

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/30/2019-20

Between

Shri. Raghavendra Honnappa Naik
R/o Hulidewarwada, Taluk Ankola
(Represented through Advocate Sri. V.N.Naik)

....Revision Petitioners

V/s

1. Shri. Suraj Honnappa Naik
R/o Hulidewarwada, Taluk Ankola
2. Smt. Shailaja Honnappa Naik
R/o Hulidewarwada, Taluk Ankola
3. Assistant Commissioner, Kumta
(Represented through Advocate Sri. R.G. Naik)

.... Respondents

Sub: Revision Petition filed U/s 136 (3) of Karnataka Land Revenue Act 1964 against the order of Assistant Commissioner, Kumta in file No. RTS/AP/SR/32/2017-18 dated 19-03-2019.

Preamble:

The instant revision petition has been filed U/s 136 (3) of Karnataka Land Revenue Act 1964 against the order of Assistant Commissioner, Kumta in file No. RTS/AP/SR/32/2017-18 dated 19-03-2019. Notices were issued to both the parties. Petitioner entered appearance through his counsel. Respondent 1 & 2 also appeared through their counsel.

Brief facts of the case are as hereunder:

That the revision petitioner and respondent No. 1 are brothers. Respondent No. 2 Shailaja Honnappa Naik is their mother. She had inherited the land measuring 0-6-0 in Sy.No. 69/2J of Shedageri village Ankola taluk from her father and later gifted the same to respondent No. 1 under registered gift deed and accordingly MR No. H22/2016-17 was entered in the name of respondent No. 1. This entry was challenged by the petitioner by filing objection before the Tahasildar Ankola. The objection was upheld and the mutation entry in question was cancelled vide order dated 07-04-2017. This order was challenged by respondent No. 1 & 2 before the Assistant Commissioner Kumta by filing appeal in No. RTS/AP/SR/32/2017-18. The appeal was allowed and the mutation entry was restored in the name of 1st respondent.

Aggrieved by the order of the Assistant Commissioner, the revision petitioner preferred revision petition before this Court.

The Advocate for the petitioner argued that-

1. The impugned order passed by the Assistant Commissioner is contrary to law and true facts of the case.
2. The Assistant Commissioner has failed to note that the civil dispute between the parties has no adverse affect on the appeal.
3. The Assistant Commissioner has not properly applied his mind and blindly passed the order without there being any valid grounds to allow the appeal.
4. The Assistant Commissioner has not properly appreciated the documentary evidence adduced by the appellants.

Hence on these among other grounds, the advocate for the revision petitioner requested to allow the revision petition in the interest of justice and equity.

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The advocate for the respondent 1 & 2 has argued supporting the impugned order passed by the Assistant Commissioner.

The point for consideration before this Court is-

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

Ans. In the Negative.

On perusal of the impugned order in the background of the evidence on record, it is seen that the revision petitioner and respondent No. 1 are brothers. Respondent No. 2 Smt. Shailaja Honnappa Naik is their mother. The land in dispute was inherited by respondent No. 2 from her father. Therefore, as rightly observed by the Assistant Commissioner, the property in dispute becomes her self acquired property. Admittedly, she had gifted the property in dispute to respondent No. 1 Suraj Honnappa Naik under a registered gift deed. The disputed mutation was entered in his name on the basis of the registered gift deed. Further, the petitioner had challenged validity of the gift deed before the Court of Civil Judge Ankola in O.S. No. 89/2017. It appears the civil suit is still pending disposal. Considering all these facts together, the Assistant Commissioner has rightly allowed the appeal by restoring the mutation entry in the name of respondent No. 1 Suraj Honnappa Naik. There are no valid grounds to interfere with the impugned order passed by the Assistant Commissioner. Hence, I proceed to pass the following order:

No. RB/RTR/CR/30/2019-20

Date:01-02-2021

Order

Revision petition is dismissed. The impugned order dated 19-03-2019 passed by the Assistant Commissioner Kumta is confirmed.

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



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

- Copy to:
1. Advocates Sri V.N. Naik and Sri. R.G. Naik for information.
 2. Assistant Commissioner, Kumta for information and necessary action with Lower court file no. RTS/AP/SR/32/2017-18 dated 19-03-2019 page No.1 to page No.98.
 3. Tahasildar Ankola with Lower court file no. RTS/Viva/72/2016-17 dated:07-04-2017 (M.R.No.H-22/16-17) page No. 1 to page No.66 for information and necessary action.