

**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-32/2019-20**

**Between**

Smt. Saraswati Ganapati Joshi  
R/o Gabhit Keni, Taluk Ankola  
(Represented through Advocate Sri. Raju N. Harikant) ....**Revision Petitioner**

V/s

1. Smt. Sumitra Ramanath Foujadar  
R/o Sadashivgad Taluk Karwar
2. Smt. Diksha Dattaram Kalgutkar  
R/o Sadashivgad Taluk Karwar
3. Smt. Deepalata Ramanath Foujadar  
R/o Sadashivgad Taluk Karwar
4. Smt. Bhagyalakshmi Ramanath Foujadar  
R/o Sadashivgad Taluk Karwar
5. Shri. Vinayak Ramanath Foujadar  
R/o Sadashivgad Taluk Karwar
6. Tahasildar Ankola
7. Assistant Commissioner Kumta  
(Represented through Advocate Sri. R.S. Hegde Gali) .... **Respondents**



**Sub:** Revision Petition filed U/s 136(3) of Karnataka Land Revenue Act 1964 against the order of the Assistant Commissioner Kumta in file No. RTS/AP/SR/106/2017-18 dated 29-01-2019.

**Preamble:**

The instant revision petition has been filed U/s 136(3) of Karnataka Land Revenue Act 1964 against the order of the Assistant Commissioner Kumta in file No. RTS/AP/SR/106/2017-18 dated 29-01-2019.

Notices were issued to both parties. Petitioner entered appearance through her counsel. Respondent No. 1, 2, 3 and 5 also entered appearance through their counsel. Respondent No. 4 remained absent despite service of notice.

**Brief facts of the case are as hereunder:**

That late Ramanath Vishwananth Foujadar, the husband of 1<sup>st</sup> respondent and father of respondent No. 2 to 5 was in possession of land measuring 2-12-2 (A-G-A) in Sy.479 A/1A5 of Bavikeri village Ankola Taluk as a tenant. He had filed Form No. 7 application before the Land Tribunal Ankola seeking occupancy right in respect of the said land. His name was entered in column No. 11 and 12 of the RTC and mutation was also entered in his name. The Land Tribunal allowed his application and granted occupancy right in his favour. The order of the Land Tribunal was challenged by the petitioner herein by filing writ petition before the Hon'ble High Court of Karnataka. The writ petition was allowed and the matter was remanded to the Land Tribunal for fresh disposal in accordance with law. Thereafter, again the Land Tribunal passed the order granting occupancy right in favour of the petitioner. It appears, the order of the Land Tribunal became final as it was not challenged. In the meanwhile, the petitioner appears to have filed Form No. 7A application U/s 77A of Karnataka Land Reforms Act 1977 before the Assistant Commissioner Kumta. But the application was dismissed. In the meanwhile, Shri. Ramanath Vishwananth Foujadar died and after his death, his wife and children respondent No. 1 to 5 sought for mutating their name in respect of the above said land. Accordingly, mutation was entered in their name in MR No. H128/2016-17. The Tahasildar rejected the objection raised by the petitioner. Hence, she filed appeal before the Assistant Commissioner. Appeal was dismissed vide order dated 29-01-2019.

my

Aggrieved by the order of the Assistant Commissioner Kumta, the Revision Petitioner Smt. Saraswati Ganapati Joshi preferred this revision petition on various grounds.

**The advocate for revision 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 Land Tribunal ought not to have granted the land in favour of Late Ramanath Vishwanath Foujadar as he was a government servant.
3. The Assistant Commissioner has failed to appreciate all the material aspects in proper perspective.
4. The order passed by the Assistant Commissioner is not tenable under law.

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

The advocate for respondent No. 1, 2, 3 & 5 has argued in support of the impugned order passed by the Assistant Commissioner by submitting that revenue court has no jurisdiction to question validity of the order passed by the Land Tribunal.

Before proceeding further in the matter, it is necessary to consider delay condonation application filed by the petitioner. The application is supported by affidavit wherein she has assigned reasons for the delay. The reasons are accepted and delay is condoned.

**The point for consideration before this Court is-**

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

Ans. In the Negative.

On hearing the arguments and perusal of the documents, it is found that Late Ramanath Vishwanath Foujdar had filed Form No. 7 application before the Land Tribunal Ankola seeking occupancy right in respect of the above said land. The Land Tribunal allowed his application and granted occupancy right in his favour. The order of the Land Tribunal was challenged by the petitioner herein by filing writ petition before the Hon'ble High Court of Karnataka. The writ petition was allowed and the matter was remanded to the Land Tribunal for fresh disposal in accordance with law. Thereafter, again the Land Tribunal passed the order granting occupancy right in favour of the Ramanath Vishwanath Foujdar. The order appears to have attained finality. In the meanwhile, Shri. Ramanath Vishwanath Foujdar died and after his death, his wife and children respondent No. 1 to 5 sought for mutating their name in respect of the above said land. Accordingly, mutation was entered in their name in MR No. H128/2016-17.

Admittedly, respondent No. 1 to 5 are the wife and children of late Ramanath Vishwanath Foujdar. Therefore, there was no error committed by the Tahasildar in certifying warisa mutation entry in their name and hence, the Assistant Commissioner has rightly dismissed the appeal. The main contention of the revision petitioner is that the Land Tribunal ought not to have passed the order, as Ramanath Vishwanath Foujdar was a government servant. But the Assistant Commissioner has rightly held that revenue courts have no jurisdiction to question



validity of the order passed by the Land Tribunal. Hence, I do not find any grounds to interfere with the impugned order passed by the Assistant Commissioner and consequently, I proceed to pass the following order:


No.RB/RTR/CR-32/2019-20

Date: 01-02-2021

**Order**

Revision Petition is dismissed.

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

  
Deputy Commissioner,  
Uttar Kannada, Karwar.

Copy to:

1. Assistant Commissioner, Kumta for information and necessary action with Lower court file no. RTS/AP/SR/106/2017-18 dated 29-01-2019 page No. 1 to page No. 214.
2. Tahasildar Ankola for information and necessary action.

