

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/39/2019-20

Between

Shri. Shrikantha Ramachandra Bhat
R/o Madguni in Halkar village,
Kumta, Now residing at Antravalli,
Post Antravalli, Kumta.
(Represented through Advocate Sri. P.S. Bhat)

Revision Petitioner

V/s

1. Revenue Inspector, Kumta
2. Tahasildar, Kumta
3. Shri. Prakash Ramachandra Bhat
4. Shri. Subray Ramachandra Bhat
5. Shri. Ganapati Ramachandra Bhat
3 to 5 residing at Madguni,
Post Halkar, Kumta
(Represented through Advocate Sri. N.S. Bhat &
S.M. Pandit)



.... 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/27/2018-19 dated 25-07-2019.

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/27/2018-19 dated 25-07-2019.

Notices were issued to both the parties. Petitioner and respondent No. 3 to 5 entered appearance through their counsel.

Brief facts of the case are as hereunder:

That the petitioner and respondent No. 3 to 5 are brothers. Their father late Ramachandra Subray Bhat died on 24-12-2016 leaving behind registered Will dated 01-02-2014 and registered on 03-02-2014 bequeathing his properties mentioned therein in favour of petitioner as well as his three other sons respondent No. 3 to 5. Accordingly, mutation No. H-23/2017-18 was entered in their respective names. The objection raised by the petitioner was overruled and the Tahasildar certified the said ME No. H-23/2017-18 vide order dated 30-11-2017. Hence, the petitioner preferred appeal before Assistant Commissioner Kumta. But his appeal was dismissed vide order dated 25-07-2019.

Being aggrieved by the order of the Assistant Commissioner, the revision petitioner preferred revision petition before this Court on various grounds.

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 and also contrary to natural justice.
2. The Assistant Commissioner has failed to note that the Tahsildar ought not to have certified the mutation based on disputed Will.
3. The Assistant Commissioner has passed the order without appreciating the facts in proper perspective.
4. The Assistant Commissioner has also failed to note that validity of disputed Will can be decided only by Civil Court and not by revenue courts.

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 respondents No. 3 to 5 argued that:

1. The Tahasildar has rightly certified the mutation on the basis of registered Will and the same was rightly upheld by the Assistant Commissioner.
2. The Assistant Commissioner has not committed any error in upholding certification of mutation entry.
3. There are no valid grounds to interfere with the well reasoned order passed by the Assistant Commissioner.

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

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 documents on record, it is very much clear that late Ramachandra Subray Bhat had bequeathed his properties in favour of his sons the petitioner and respondent No. 3 to 5 herein under registered Will dated 01-02-2014. It is pertinent to note that the petitioner is also one of the beneficiaries under the Will. Therefore, the Will being a registered document and the petitioner himself being a beneficiary under the Will, he cannot challenge validity of the Will before the revenue courts. He has to approach the jurisdictional Civil Court and until then, the revenue authorities cannot refuse to certify mutation entry in the name of the beneficiaries under registered Will. All these facts were considered by the Tahasildar as well as the Assistant Commissioner in proper perspective. Therefore, I do not find any merit in the revision petition. Hence, I proceed to pass the following order:

No. RB/RTR/CR/39/2019-20

Date:01-02-2021

Order

Revision petition is dismissed. The order dated 25-07-2019 passed by Assistant Commissioner is upheld.

(Order 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 P.S. Bhat, N.S. Bhat, S.M. Bhat for information.
2. Assistant Commissioner, Kumta for information and necessary action with Lower court file no. RTS/AP/SR/27/2018-19 dated 25-07-2019 page No. 1 to page No. 224.
3. Tahasildar Kumta for information and necessary action.