

**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-06/2015-16**



**Between**

1. Sri Gajanan Ganesh Bhat  
R/o Arolli Tq: Honnavar
2. Sri Ishwar Ganesh Bhat
3. Sri Janardhan Ganesh Bhat
4. Sri. Vishnu Ganesh Bhat  
All are R/o Kujalli Tq: Kumta  
(Represented through Advocate Sri. D. R. Bhat)

**.... Revision Petitioners**

**V/s**

1. Sri. Ramachandra Ganesh Bhat  
R/o Bisalkoppa Tq: Sirsi
2. Smt. Tara Narayan Bhat  
R/o Santeguli Tq: Kumta
3. Sri. Rajaram Ganesh Bhat  
R/o K.E.B. Manchikeri Tq: Yellapur
4. Smt. Mukambe Umamaheshwar Bhat  
R/o Alavalli Tq: Kumta
5. Smt. Ganapi Venkataraman Bhat  
R/o Arolli Tq: Honnavar
6. Sri. Venkataraman Ishwar Bhat  
R/o Arolli Tq: Honnavar
7. Revenue Inspector, Kumta
8. Tahashildar Kumta.  
(Represented through Advocate Sri. N. S. Bhat)

**.... Respondents**

**Sub:** Appeal filed u/s 136(3) of Karnataka Land Revenue Act against the order of Assistant Commissioner, Kumta in file No.RTS/AP/SR-07/2012-13 dated: 4-9-2014 relating to Mutation Entry No. 36/2010-11 dated: 20-5-2011 in respect of Sy no. 56/2B of Kujalli village in Kumta Taluk.

**Preamble:**

The instant appeal has been filed against the order of Assistant Commissioner, Kumta in file No.RTS-AP-SR-07/2012-13 dated: 4-9-2014 notices were issued to both parties.

**The brief facts of the case are as follows.**

The suite land Sy.No 56/2B an extent of 2-13-0 (A-G-A) of Kujalli Village of Kumta Taluka was the joint family property of revision petitioners and respondent 1 to 6. Respondent 1 to 3 are brothers and respondent no. 2 Smt. Tara Narayan Bhat is the w/o revision petitioner deceased brother Sri. Narayan Ganesh Bhat. Respondent no. 4 & 5 are the sisters and Respondent no. 6 is the s/o deceased sister Smt. Kalyani Ishwar Bhat. This being the relationship between the revision petitioners and the respondents, Smt. Mahadevi Kom Ganesh Bhat made Registered Partition deed dated: 26-3-1980 among the revision petitioners and respondents in respect of Sy no. 56/2B of Kujalli village and Sy no. 19 of Haravalli village in Kumta Taluka. Sy no. 56/2B of Kujalli village was allotted to petitioner

no. 1 to 4 and respondent no. 1 Smt. Mahadevi Ganesh Bhat and Sy no. 19 of Harav. village was allotted to Sri. Narayan Ganesh Bhat husband of Respondent no. 2. Sri. Venkataraman Ganesh Bhat husband of Respondent no.5 and Sri. Rajaram Ganesh Bhat respondent no.3. Smt. Mahadevi Kom Ganesh Bhat died on 24-10-2014 an application was moved by her legal heirs for deleting her name. Revenue Inspector Kujalli rejected inheritance mutation entry no. 36/2010-11 dated: 20-5-2011 reasoning that legal heirs are not produced the death certificate of main owner of the land. Respondent no. 1 filed an appeal against this mutation. entry before Assistant Commissioner, Kumta. Assistant Commissioner, Kumta after hearing the case passed an order to mutate this land in the name of all legal heirs i.e, revision petitioners 1 to 4 and respondents 1 to 6. Being aggrieved by this order the revision petitioner filed appeal before this court.

**The argument of the Advocate for petitioner are as follows :**

1. Order passed by the Assistant Commissioner, Kumta is contrary to law and true facts of the case and deserves to be set aside.
2. Assistant Commissioner, Kumta has not considered and discussed about the partition deed made by Smt. Mahadevi Ganesh Bhat during her life time at the time of his order.
3. As per partition deed names of revision petitioners and their mother were shown in the RTC Sy no. 56/2B of Kujalli village. Accept petitioners no other respondent have any right, title for interest in the Sy .no. 56/2B of Kujalli village.
4. No proper reason is given by Assistant Commissioner by passing the order.

Hence he requested to allow the appeal and set aside the order of the Assistant Commissioner, Kumta.

**The argument of the Advocate for Respondent no. 1& 4 are as follows :**

1. The reason of rejecting the mutation entry by Revenue inspector Kujalli that legal heirs have not produced the death certificate of main owner of the land i.e, father of respondent no. 1 Sri. Ganesh Bhat is not correct.
2. Order passed by the Assistant Commissioner, Kumta that land belongs equally to all joint family members i.e, revision petitioners and respondents is as per law.
3. Since this property is joint family property and Smt. Mahadevi Ganesh Bhat was one of the family member of this joint family, her share has to be distributed amongst all.
4. Revision petitioner has filed OS No. 68/2015 before Civil Court Kumta against the order of Assistant Commissioner, Kumta the same matter is pending before Hon'ble Civil Judge Kumta at this stage revenue court has no jurisdiction to decide the matter.

Hence, he requested to reject the appeal.

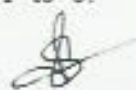
**The question before this court is :-**

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1. Whether the prayer of the revision petitioner can be considered ?

Ans:- Affirmative

On perusal of the lower court records written arguments of both the parties it is pertinent to note that Sy.No 56/2B an extent of 2-13-0 (A-G-A) of Kujalli Village of Kumta Taluka was the joint family property of revision petitioners and respondent 1 to 6.



Respondent 1 to 3 are brothers and respondent no. 2 Smt. Tara Narayan Bhat is the w/o revision petitioner deceased brother Sri. Narayan Ganesh Bhat. Respondent no. 4 & 5 are the sisters and Respondent no. 6 is the s/o deceased sister Smt. Kalyani Ishwar Bhat. This being the relationship between the revision petitioners and the respondents. Smt. Mahadevi Kom Ganesh Bhat made Registered Partition deed dated: 28-5-1980 among the revision petitioners and respondents in respect of Sy no. 56/2B of Kujalli village and Sy no. 19 of Haravalli village in Kumta Taluka. The land under contention was a part of Registered partition deed no. 122/1980-81 dated 28-5-1980 which was between revision petitioner and respondent no. 1 to 6. Hence when there is a registered partition deed it ought to have been the basis for mutation. Assistant Commissioner, Kumta has erred in not considering registered partition deed. Hence I proceed the following order.

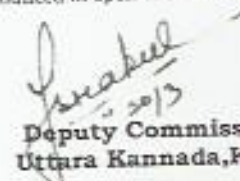
No. RB/RTR/CR-06/2015-16

Date: 20-3-2017

### Order

Assistant Commissioner, Kumta order no. RTS-AP-SR-07-2012-13 dated 4-9-2014 is quashed. Tahasildar Kumta is directed to undertake mutation of Sy. no. 56/2B an extent of 2-13-0 (A-G-A) of Kujalli village as per Registered partition deed no. 122/1980-81 dated 28-5-1980.

(Order dictated to the Stenographer, got computerized, verified and pronounced in open court on 20-3-2017)

  
Deputy Commissioner,  
Uttara Kannada, Karwar.

#### Copy to:-

1. Advocate Sri. D. R. Bhat & Sri. N.S. Bhat and for information.
2. Assistant Commissioner, Kumta for information and necessary action with Lower court file No. RTS/AP/SR-07/2012-13 dated: 4-9-2014. page No.1 to page No.
3. Tahasildar Kumta for information and necessary action.