

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-11/2018-19

Between

1. Shri. Shantaram Vishveshwar Hegde
R/o Nanikatta , Taluk Siddapur
(Represented through Advocate Sri.N. M Madiwal)
V/s

.... Appellant

1. Sri. Narayan Ganapati Hegde
R/o Nanikatta , Taluk Siddapur
2. Sri Shantaram Ramakrishna Hegde
R/o Nanikatta , Taluk Siddapur
3. Sri Balakrishna Vishveshwar Hegde
R/o Nanikatta , Taluk Siddapur
4. Sri. Venkatraman Vishveshwar Hegde
R/o Nanikatta Taluk Siddapur
5. Sri Sadanand Ganapati Hegde
R/o Nanikatta Taluk Siddapur
6. Sri. Narasimha Ganapati Hegde
R/o Nanikatta Taluk Siddapur
7. Deputy Director of Land Records Uttar Kannada Karwar
(R1 and R2 Represented through Advocate Sri.S. S Hegde)



.... Respondents

Sub: Appeal filed u/s 50 of Karnataka Land Revenue Act-1964 against the order about Hissa Phodi in respect of Sy. No. 157A of Tyagali village in Siddapur 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/ಬಾಡಾಲೂರಿ/ಮೇಲ್ಕನಡಿ/64/16-17 dated 19-11-2018 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 appellant and the respondents are adjacent land holders in Sy No.157A of Tyagali Village in siddapur Taluka. Earlier as per Tahasildar Siddapur order No. SDMR/PHS/108/08-09 Survey was done and land was subdivided in to Sy No. 157A1, 157A5 and 157A6 and Hissa map was prepared. Against the hissa Phodi the appellant prepared appeal before DDLR Karwar and who in his order dated: 19-11-2018 set aside the appeal. Being aggrieved by this order, the appellant filed the instant appeal before this court.

The advocate for the appellants argued that-

1. The appellant and the respondents are adjacent land holders. After the hissa phodi the appellant Shri Shantaram Vishveshwar Hegde got an extent of 0-20-0 in Sy No. 157A/1, the respondent No.1 Shri Narayan Ganapati Hegde got an extent of 0-29-0 in Sy No. 157A/5 and the respondent No. 2 Shri Narasimha Ganapati Hegde got an extent of 0-1-0 in Sy No. 157A/6. ADLR has included a portion of appellant land in respondents land. The appellant has got his house at that same place. The P.T Sheet prepared by the ADLR is not tallied with the enjoyment of the appellant. Hence, the appellant prepared appeal before DDLR. As per the direction of DDLR U

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7.

K Karwar, the ADLR has send the spot inspection report on 21-03-2018. But DDLR without considering this report set aside the appeal of the appellants.

2. Cancellation of the P.T Sheet does not harm the respondent No. 1. DDLR rejected the appeal without any proper reason.

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

The advocate for the Respondents argued that-

1. Sy No. 157A of Tyagali Village consist an extent of 04-28-0 area. In the year 2008 survey has been done and P. T Sheet has been prepared. As per the hissa phodi the respondent No. 1 and 2 got an extent of 0-30-0 which has been clearly mart in the P.T Sheet.

2. As per the request of the respondent on 02-02-2016 hadabast survey was made and boundary has been shown in the P.T Sheet. In the map it is clearly shown that the appellant has encroached an extent of 0-1-13 area in Sy No. 157A/5 which belongs to respondent No. 5

3. The Respondent No. 1 and 2 are already in the possession and enjoyment of an extent of 0-30-0 in Sy No. 157A/5 and SyNo. 157A/6 from the beginning. Notice has also served to the appellant during the survey.

4. The appellant has filed O S No. 95/2015 before Civil Court and the court has issued status-quo order against the respondents. So the instant appeal may be rejected.

5. As per direction of the DDLR, the ADLR Siddapur submitted the report that the area respondent No. 1 which is encroached by the appellant may be given to him and instead of it Kharab land may be given to the respondent No.1. This report is against the rules so DDLR set aside the appeal.

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, and the order of the DDLR it reviles that the appellant and respondents are adjacent land holders and as per the Tahasildar Siddapur order No. SDMR/PHS/108/08-09 the survey was done and the survey No. 157A of Tyagali village was sub divided in to Sy No. 157A/1, 157A/5 and 157A/6. As per the Hissa Phodi P.T Sheet was prepared. Against this Hissa phodi the appellant filed appeal before DDLR. It is clear from the P.T Sheet that appellant has encroached an extent of 0-1-13 area was belongs to respondent No. 1. Deputy Director of Land Records Uttar Kannada Karwar in his order clearly mentioned that report of the ADLR is against the rules. Hence, it is not necessary to interfere with the order of the DDLR Karwar. I proceed to pass the following order.

No. RB/Tech Appeal/CR-11/2018-19

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)



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

Copy to:-

1. Advocate Sri. N M Madival and Sri S. S Hegde for information.
2. Deputy Director of Land Records Uttara Kannada, Karwar for information and necessary action with Lower court file No. ಕಂ.ಆಂ/ಭೂಮಾಪನ/ಭೂದಾಖಲೆ/ ಮೆಲ್ಕನವಿ/64/16-17 dated 19-11-2018 page No. 1 to page No.198.
3. Tahasildar Siddapur for information and necessary action.