

IN THE COURT OF DEPUTY COMMISSIONER UTTARA KANNADA KARWAR

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

No.RB/RTR/CR-27/2019-20

Between

Shri. Keshav Rama Bhandari
R/o Kharva Village, Honnavar Taluk

V/s

1. Assistant Commissioner, Bhatkal
2. Tahasildar, Honnavar
3. Shri. Dattatreya Vasudev Yaji
R/o Kharva Village, Honnavar Taluk
4. Shri. Annayya Vasudev Yaji
R/o Kharva Village, Honnavar Taluk



....Appellant

.... Respondents

Sub: Appeal filed U/s 136(3) of Karnataka Land Revenue Act 1964 against the order of the Assistant Commissioner Bhatkal in file No. RTS/AP/SR/72/16-17 dated 02-07-2019.

Preamble:

The instant appeal has been filed U/s 136(3) of Karnataka Land Revenue Act 1964 against the order of the Assistant Commissioner Bhatkal in file No. RTS/AP/SR/72/16-17 dated 02-07-2019.

Notices were issued to both parties. Respondent No 3 & 4 remained absent despite service of notice.

Brief facts of the case are as hereunder:

That the land measuring 0-11-0 (A-G-A) in Sy.No. 459/1 of Kharva village Mavinakurva Hobli Honnavar Taluk is the subject matter of the appeal. It was mutated in the name of late Vasudev Narayan Yaji, the father of respondent No. 3 & 4 herein and his name was entered in column No. 9 of the RTC. He had filed Form No. 7 application before the Land Tribunal Honnavar claiming occupancy right in respect of the said land. So also, Shri. Ganapati Manjunath Bhandari, Rama Manjunath Bhandari and Venkatraman Rama Bhandari have filed Form No. 7 application claiming occupancy right in respect of the very same land. The Land Tribunal held separate enquiry and allowed the application filed by Shri. Vasudev Narayan Yaji vide order dated 27-12-1976. This order was challenged by Ganapati Manjunath Bhandari and Rama Manjunath Bhandari in W.P. No. 11412/1997 before the High Court of Karnataka, Bangalore. Since, the Land Tribunal failed to club both the applications together and pass common order, the Hon'ble High Court was pleased to allow the writ petition and further pleased to remand the matter to the Land Tribunal with a direction to club both the applications together and to hold fresh enquiry and dispose of the matter in accordance with law. It appears, the matter is still pending before the Land Tribunal. In the meanwhile, Vasudev Narayan Yaji died and his legal representatives respondent No. 3 and 4 herein applied for change of mutation in their name. Their application was allowed and mutation was entered and certified in their name at MR No. 40/15-16. This entry was challenged by the appellant herein by filing objection before respondent No. 2 Tahasildar Honnavar by contending that after remand from the Hon'ble High Court, the authorities should have entered the name of State Government (ರಾಜ್ಯ ಸರ್ಕಾರ) in column No. 9 of the RTC and the mutation should not have been certified in the name of respondent No. 3 & 4. The objection was overruled vide order dated 07-12-2016 which order was challenged by the appellant before respondent No 1 Assistant Commissioner Bhatkal who inturn dismissed the appeal vide order dated 02-07-2019.

Aggrieved by the order of the Assistant Commissioner Bhatkal, the appellant Shri. Keshav Rama Bhandari preferred this appeal on various grounds:

ay
.

The appellant argued that-

1. The Assistant Commissioner has passed the impugned order without appreciating the material facts in proper perspective.
2. The Assistant Commissioner failed to note that after the matter was remanded by the Hon'ble High Court of Karnataka to the Land Tribunal, the revenue authorities ought to have deleted the name of Vasudev Narayan Yaji in column No. 9 and ought to have entered the name of State Government (ಕರ್ನಾಟಕ ಸರ್ಕಾರ).
3. The Assistant Commissioner further failed to note that the Tahasildar ought not to have certified warisa mutation entry in the name of respondent No. 3 & 4 herein.

Hence, on the above among other grounds elaborately narrated in the written arguments, the appellant has requested to allow the appeal in the interest of justice and equity

Respondent No. 3 and 4 remained absent despite service of notice.

The point for consideration before this Court is-

1. Whether there are sufficient grounds to interfere with the order passed by the Assistant Commissioner, Bhatkal?

Ans. In the Negative.

On hearing the arguments and perusal of the documents, it is found that the land measuring 0-11-0 (A-G-A) in Sy.No. 459/1 of Kharva village Mavinakurva Hobli Honnavar Taluk is the subject matter of the appeal. It was mutated in the name of late Vasudev Narayan Yaji, the father of respondent No. 3 & 4 herein and his name was entered in column No. 9 of the RTC. He had filed Form No. 7 application before the Land Tribunal Honnavar claiming occupancy right in respect of the said land. So also, Shri. Ganapati Manjunath Bhandari, Rama Manjunath Bhandari and Venkatraman Rama Bhandari have filed Form No. 7 application claiming occupancy right in respect of the very same land. The Land Tribunal held separate enquiry and allowed the application filed by Shri. Vasudev Narayan Yaji vide order dated 27-12-1976. This order was challenged by Ganapati Manjunath Bhandari and Rama Manjunath Bhandari in W.P. No. 11412/1997 before the High Court of Karnataka, Bangalore. Since, the Land Tribunal failed to club both the applications together and pass common order, the Hon'ble High Court was pleased to allow the writ petition and further pleased to remand the matter to the Land Tribunal with a direction to club both the applications together and to hold fresh enquiry and dispose of the matter in accordance with law. It appears, the matter is still pending before the Land Tribunal. In the meanwhile, Vasudev Narayan Yaji died and his legal representatives respondent No. 3 and 4 herein applied for change of mutation in their name. Their application was allowed and mutation was entered and certified in their name at MR No. 40/15-16. This entry was challenged by the appellant herein by filing objection before respondent No. 2 Tahasildar Honnavar by contending that after remand from the Hon'ble High Court, the authorities should have entered the name of State Government (ಕರ್ನಾಟಕ ಸರ್ಕಾರ) in column No. 9 of the RTC and the mutation should not have been certified in the name of respondent No. 3 & 4. The objection was overruled vide order dated 07-12-2016 which was challenged by the appellant before respondent No 1 Assistant Commissioner Bhatkal who inturn dismissed the appeal vide order dated 02-07-2019.

It is not in dispute that after remand from the Hon'ble High Court of Karnataka, the matter is pending before the Land Tribunal Honnavar. The Assistant Commissioner has dismissed the appeal mainly on the ground that the revenue court cannot proceed with the matter when the rival tenancy issue is still pending before the concerned Land Tribunal Honnavar. Therefore, I do not find any error committed



my
+

by the Assistant Commissioner Bhatkal in dismissing the appeal. Hence, I proceed to pass the following order:

No.RB/RTR/CR-27/2019-20

Date:01-02-2021

Order

Appeal is dismissed. Tahasildar Honnavar is hereby directed to make an entry in (ಕರ್ಮ) column no 11 of R.T.C Sy 459/1 regarding pendency of land tribunal case.

(Order dictated to the Stenographer, got computerized, verified and pronounced in open court on 01-02-2021)



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

Copy to:-
1. Assistant Commissioner, Bhatkal for information and necessary action with Lower court file no. RTS/AP/SR/72/16-17 dated 02-07-2019 page No. 1 to page No.208.
2. Tahasildar Honnavar for information and necessary action.

ay

