

**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-08/16-17**



**Between**

1. Sri Miran Mohiddin Peerzada S/o Mohammad Saheb Peerzada.  
Resident of 150 'Ragina House'  
2<sup>nd</sup> floor, Room No. 23 Matar Pakady Road Mazgaon Mumbai.  
Represented by his G.P.A Holder  
Sri Masheeha S/o Miran Mohiddin Peerzada.  
(Represented through Advocate Sri. K.R.Desai)

**.... Revision Petitioner**

**V/s**

1. Sri. Fakki Ismail Peerzada S/o Mohammed Saheb Peerzada  
R/o Bunder road, Magdum Colony, Taluk Bhatkal.
2. Sri. Mohammed Iqbal S/o Ahmed Basha,  
Saheb Shopa, R/o Moulana Azad Road Taluk Bhatkal.
3. Revenue Inspector Sugsadi, Taluka Bhatkal.
4. Tahasildar Bhatkal.  
(R1 Represented through Advocate Sri.M.L Naik)

**.... Respondents**

**Sub:** Appeal filed under rule 69(2) of Karnataka Land Revenue Rules R/W section 136(3) of Karnataka Land Revenue Act against the order of Assistant Commissioner, Bhatkal in file No.RTS/AP/SR-05/2015-16 dated: 25-2-2016 relating to Mutation Entry No.H4/2013-14, dated 5-9-2013 in respect of Sy no.37/2 of Belni village in Bhatkal Taluk.

**Preamble:**

The instant revision petition has been filed against the order of Assistant Commissioner, Bhatkal in file No.RTS-AP-SR-05/2015-16 dated: 25-2-2016 notices were issued to both parties.

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

The suit land Sy. No 37/2 an extent of 0-26-0 (A-G-A) of Belni Village of Bhatkal Taluka was the joint property of appellant, his brother Respondent No.1 and his mother Smt. Mamujani kom Mohammed Saheb Peerzade and the said land was purchased by above 3 persons under Registered Sale deed dated 23-10-1974 and their names were duly entered in RTC of Sy. No. 37/2 of Belni village. Respondent No.1 Fakki Ismail Peerzada S/o Mohammed Saheb Peerzada sold this property to Respondent No.3 Mohammed Iqbal S/o Ahmed Basha, by executing General Power of attorney in the name of Sri Masheeha S/o Miran Mohiddin Peerzada as per sale deed No. 425/2013-14 dated 31-7-2013 as per mutation entry No. H4/2013-14 dated 5-9-2013. Against this mutation entry the appellant challenged all above mutation entries before Assistant Commissioner, Bhatkal and Assistant Commissioner, Bhatkal by his order dated: 25-2-2016 rejected the appeal with a reason that matter is pending before Hon'ble Senior Civil Judge Honnavar in the O.S No. 22/2014 and O.S. No. 24/2015 is pending before Hon'ble Civil Judge Bhatkal, action will be taken as per orders of the Hon'ble Civil Court. Being aggrieved by this order the second appeal is filed the appellant before this court.

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

1. Respondent No. 1, fraudulently created fabricated the forged General Power of Attorney, allegedly to be executed by appellant and his mother and imposed documents in Urdu and never executed and signed alleged G.P.A dated 4-7-2013. The mother of the appellant Smt. Mamujani, who was bed ridden and pardanashin lady aged about 80 years. She being old age lady was unable to understand worldly affairs and not able to understand the acts done by her and she expired on June 2014.
2. Respondent No.1 who is said to be G.P.A. holder has no legal right to sell the property since the Power of Attorney is bogus and forged document.
3. The order passed by the Assistant Commissioner, Bhatkal is contrary to law and facts of the case.
4. The Sale deed mutation entry No. H4/2013-14 dated 5-9-2013 made in favour of Mohammed Iqbal S/o Ahmed Basha is illegal, since it is made on the basis of fabricated and forged General Power of Attorney. As per the decision reported in I.L.R 2000, Kar,184, it is held that Tahsildar or Revenue Authority can refuse mutation on the basis of registered sale deed if there is genuine grounds and material on record before him.
5. Respondent no.1 to grab the property of appellant created forged G.P.A. his Act cannot be protected under any circumstances of the case.

Appellant requested to allow the appeal and set aside the order of the Assistant Commissioner, Bhatkal.

**The argument of the Advocate for Respondent no. 1 & 9 are as follows :**

1. The respondent No.1 has purchased the land compromised in Sy.No. 37/2 measuring 0-26-0 (A-G-A) of Belni village, Bhatkal Taluka through a registered sale deed which is registered in the office of the Sub-Registrar Bhatkal in document No. 425/2013-14 dated 31-7-2013.
2. When a person purchases any land through a registered instrument it is the bounden duty of the Revenue Authority to mutate the name of the purchaser in the RTC.
  - (1) 2006(3) KCCR 3037, held that, section 136 as soon as the land is registered in the name of a party, it is the duty of the concerned Revenue Authority to enter the name of that party in the Revenue record.
  - (2) 2010(4) KCCR 3037, held that section 135-revenue courts whether the Revenue Courts have the jurisdiction to hold a sale deed as invalid- No, the court held that the Revenue Courts have no jurisdiction to invalidate sale deed executed by the parties and decide the question with regard to title. They fall exclusively with the jurisdiction of Civil Courts.
  - (3) 2001(1) KCCR 488, held that, legal obligation on the part of the revenue authorities under section 128 of the land revenue act imposed on them the duty to effect Khata change pursuant to registered conveyance.
  - (4) 2001(2) KCCR 744, held Any person who possesses title to land has right to be shown as Khatedar in record of rights.

(5) In a decision reported 2015(5) KCCR page 1505 and 2015(5) KCCR page 1120 the above principles are reiterated.

3. This Hon'ble Court has no right or jurisdiction to decide about the right title or genuineness of a G.P.A., hence the objection for mutation in pursuance to the registered sale deed by the appellant is not maintainable and same is liable to be rejected.
4. In respect of the same subject matter the suit at O.S. No. 22/14 is pending on the file of Senior Civil Judge Honnavar at Bhatkal. As the matter is seized by the civil courts the revenue court has no jurisdiction to decide the matter.

Hence, he requested to reject the appeal.

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

1. Whether Revenue Courts has jurisdiction to decide about the genuineness of the documents pertaining to mutation entries when the mutation entry is already affected .
2. Whether Revenue Officer is authorised to do mutation entry as per Registered Sale deed .

**Answer :-**

1. Negative
2. affirmative

On perusal of the lower court records written arguments of both the parties it is pertinent to note that The suite land Sy.No 37/2 an extent of 0-26-0 (A-G-A) of Belni Village of Bhatkal Taluka was the joint property of appellant, his brother Respondent No.1 and his mother Smt Mamujani kom Mohammed Saheb Peerzade and the said land was purchased by above 3 persons under Registered Sale deed dated 23-10-1974 and their names were duly entered in RTC of Sy. No. 37/2 of Belni village. Respondent No.1 Fakki Ismail Peerzada S/o Mohammed Saheb Peerzada sold this property to Respondent No.3 Mohammed Iqbal S/o Ahmed Basha, by executing General Power of attorney in the name of Sri Mashocha S/o Miran Mohiddin Peerzada as per sale deed No. 425/2013-14 dated 31-7-2013 as per mutation entry No. H4/2013-14 dated 5-9-2013. Against this mutation entry the appellant challenged all above mutation entries before Assistant Commissioner, Bhatkal and Assistant Commissioner, Bhatkal by his order dated: 25-2-2016 rejected the appeal with a reason that matter is pending before Hon'ble Senior Civil Judge Honnavar in the O.S No. 22/2014 and O.S. No. 24/2015 is pending before Hon'ble Civil Judge Bhatkal, action will be taken as per orders of the Hon'ble Civil Court. The matter is sub-judice . As registered sale deed cannot be questioned in revenue courts. Hence I proceed the following order.

**No. RB/RTR/CR-08/2016-17**

**Date: 20-03-2017**

**Order**

Revision petition is dismissed.

(Order dictated to the Stenographer, not computerized, verified and pronounced in open court on 20-3-2017)



*[Signature]*  
20/3  
**Deputy Commissioner,  
Uttara Kannada, Karwar.**