

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-17/2015-16



Between

1. Smt. Shivamma Kom Manjunath Naik
R/o Nagarabastikeri, Gerusoppa Tq: Honnavar
2. Sri. Santosh Manjunath Naik
R/o Nagarabastikeri, Gerusoppa Tq: Honnavar
(Represented through Advocate Sri. N. S. Bhat)

.... Revision Petitioners

V/s

1. Sri. Michael Domic Kuruvinkunnel
R/o Kochi, Kerala
at present residing at Gokarna, Tq: Kumta
2. Tahashildar Honnavar
3. Assistant Commissioner, Bhatkal
(Represented through Advocate Sri. D. R. Bhat)

.... Respondents

Sub: Revision petitioner filed u/s 136(3) of Karnataka Land Revenue Act-1964 against the certification of Mutation entry no. 155/06-07 dated: 17-7-2007 in respect Sy. no. 118/A/10, 118/A/3, 119/12, 119/13, 119/16, 119/2, 119/6, 119/9, 120/7, 120/8, 120/9, 120/10, 120/11, 120/12, 120/13, 120/14, 120/15, 120/16, 120/17, 120/18, 120/19 and Mutation entry no. H12/2013-14 dated: 23-11-2013 in respect of Sy no. 120/16, 120/17, 120/18, 120/19 of Nagarabastikeri village in Honnavar Taluka.

Preamble:

The instant revision petition has been filed against the order of Assistant Commissioner, Bhatkal in file No.RTS-AP-SR-102/2013-14 dated: 23-7-2015 notices were issued to both parties.

The brief facts of the case are as follows.

The suit property originally belong to revision petitioner Smt. Shivamma Kom Manjunath Naik she sold the property to respondent to Registered sale deed no.1220/07-08 dated: 17-5-2007. Accordingly as per Mutation entry no. 155/2006-07 name of respondent no. 1 was mutated. But again the revision petitioner through "Dana patra" no. 0872/2013-14 dated: 17-10-2013 transferred Sy no. 120/16, 120/17, 120/18, 120/19 in favour of revision petitioner no. 2 as per vide mutation entry H12/2013-14 dated: 23-11-2013. Against the certification of this mutation entry the respondent filed appeal before Assistant Commissioner, Bhatkal and Assistant Commissioner, Bhatkal cancelled the impugned mutation entry no. H12/2013-14. Being aggrieved by this order the revision petitioner filed instant petition before this court.

The argument of the Advocate for petitioner are as follows :

1. The impugned order passed by the Assistant Commissioner, Bhatkal is contrary to law.
2. The respondent does not have any locus standi to file before Assistant Commissioner, Bhatkal.

3. The suit property belongs to the revision petitioner and through register "Dana patra". She transferred suit property in favour of person. Assistant Commissioner, Bhatkal has no power to cancel the entry which was certified on the basis of "Dana patra".
4. If the respondent is aggrieved by the mutation entry he has approach to Civil court regarding the validity of "Dana patra". Assistant Commissioner, Bhatkal has wrongly cancelled the mutation entry though the registered "Dana patra" is in existence. Thus Assistant Commissioner, Bhatkal ordered beyond his jurisdiction.

Hence he requested to dismiss the order of Assistant Commissioner, and direct the respondent to approach Hon'ble Civil court for relief.

The Advocate for Respondent did not produce any written or oral arguments after giving multiple opportunities by the court. Hence it was decided to dispose the case on the records available in the case.

The question before this court is :-

1. Whether the prayer of the revision petitioner can be considered ?
- Ans:- Negative.

On perusal of the lower court records written arguments of revision petitioner it reveals that the suit property Sy, no. 118/A/10, 118/A/3, 119/12, 119/13, 119/16, 119/2, 119/6, 119/9, 120/7, 120/8, 120/9, 120/10, 120/11, 120/12, 120/13, 120/14, 120/15, 120/16, 120/17, 120/18, 120/19 belonged to revision petitioner no. 1 Smt. Shivamma Kom Manjunath Naik she sold the property including Sy.No 120/16 an extent of 0-25-0 (A-G-A), 120/17 an extent of 0-11-0 (A-G-A), 120/18 an extent of 0-3-0 (A-G-A) and 120/19 an extent of 0-3-4 (A-G-A) to the respondent through registered sale deed on 17-5-2007. Accordingly mutation entry no. 155/2006-17 was mutated. But later the petitioner again transferred these survey numbers to her son petitioner no. 2 Sri. Santosh Manjunath Naik through registered "Dana patra" no. 00872/2013-14 dated 17-10-2013. Section 128 of Karnataka Land Revenue Act discloses that whenever a person acquires rights under registered document the revenue authority are bound to carry out mutations in accordance the contents of the registered documents. In this case Assistant Commissioner has rightly ordered for mutation as per registered document. So it is not necessary to interfere with the order of the Assistant Commissioner, Bhatkal. Hence I proceed the following order.

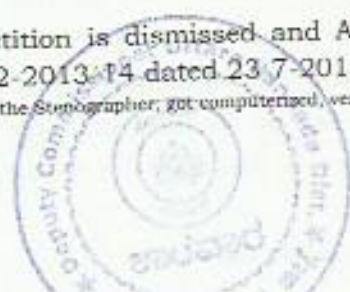
No. RB/RTR/CR-17/2015-16

Date: 20-03-2017

Order

Revision petition is dismissed and Assistant Commissioner, Bhatkal order no. RTS-AP-SR-102-2013-14 dated 23-7-2015 is upheld.

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



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

Copy to:-

1. Advocate Sri. N.S.Bhat and Sri. D. R. Bhat for information.
2. Assistant Commissioner, Bhatkal for information and necessary action with Lower court file No. RTS/AP/SR-102/2013-14 dated: 23-07-2015. page No.1 to page No.
3. Tahasildar Honriavar for information and necessary action.