

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-15/14-15



**Between**

1. Shri. Subhash Bhaskar Pagi  
R/o Bhaire Tq: Karwar  
(Represented through Advocate Sri A. M. Shirwadkar)

.... Appellant

**V/s**

1. Smt. Vidya Ganapati Naik
2. Smt. Geeta Govind Naik
3. Smt. Shamala Govind Naik
4. Shri. Chandrakant Paradeshi Pagi
5. Shri. Prakash Vaikunt Gaonkar
6. Shri. Subhash Anant Naik
7. Shri. Suresh Bhaskar Pagi
8. Smt. Sharada Ganapati Naik  
All are R/o Marathawada, Bhaire, Tq: Karwar
9. Tahashildar Karwar  
(Represented through Advocate Sri. R. U. Tandell)

.... Respondent

**Sub:** Appeal filed u/s 49(A) of KLR Act 1964 against the Hissa phodi in Sy no. 240/2 of Bhaire village in Karwar Taluk.

**Preamble:**

The instant appeal has been filed against the order of DDLR in file no. ೮೦/ತಾಂ/ಭೂಮಾಪನ/ಭೂದಾಖಲೆ/ಮೇಲ್ಕನಿವಿ ೩೮/೧೩-೧೪ dated: 19-2-2015. Notices were issued to both parties.

**The brief facts of the case are as follows:**

The entire survey number measuring 1-26-0 in respect of Sy no. 240/2 of Bhaire village of Karwar Taluka was divided in to 7 Hissas as per Tahashildar Karwar order no. Kwr/ಅಪಭೂ/ಅತ್ಯಲ್ಪ/22/12-13. Earlier to this phodi the appellant has purchased on extent of 0-10-0 area from respondent no.1 to 3 through registered sale deed dated 16-10-2000. But the appellant alleged that boundaries of the suit land shown in the sale deed has not taken in to consideration by Tahashildar Karwar. Being aggrieved by his order he filed appeal before Deputy Director of Land Records Karwar and who in his order dated 19-2-2015 dismissed the appeal against this order the appellant filed the instant appeal before this court.

**The advocate for the appellant argued that**

1. The appellant has purchased an extent of 0-10-0 area in Sy no. 240/2 of Bhaire village by Respondent no. 1 to 3 through registered sale deed dated 16-10-2000. As per the boundary shown in the sale deed the appellant has constructed his farm house with compound wall on four sides. He is in possession of the suit land.
2. While making Hissas, the surveyor has not taken in to consideration of the land held by the appellant.
3. The boundaries of the land shown in the sale deed was not taken in to consideration while making Hissa phodi.
4. The PT Sheet prepared by the surveyor is not as per the waiwati of the appellant. Hence he requested allow the appeal.

**The advocate for the Respondent argued that**

1. The survey done by Taluka surveyor is in accordance to law. The survey authorities measured the land of the appellant and respondents with reference with the boundaries available on the record.

2. The appellant has falsely contented that there is road on the eastern side of his running from north to south.
  3. The appellant has falsely contented that he had constructed the compound wall as per the demarcation made at the time of sale.
  4. It is clear from the sale deed that there is no road on the eastern side of the land of the appellant. Respondent no. 1 to 3 have got 0-34-12 (A-G-A) land on the northern side of the appellant. The appellant's house is situated within the boundaries of his land. The authorities have measured the land correctly and done the phodi. Hence, no injustice is caused to anybody.
  5. The DDLR Karwar has pass the order after the opportunities to both the parties.
  6. The appellant claimed the waiwati boundaries are different than the real boundaries, than waiwati boundary cannot be regularized, as it becomes encroachment of some others land.
- Hence he requested to dismiss the appeal.

After perusal of lower court orders and written arguments of both the parties it reveals that entire survey no. 240/2 of Bhaire village in Karwar Taluka consisted of 1-26-0 (A-G-A) area and as per Tahashildar Karwar order number Kwr-~~240/2~~ 22/12-13 land was divided into 7 Hissas.

Sy no.	Hissa No.	Area	Name of the owner
240	2A	0-36-8 0-1-12 0-34-12	Smt. Vidhya Ganapati Naik Smt. Geeta Govind Naik Smt. Shamala Govind Naik
240	2B	0-10-0	Shri. Subhash Bhaskar Pagi
240	2C	0-5-0	Shri. Chandrakant Paradeshi Pagi
240	2D	0-3-0	Shri. Prakash Vaikunt Gaonkar
240	2E	0-4-8	Shri. Subhash Anant Naik
240	2F	0-6-0	Shri. Suresh Bhaskar Pagi
240	2G	0-1-0	Smt. Sharada Ganapati Naik
<b>Total</b>		<b>1-26-0</b>	

But earlier to this the appellant has purchase a extent of 0-10-0 (A-G-A) land from respondent no. 1 to 3 through registered sale deed dated 16-10-2000. The contention of the appellant is that while preparing the Hissa Phodi the sale deed was not taken into consideration. After verification of report issued by Taluka surveyor it reveals that the PT Sheet is prepared as per possession of the land owners. Further checkbandi as per sale deed is as follows.

**East-** Boundary of the land owner Sri. Jairam Shiva Salunke, **South-** Boundary of the land owner Sri. Ramakant Murari Desai, **West-** Boundary of the land owner Sri. Shivaji Puttu Salunke, **North-**Boundary of the land owner Smt. Sumati Kom Khushali Naik and it is clear that there is no mention of road. Also the claim that appellant is in possession of more land cannot be accepted nor considered as revenue authorities can only examine extend as per their sale deed.

Hence I proceed the following order.

No.RB/Tech Appeal/CR-15/14-15

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