

**IN THE COURT OF DEPUTY COMMISSIONER UTTARA KANNADA KARWAR**

**Present: Dr. Harish Kumar K., I.A.S.**  
Deputy Commissioner,  
Uttar Kannada, Karwar.

**No. RB/Tech Appeal/CR-12/2018-19**



**Between**

1. Shri. Ganapati Mahabaleshwar Hegde  
R/o Masigadde, Po: Kanagod Taluk:Sirsi.
2. Shri. Raghupati Mahabaleshwar Hegde  
R/o R/o Masigadde, Po: Kanagod Taluk:Sirsi.  
(Represented through Advocate Sri.P B Tandel)

**.... Appellants**

V/s

1. Sri. Ganapati Venkatraman Hegde  
R/o Masigadde, Po: Kanagod Taluk:Sirsi.  
GPA holder Sri. Ramakrishna Mahabaleshwar Hegde  
R/o Almane, Post: Kanagod Taluk Sirsi.
2. Deputy Director of Land Records, Uttar Kannada Karwar
3. Assistant Director of Land Records Sirsi.

**.... Respondents**

**Sub:** Appeal filed u/s 50 of Karnataka Land Revenue Act-1964 against the order about Hissa Phodi in respect of Sy. No. 60/3 of Masigadde village in Sirsi Taluk.

**Preamble:**

The instant appeal has been filed by the appellants U/s 50 of Karnataka Land Revenue Act 1964 against the order No.ಕಂ.ತಾಂ/ಭೂಮಾಪನ/ಭೂದಾಖಲೆ/ಮೇಲ್ಕನವಿ/105/16-17 dated 26-09-2018 passed by the Deputy Director of Land Records, Uttar Kannada Karwar.

Notices were issued to both parties and they have appeared before the Court.

**Brief facts of the case are as hereunder:**

The Suit Sy No. 60/3 of Masigadde Village in Sirsi Taluka consist of total extent of 0-14-0 kharab area 0-0-12 and actual extent is 0-13-4 in which Karnataka Sarkara mulagenidar Ganapati Venkatraman Hegde is holding an extent of 0-7-0, Ganapati Mahabaleshwar Hegde and Raghupati Mahabaleshwar Hegde are the owner for an extent of 0-6-4. As per Land Tribunal order No. LRM/SR/544 dated: 03-12-1978 an extent of 0-6-4 was granted to the father of Respondent No. 1 Mahabaleshwar Venkatraman Hegde and Form No. 10 was issued on 20-5-1980 and mutation entry No. 1555 was effected. Appellant Ganapati Mahabaleshwar Hegde ventured to get the property subdivided the Sy No. 60/3 and ADLR Sirsi subdivided the Sy No. 60/3 in to two Hissas i.e 60/3 an extent of 0-7-0 and Sy No. 60/5 an extent of 0-6-4. This phodi was objected before DDLR Uttar Kannada Karwar by respondent No. 1 Ganapati Venkatraman Hegde. DDLR Uttar Kannada Karwar after hearing the case allowed the appeal and rejected Hissa Form-11, 4, 12 prepared by ADLR Sirsi in respect of Sy No. 60/3 and 60/5, since the division map was prepared against the actual possession and enjoyment of the respective parties and DDLR Uttar Kannada Karwar directed ADLR Sirsi to resurvey and subdivide the property as per actual possession and enjoyment of the parties and after tallying the actual extent of RTC with the extent of the land. Being aggrieved by this the appellant prepared instant appeal before this court.

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**The advocate for the appellants argued that-**

1. The DDLR Uttar Kannada Karwar has dismissed the appeal without considering the points in dispute between the parties in proper perspective.
2. The DDLR Uttar Kannada Karwar has not observed that in Sy No. 60/3 the extent of the respondent No. 1 is shown as Karnataka Sarkara and title of respondent No. 1 is still pending.
3. The DDLR Uttar Kannada Karwar had failed to note that ADLR Sirsi has subdivided the Sy No after serving the notice to all parties.

Hence on these among other grounds, the appellants requested to allow the appeal.

**The advocate for the Respondents argued that-**

1. In the family partition the disputed property was allotted to the share of the this respondent Ganapati Venkatraman Hegde and his brother Mahableshwar Venkatraman Hegde. On later date both brothers together have handed over the actual possession of the area 0-14-0 in Sy No. 60/3 to Shri Siddi Vinayak Temple. The temple authorities have developed the said area and constructed the building. The brother of this respondent Shri Mahableshwar Venkatramna Hegde died about 20 years back. The appellants are the legal heirs of the deceased Mahableshwar Venkatraman Hegde. Such being the facts this property has divided into Two parts as Sy No. 60/3 area 0-7-0 and 60/5 area 0-6-4. The Hissa Form No. 4 was prepared without taking signature of the respondent.
2. The sub division was made as per the say of the appellant without consent of the respondent and against actual possession and enjoyment of the properties. Survey map was prepared without visiting the spot by the survey. The map ought to divide as East to West. But the surveyor made it as North to South. If it is so temple property will be affected.
3. The area in the said land of 0-14-0 in Sy No. 60/3 consist of temple and public etc. which is not shown in survey Map.

Hence he requested to dismiss the appeal.

**The point for consideration before this Court is-**

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

Ans. Negative.

On hearing the learned counsel for the appellants and perusal of the lower Court records, it is seen that, Sy No. 60/3 of Masigadde Village in Sirsi Taluka consist of total extent of 0-14-0 kharab area 0-0-12 and actual extent is 0-13-4 in which Karnataka Sarkara mulagenidar Ganapati Venkatraman Hegde is holding an extent of 0-7-0, Ganapati Mahabaleshwar Hegde and Raghupati Mahabaleshwar Hegde are the owner for an extent of 0-6-4. As per Land Tribunal order No. LRM/SR/544 dated: 03-12-1978 an extent of 0-6-4 was granted to the father of Respondent No. 1 Mahabaleshwar Venkatraman Hegde and Form No. 10 was issued on 20-5-1980 and mutation entry No. 1555 was effected. Appellant Ganapati Mahabaleshwar Hegde ventured to get the property subdivided the Sy No. 60/3 and ADLR Sirsi subdivided the Sy No. 60/3 in to two Hissas i.e 60/3 an extent of 0-7-0 and Sy No. 60/5 an extent of 0-6-4. This phodi was objected before DDLR Uttar Kannada Karwar by respondent No. 1 Ganapati Venkatraman Hegde. DDLR Uttar Kannada Karwar after hearing the case allowed the appeal and rejected Hissa Form- 11, 4, 12 prepared by ADLR Sirsi in respect of Sy No. 60/3 and 60/5, since the division map was prepared against the actual possession and enjoyment of the respective parties and DDLR Uttar Kannada Karwar directed ADLR Sirsi to resurvey and subdivide the property as per actual possession and enjoyment of the parties

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and after tallying the actual extent of RTC with the extent of the land. Hence after considering the entire material on record, I am of the opinion that there is no error committed by DDLR Uttara Kannada Karwar in dismissed in the appeal consequently. I proceed to pass the following order.

**No. RB/Tech Appeal/CR-12/2018-19**

**Date: 26-08-2019**

**Order**

Appeal is dismissed.

(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. Deputy Director of Land Records Uttara Kannada, Karwar for information and necessary action with Lower court file No.ಕಂ.ತಾಂ/ಭೂಮಾಪನ/ಭೂದಾಖಲಾಸಿ/ಮೆಲ್ಕನವಿ/105/16-17 dated 26-09-2018 page No. 1 to page No.154.
2. Tahasildar Sirsi for information and necessary action.