

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-02/2019-20

Between

1. Shri. Biliya Ganapa Naik
R/o Kelagin Idagunji Taluk Honnavar
(Represented through Advocate Smt. Padma Tandel)
V/s

.... Appellant

1. Shri K. Suryanarayan Raghuram Pai
R/o Main Road, At. S V Temple
Kundapur, Udupi District.
2. Shri V. Subraya S/o Vishnumurthy Shanbhag
R/o Kuladev General Stores, Near T. T Road
NH-66, Vader Hoble, Kundapur, Udupi District.
3. Shri Anandu S/o Bhalakrishna Nayak
R/o Anantwadi, Manki Village Taluk: Honnavar
4. Shri Deepak Ganesh Naik
R/o Kajimane Po. Talamakki Taluk: Honnavar.
5. Smt. Leelavati W/o Ramadas Nayak
R/o Anantwadi, Manki Village Taluk: Honnavar
6. Smt Premabai W/o Bhalakrishna Nayak
R/o Anantwadi, Manki Village Taluk Honnavar
7. The Executive Engineer National Highway Authority Karwar
8. The Executive Engineer Konkan Railway Shirawad Taluk Karwar
9. ADLR Honnavar Taluk Honnavar
(Respondent No.1 and 2 Represented through Advocate Sri.N M Madival)

.... Respondents



Sub: Appeal filed u/s 50 of Karnataka Land Revenue Act-1964 against the KJP and P.T Sheet prepared in respect of Sy No. 343 of Manki Village in Honnavar Taluka .

Preamble:

The instant appeal petition has been filed against the order of Deputy Director of Land Records, Uttara Kannada Karwar in file No. ಕಂ.ಆಂ/ಭೂಮಾಪನ/ಭೂದಾಖಲೆ/ಮೇಲ್ಕನಡಿ/14/18-19 dated 30-01-2019. Notices were issued to both parties and they have appeared before the Court.

Brief facts of the case are as hereunder:

The appellant and the respondents are adjacent land holders. The suit property Sy No. 343 of Honnavar Taluka in Manki Village totally consisted of 10-2-13, kharab 0-4-0, actual area 9-38-3. ADLR Honnavar as per his order No. HNR/MPR/211/05-06 and HNR/MPR/213/ 13-14 conducted the survey and prepared the Hissa map. But against the Hissa Phodi prepared by ADLR Honnavar the respondents filed appeal before DDLR Karwar and who in order dated: 30-01-2019 cancelled the Hissa Form-11, 4 & 12 and P.T Sheet and ordered to prepare New P.T Sheet as per their waiwati and rights. Being aggrieved by this order the appellant filed the instant appeal before this court.

The advocate for the appellant has not submitted any written argument. However on the basis of appeal memo the argument is considered as below.

1. The lower court failed to note that no notice of the appeal was served to the appellant. So the order passed by the lower court is against the rule of natural justice.

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2. The DDLR failed to note that the land in possession of appellant and respondent No.9 has been divided in to different Hissa and Phodi work has done by ADLR Honnavar.
3. The DDLR failed to note that the appeal submitted by the respondent before him was barred by limitation. But without considering this fact the DDLR cancelled the phodi which gives scope for litigation.
4. Without considering that the fact that phodi was done in 2005-06 and how much it will cause injustice to the appellant, DDLR cancelled the phodi Hissa.
5. DDLR has not considered the documents properly placed before the lower court.

Hence he requested to allow the appeal.

The advocate for the Respondent No.1 and 2 orally argued that-

1. The Hissa Phodi made in Sy No. 343/1, 343/5, 343/3B, 343/3A1, 343/3A2 and Sy No. 343/3A3 as per the order No. HNR/MPR/211/05-06 are contrary to law.
 2. ADLR Honnavar did not conduct the survey. He failed to prepare P. T Sheet as per the enjoyment and boundary mark shown in the sale deed.
- The respondents were not issued any notice. Hence he requested to set aside the appeal.

The point for consideration before this Court is-

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

Ans. Negative.

On perusal of the lower court records it reveals that the appellants and the respondents are adjacent land holders. Earlier the ADLR Honnavar has conducted the survey and prepared the Hissa Map. Now the Taluka Surveyor in his spot inspection report dated: 21-12-2018 clearly mentioned that the earlier hissa map does not tally with the P. T Sheet. Considering all these facts DDLR Karwar cancelled the earlier hissa map and ordered to prepare new P.T Sheet as per holding and waiwati of the land holders. So it is not necessary to interfere with the order of DDLR Karwar.. I proceed to pass the following order.

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Date: 14-10-2019

Order

Appeal is dismissed.

(Order dictated to the Stenographer, got computerized, verified and pronounced in open court on 14-10-2019)



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Deputy Commissioner,
Uttar Kannada, Karwar.

Copy to:-

1. Advocate Smt. Padma Tandel and Sri. N M Madival for information.
2. Deputy Director of Land Records Uttara Kannada, Karwar for information and necessary action with Lower court file No. ಕಂ.ತಾಂ/ಭೂಮಾಪನ/ಭೂದಾಖಲೆ/ ಮೇಲ್ಕನವಿ/14/18-19 dated 30-01-2019 page No. 1 to page No. 230.
3. Tahasildar Honnavar for information and necessary action.

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