

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

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

**No. RB/FOR/CR-477/2003-04**

**Between**

- Smt. Leelavati Narayan Shanbhag since deceased  
1A) Shri. Dilip Narayan Shanbhag  
R/o H No. 128, Belgaum Road, Taluk: Haliyal  
1B) Smt. Swarnalata D/o Narayan Shanbhag Yane  
Swarnalata Gajanana Hegde  
R/o Shreeniketana, Indira Nagar  
Near A.P.M.C. Yard Siddapur  
(Represented through Advocate Shrinivas U.A.) **.... Appellants**

V/s

- Smt. Meerabai Kom Devidas Hegde since deceased  
1A) Shri. Vinayak Devidas Hegde  
Dy. General Manager, Bosh Limited (Automotive)  
Near Adugodi, Hosur Road, Bengalore.  
1B) Smt. Sandya D/o Devidas Hegde  
Yane Smt. Sandhya A Upadhya  
R/o Martikoppa Sirsi  
1C) Shri. Udaya Devidas Hegde  
R/o Haliyal Road, Dharwad  
(Represented through Advocate Sri. S.K. Pawar) **.... Respondents**

**Sub:** Cancellation of regularization of Hangami lease of land measuring 1-0-0 (A-G-A) in Sy.No. 350 Plot No. 36 of Hegde village in Kumta Taluk.

**Preamble:**

The above captioned appeal was once decided by this Court vide order dated 02-05-2005 which was challenged by the respondent Smt. Meerabai Kom Devidas Hegde before the Karnataka Appellate Tribunal in Appeal No. 696/2005 and the Appellate Tribunal in turn allowed the appeal vide order dated 30-10-2015 and remanded the matter to this Court with a direction to dispose of the matter afresh in accordance with law. Accordingly, the matter is taken for disposal and notices were issued to both parties who were being represented by their counsel. Later, both the appellant and respondent were reported to be dead and hence their legal representatives have been brought on records.

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

The land measuring 1-0-0 (A-G-A) situated in Forest Sy.No. 350 Plot No. 36 of Hegde village Kumta Taluk was given to Shri. Narayan Ganesh Shanbhag on temporary lease (*Hangami Lagani*) basis on 14-10-1944 by the then Deputy Conservator of Forests, West Range, Karwar for growing fruit bearing trees. Subsequently, the temporary lessee Shri. Narayan Ganesh Shanbhag expired in the year 1972 and thereafter the land was inherited by his wife and children. Later, vide mutation entry No. A53 dated 21-08-1982, the land was transferred in the name of the respondent Smt. Meerabai Kom Devidas Hegde who is the sister of late Narayan Ganesh Shanbhag. Thereafter, under this office order No. RB/FOR/ CR/7/1994-95 dated 21-04-1994, the temporary lease of the land was regularized in the name of

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Smt. Meerabai Kom Devidas Hegde. This order was questioned by Smt. Leelavati Narayan Shanbhag, the wife of late Narayan Ganesh Shanbhag with a request to cancel the aforesaid regularization. Accordingly, after enquiry, the appeal was allowed vide order dated 30-10-2015 and the above said office order dated 21-04-1994 was withdrawn and mutation entry No. A53 was set aside.

As already stated above, the order dated 02-05-2005 was challenged before the Appellate Tribunal Bengaluru in Appeal No. 696/2005 and the Appellate Tribunal in turn, allowed the appeal vide order dated 30-10-2015 and remanded the matter to this Court with a direction to dispose of the matter afresh in accordance with law by issuing notice and hearing the respondent Meerabai Kom Devidas Hegde.

**The Advocate for the LRs of appellant argued that-**

1. The suit land was originally leased on temporary basis to Shri. Narayan Ganesh Shanbhag vide order dated 14-10-1944.
2. After the grant, Shri. Narayan Ganesh Shanbhag was in possession and enjoyment of the land and after his death his wife Leelavati Narayan Shanbhag inherited the land and after her death her children inherited the same.
3. The mutation of the land was wrongly entered in the name of Meerabai Kom Devidas Hegde without any basis. Though she is the sister of late Narayan Ganesh Shanbhag, she has no right whatsoever over the land. In spite of it, this office vide order No. RB/FOR/ CR/7/1994-95 dated 21-04-1994 regularized the temporary grant in her favour which is contrary to law.
4. The land was neither de-notified nor de-forested as required under law before regularizing the same in the name of Meerabai Kom Devidas Hegde.

Hence on these among other grounds, the advocate for appellant requested for cancellation of the regularization order.

Neither the LRs of respondent nor their advocates were present before the Court when the matter was posted for hearing arguments. However, on perusal of the records, it is revealed that late Meerabai Kom Devidas Hegde had defended the regularization order by contending that she is the sister of the original temporary lease holder late Narayan Ganesh Shanbhag and after his death his wife and children have conceded to transfer the land in her name and that being so there are no valid grounds to cancel the regularization order.

I have given my anxious consideration to the points in dispute between the parties in the background of the above referred factual matrix. Admittedly, the land in dispute is a forest land which was temporarily leased by the then Deputy Conservator of Forests, West Range, Karwar to Shri. Narayan Ganesh Shanbhag vide order dated 14-10-1944. Subsequently, the land is neither de-notified nor de-forested as required under law before regularizing the same in the name of Meerabai Kom Devidas Hegde. In this regard, any deviation of forest land after 25-10-1980 requires approval of Government of India under Forest (Conservation) Act 1980 as per the Hon'ble Supreme Court order dated 12-12-1996 in W.P. No. 202/95 as could be seen from the letter dated 05-01-2004 from the office of the Principal Chief Conservator of Forests, Bangalore and also the letter dated 19-05-2004 from the Deputy Conservator of Forests, Honnavar. Further, in a decision reported in ILR 2012 KAR 2275 (The Deputy Commissioner Chikamagalur District and Another Vs Gidda and another), the Hon'ble High Court of Karnataka has held that the Revenue Authorities have no jurisdiction to make any grants under Karnataka Land Grant Rules or such other grants under the Karnataka Land Revenue Act more particularly after the Forest (Conservation) Act 1980 had come into force on 25-10-1980. It may also be relevant to refer proviso to Sec. 94B of

Karnataka Land Revenue Act which reads-*Provided further that where prior approval of the Central Government under Section 2 of the Forest Conservation Act, 1980 (Central Act 69 of 1980) is required for grant of any land under this section, such grant shall not be made without such prior approval.* Under these circumstances, earlier order dated 21-04-1994 bearing No. RB/FOR/ CR/7/1994-95 and also mutation entry No. A53 cannot stand. Consequently, I proceed to pass the following order:

**No. RB/FOR/CR-477/2003-04**

**Date: 09-09-2019**

**Order**

This office order No. RB/FOR/CR/7/1994-95 dated 21-04-1994 is withdrawn and mutation entry No. A53 is set aside.

(Order dictated to the Stenographer, got computerized, verified and pronounced in open court on 09-09-2019)

*my*  
**Deputy Commissioner,  
Uttar Kannada, Karwar.**

**Copy to:-**

1. Advocates Shrinivas U.A and Sri. S.K. Pawar for information.
2. Assistant Commissioner, Kumta for information and necessary action.
3. Tahasildar Kumta for information and necessary action.