-13/2012-13 of Ankola Taluka with regard to sale deed No. KRW-1-03224-2012-13 dated: 23-3-2013. However Assistant Commissioner Kumta has rejected the appeal with an observation that relevant documents were not produced and Revenue inspector rejected the mutation entry reasoning that details mentioned in J-form and sale deed does not tally. Hence on these grounds I am of the opinion that the case is remanded back to Assistant Commissioner Kumta with a direction that the original sellers i.e. 1) Smt Aminabi Kom Dawood Shaikh, 2) Sri. Abdul Mutaleeb Mohiddin Mulla., 3) Smt. Nazamunnissa Mohiddin Mulla, 4) Sri. Ismail Mohiddin Mulla and 5) Smt. Rashidabi Mohiddin Mulla should be impleaded as respondents and the matter is remanded to Assistant Commissioner Kumta for fresh disposal in accordance with law, after giving proper opportunity to all the concern parties. I proceed to pass the following order.

No. RB/RTR/CR/07/2019-20

Date: 26-08-2019

Order

Appeal is partially allowed and matter is remanded back to Assistant Commissioner Kumta.

(Order dictated to the Stenographer, got computerized, verified and pronounced in open court on 26-08-2019)



**Deputy Commissioner,
Uttara Kannada, Karwar.**

Copy to:-

1. Advocate Sri A N Talgeri for information.
2. Assistant Commissioner, Kumta for information and necessary action with lower court record page No. 1 to page No. 68.
3. Tahasildar Ankola for information and necessary action.