

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-08/14-15



**Between**

1. Dr. Vasant Madhav S/o Prabhakar Hegdekatte  
R/o Muralidhar Matha Road, Tq: Karwar  
(Represented through Advocate Sri. N. S.Bhat)

.... Revision Petitioners

**V/s**

1. Sri. Venkatraman Shantaram Hegdekatte Sirsi
2. Sri. Sadanand Vithob Hegdekatte
3. Sri. Mahadev Ganesh Hegdekatte
4. Smt. Gange Kom Ganesh Hegdekatte
5. Smt. Shanta Kom Sadashiv Pandit
6. Smt. Rajeshwari Kom Mahabaleshwar Hegdekatte
7. Smt. Prema Kom Ganapati Bhat
8. Sri. Kumarguru Shrikanth Hegdekatte
9. Smt. Sudha Shrikanth Hegdekatte
10. Smt. Sujata Ramakrishna Pandit
11. Smt. Savitri Kom Radhakrishna Hegdekatte
12. Smt. Parvati Kom Ramakrishna Hegdekatte
13. Smt. Lalita Rama Hegdekatte
14. Sri. Raghavendra Rama Hegdekatte
15. Sri. Gajanan Radhakrishna Hegdekatte
16. Sri. Prasanna Radhakrishna Hegdekatta  
(G.P.A. Holder Sri. Prakash Raya Kamat)
17. Sri. Timmanna Gajanan Bhat
18. Assistant Commissioner, Kumta
19. Deputy Tahashildar, Mirjan.  
(R17 & R18 is Represented through  
Advocate Sri. Vinayak Patagar & Sri. N.M. Madiwal)

.... Respondent

**Sub:** Revision petition filed u/s 136(3) of Karnataka Land Revenue Act 1964 against the order of the Assistant Commissioner, Kumta No. RTS/AP/SR-40/2012-13 dated: 23-01-2014.

**Preamble:**

The instant revision petition has been filed against the order of against the order of the Assistant Commissioner, Kumta No. RTS/AP/SR-40/2012-13 dated: 23-01-2014. Notices were issued to both parties.

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

Survey No. 397/1A an extent of 0-4-10 (A-G-A) of Hegde vilge in Kumta takuka was sold by G.P.A. Holder Sri. Prakash Raya Kamat to Respondent no. 17 Sri. Timmanna Gajanan Bhat as per Registered sale deed. Revision petitioner Dr. Vasant Madhav S/o Prabhakar Hegdekatte submitted objection that GPA Holder Sri. Prakash Raya Kamat has created bogus power of attorney and sold the property to Respondent no.17. Deputy Tahashildar, Mirjan after hearing the matter rejected the mutation entry no. H/145 in his order dated: 6-6-2012. Against this order the revision petitioner appeal was filed in the court of Assistant Commissioner, Kumta. Assistant Commissioner, Kumta set aside the order of Deputy Tahashildar and order to mutate the name of respondent no. 17 in RTC as per sale deed by accepting the mutation entry no. H/145. Being aggrieved by this order the revision petitioner filed the instant revision petition before this court.

**The advocate for the appellant argued that**

1. The impugned order passed by Assistant Commissioner is contrary to law and facts of the case.
2. The properties came to the share of petitioner's branch that is undivided family properties, and without the consent or knowledge of petitioner the respondent have sold the same by creating bogus General Power of Attorney, J form and Mutation entries have been affected inspite of strong objection from the petitioner. The said mutation made by the Tahashildar has been challenge before this court under revision petition.
3. The mutation has been cancelled by the order of Deputy Tahashildar and against that respondent has filed appeal before Assistant Commissioner, Kumta and Assistant Commissioner; Kumta allowed the appeal by exparte challenge under this revision petition.
4. The mutation entry in respect of family property has been cancelled but the appeal filed by the GPA holder has been allow by the Assistant Commissioner, Kumta and Assistant Commissioner, Kumta without giving proper opportunity to the petitioners and in that connection petition no. 8/2014-15 has been filed and that proceeding is also directly connected with this. This court has got powers to decide the same with this revision petition. Therefore both the cases can be decided at a time.
5. The respondent who is said to be GPA holder has no legal right to sell the property since the Power of Attorney is bogus and created one.
6. The GPA has been created by forging the signature of that person and sold the property to Respondent No.17.
7. Second party sworn in the General power of Attorney was dead two years prior to date of said General power of Attorney. Therefore the said Power of Attorney is not valid and consequently J form issued in respect of the said sale is not valid one.

Hence he requested to allow the revision petition.

**Advocate for the Respondent argued that**

1. The appeal is not maintainable and the appellant is no locus standi to file this appeal. The appellant has to prove the right over suit property. The appellants name or his father's name or their rights not shown in the RTC or mutation entries since from 1960 to 2015-16.
2. The mutation entry No. 7671 dated 20-4-1957 is based on registered vantani patra, appellant's name nor his father's name is mentioned in this mutation entry. Hence appellants is not having right in this land.
3. Respondent No. 1 and 2, Shri Shantaram vishwanath hegdekatte and Shri Sadanand Vithoba Hegadkutte both sold their share of property in the year 2004 one Smt. Shantakumari Mohan Naik as per sale deed.
4. However, the name of the revision petitioner is not at all entered in the revenue records of disputed land. If the revision petitioner has any share in the property it should be decided by proper forum. The share of the revision petitioner itself is not decided and his name is not shown in the record of rights, under such circumstances this revision petitioner has no locus standie to prefer this revision.
5. There is no dispute between the seller and purchaser of the suit land Sy.No. 397/1A an extent of 0-4-10 from G.P.A holder Prakash Raya Kamat.
6. Revision petitioner has preferred this revision against the entry effected on the basis of sale deed. Under such circumstances the revenue court has no jurisdiction to decide on the merits and demerits of the sale deed. It is only Civil Court to decide the genuineness of the sale deed. It is the duty of the revenue officials to effect the mutation entry whenever J form is issued by the Sub registrar on the basis of sale deed. In this regard Hon'ble High Court of



Karnataka has passed ruling 2010(4) KCCR page no. 3037 and 2007(3) KCCR page no. 2069.

Hence he requested to dismiss the revision petition.

**Questions before this court is**

1. whether the mutation based on Sale deed can be questioned in a revenue court ?
2. Taking decisions regarding genuineness of the General Power of Attorney comes under preview of this court ?

Answer:

1. No
2. No.

After perusal of the lower court records and written argument of both parties it reveals that the Survey No. 397/1A total area of 0-4-0 (A-G-A) of Hegde vilge in Kumta takuka was joint property of Respondent no. 3 to 26 and except Respondent no. 5 Sri. Mahadev Gancsh Hegdekatte. These joint land owners gave general power of attorney to Shri. Prakash Raya Kamat. Shri. Prakash Raya Kamat being the GPA holder transfer this land to Respondent No. 17 Sri. Timmanna Ramkrishna Hegde an extent of 0-4-0 (A-G-A) as per mutation entry no. H-145 dated: 3-11-2011. Revisioner petitioner filed objection against the mutation entry mentioning that the sale deed executed by GPA holder was on the basis of forged GPA to Deputy Tahashildar, Mirjan after hearing the matter rejected the mutation entry no. H/145 in his order dated: 6-6-2012. Against this order the revision petitioner appeal was filed in the court of Assistant Commissioner, Kumta. Assistant Commissioner, Kumta set aside the order of Deputy Tahashildar and order to mutate the name of respondent no. 17 in RTC as per sale deed by accepting the mutation entry no. H/145. Revision petitioner claims that Respondent No. 4 Smt. Gange Kom Ganesh Hegdekatte was dead dated 3-1-1989 and Respondent No. 5 Smt Shanta Kom Sadashiv Pandit was dead dated 15-4-1999 and General Power of Attorney was made on dated 9-6-2011. The said Power of Attorney is not valid and consequently the said sale is not valid one and N.A. permission obtained on the basis of GPA is liable to be cancel. But there is no dispute between seller and purchaser of the suit property. Revision petitioner has submitted the death certificate of Smt. Gange Kom Ganesh Hegdekatte was dead dated: 3-1-1989 and GPA was executed on 3-2-2011. Under this circumstances GPA to be doubtful. But this court has no jurisdiction to make the decision regarding genuineness of the general power of attorney. Genuineness of the GPA is to be decided by Civil court. Further a mutation based on a registered sale deed cannot be questioned in a revenue court. Hence I proceed the following order.

**No. RB/RTR/CR-8/11-12**

**Date: 20-03-2017**

**Order**

Revision petition is dismissed.

(Order dictated to the Stenographer, not computerized, verified and pronounced in open court on 20-03-2017.)



*[Signature]*  
11/2017  
**Deputy Commissioner,  
Uttar Kannada, Karwar.**

**Copy to:-**

1. Advocate Sri. N.S.Bhat and Sri. Vinayak Patagar & Sri.N.M.Madiwal for information.
2. Assistant Commissioner, Kumta for information and necessary action with Lower court file No. RTS/AP/SR-40/2012-13 dated: 23-01-2014. page No.1 to page No.
3. Tahasildar Kumta for information and necessary action.