

IN THE COURT OF DEPUTY COMMISSIONER UTTARA KANNADA KARWAR

Present: Sri. S S Nakul, I.A.S
Deputy Commissioner,
Uttar Kannada, Karwar.

No. RB/RTR/CR-43/12-13

Between

1. Sri. Venkatesh Balakrishna Shanbhag
R/o Near Urdu School, Kasarkod Tq: Honnavar
(Represented through Advocate Sri N. S. Bhat)

.... Revision Petitioners

V/s

1. Assistant Commissioner, Bhatkal
2. Tahashildar Honnavar
3. Smt. Manjula Shantaram Kasarkod
R/o Sahin, Mumbai
4. Smt. Geeta Mohan Desai
R/o Manisha nagar, Thane.
(R4 is Represented through Advocate Sri. D. R. Bhat)

.... Respondent

Sub: Revision petition filed u/s 136(3) of KLR Act 1964 against the Mutation Entry no. 6/9-10 in respect of Sy. no. 1A1/2 and 1A1/6 of Kanaki chitta village in Honnavar Taluk.

Preamble:

The instant revision petition has been filed against the order of Assistant Commissioner, Bhatkal in file no. RTS-AP-SR-38/11-12 dated: 28-6-2012. Notices were issued to both parties.

The brief facts of the case are as follows:

Originally the suit property jointly belonged to one Sri. Venkatesh bin Balakrishna Shanabhag and Smt. Laxmi Kom Narayan Shanabhag. The respondent no.3 and 4 are the daughters of Late. Laxmi Narayan Shanabhag. It is alleged that Smt. Laxmi Narayan Shanbhag had executed registered release deed in favor of revision petitioner. As per this release deed Sy no. 52/2 of Kasarkod village was mutated in the name of revision petitioner vide mutation entry no.2865 dated: 16-3-1981. But however as per Mutation entry no. 6/09-10 dated: 9-4-2010 the name of revision petitioner and Smt. Laxmi Narayan Shanabhag was mutated to the suit property. So the revision petitioner gave application only to mutate his name as per the release deed. But it was objected by respondent no.4. After enquiry Tahashildar Honnavar rejected the application. Against this revision petitioner filed appeal before Assistant Commissioner, Bhatkal and who in his order dated: 28-6-2012 dismissed the appeal. Being aggrieved by this order the revision petitioner filed the instant revision petition before this court.

The advocate for the appellant argued that

1. The order passed by Assistant Commissioner contrary to law and facts of the case.
2. The revision petitioner has obtained the rights of the suit property from the original owner. So the respondents have no right or interest over the suit property. The suit properties are the self acquired property of their mother and she executed a release deed in favour of the revision petitioner. So he got

right over the property. Hence Tahashildar and Assistant Commissioner has not to consider the objections of the respondents.

3. In this connection the respondents have to approach the civil court for their rights in the suit property until the finalization of the suit, the name of the petitioner has to be continued in the RTC.
4. The order passed by Tahashildar and Assistant Commissioner is not proper and beyond their jurisdiction. Hence he requested to allow the revision petition.

The advocate for the respondent argued that

1. Late Laxmi Narayan Shanabhag mother of respondent no.3 and 4 has executed a release deed in favour of revision petitioner in respect of suit property.
2. However the said release deed is not affected in the revenue records. The respondents have denied the release deed executed by their mother.
3. After going through the records Assistant Commissioner has rights dismissed the appeal.
4. When the release deed is in dispute and both respondents are denying it, then revenue courts have not authorized to effect the Mutation entry on the basis of release deed.
5. Moreover the Legal heirs of Late Laxmi Narayan Shanabhag i.e, Respondent no. 3 and 4 denied the release deed.
6. As per the citation reported in 2007(2) KCCR-1046 once Mutation Entry is effected in the name of a particular person, who is interested in the said land seek a declaration from the Civil Court.

Hence he requested to dismiss the revision petition.

After perusal of the lower court records and written argument of both parties it reveals that the suit property is joint property stood in the name of revision petitioner and Late Laxmi Narayan Shanabhag mother of Respondent no. 3 and 4. Late Laxmi Narayan Shanbhag has executed a release deed in favour of the revision petitioner in respect of the suit property. But the said release deed is not effected in the revenue records. As per Mutation Entry no. 6/09-10 dated: 9-4-2010 the name of revision petitioner and Late Laxmi Narayan Shanabhag was mutated to suit property. The revision petitioner moved an application only to mutate his name to the suit property. But respondent no. 3 and 4 denied the release deed. When the release deed is in dispute the parties have to approach the civil court for relief. As per the citation reported in 2007(2) KCCR 1046 revision petitioner has to obtain necessary declaration from the civil court. Further the inordinate delay in applying for mutation also cannot be condoned by this revenue court. Hence I proceed to order as below.

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Date: 06-02-2017

Order

Appeal dismissed

(Order dictated to the Stenographer, got computerized, verified and pronounced in open court on 06-02-2017)

S. S. S. S.
6/2/17
**Deputy Commissioner,
Uttar Kannada, Karwar**