

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-23/2013-14



Between

1. Abdul Khader .H. Sab
Vice President,
Gram Panchayath Soppin Hosalli, Tq: Kumta
2. Smt. Savita Shanker Marathi.
3. Sri Hanumanth Krishna Gouda.
4. Smt. Mahadevi.S. Mukri,
All are members of Gram Panchayat Soppin Hosalli,
Taluq: Kumta.
(Represented through Advocate Sri. P.S.Bhat)

.... Revision Petitioners

V/s

1. The Shrestidar Revenue Department, Kumta.
2. The Executive Officer,
represented by the Development Officer
of Taluka Panchayat.
by Development officer of Gram Panchayat Soppin Hosalli,
Taluq: Kumta
3. Vishweshwar Yuvak Mandal Soppin Hosalli Kumta.
(Represented through Advocate Sri. R.S.Hegde Gali)

.... Respondents

Sub: Revision petitioner filed u/s 136(3) of Karnataka Land Revenue Act-1964 against the order of the Assistant Commissioner, Kumta in file No.RTS-AP-Viva-14/2012-13 dated 01-08-2013 relating to mutation entry No. 5/2011-12 of Soppin Hosalli village in Kumta Taluq.

Preamble:

The instant revision petition has been filed against the order of Assistant Commissioner, Kumta in file No.RTS-AP-Viva-14/2012-13 dated: 01-08-2013 notices were issued to both parties.

The brief facts of the case are as follows.

Soppinahosalli Gram Panchayat was newly created as per Deputy Commissioner Uttara Kannada notification no. ಗುಮಾಸ್ತ-ಅಧಿಕಾರಿ-೨೨-೩೫-೦೮-೦೯ ದಿನಾಂಕ: 26-2-2009. This Soppinahosalli Gram Panchayat consist of two wards Kalave and Soppinahosalli and 11 villages namely Kankale, Holavalli, Kalve, Chimmoli, Mudagi, Bagani, Morse, Soppinahosalli, Basolli, Mudnalli, Medini. In which Kalave ward consist of seven villages namely Kalave, Chimmoli, Holavalli, Kankale, Mudagi, Bagani and Morse and Soppinahosalli ward consist of four villages namely Soppinahosalli, Basolli, Mudnalli and Medini. As per notification the headquarters of the Gram Panchayat should be in Soppinahosalli village. Soppinahosalli Gram Panchayat office has started temporarily in rented building due to inconvenience of the space in Panchayat office the Kalave ward people wanted to shift gram panchayat office from Soppinahosalli to Kalave. Respondent no. 3 Vishweshwar Yuvaka Mandali Soppinahosalli Kumta executed registered gift deed in Sy no. 16B of an extent of 0-5-0 (A-G-A) non agricultural land out of total extent of 1-0-0 (A-G-A) in favor of Executive Officer Taluk Panchayat Kumta represented by Panchayat

Development Officer Soppinahosalli Gram Panchayat Tq: Kumta on 28-3-2011. As per J-Slip Tahashildar Kumta made mutation entry in the RTC. Revision petitioner no. 1 to 4 submitted written objection to Village Account Soppinahosalli against the mutation entry no. 5-TR-8 dated 17-8-2011. Taluka Shirastedar, Kumta Taluk heard the matter and rejected the appeal. Against the order of the Taluka Shirastedar, Kumta taluka, revision petitioner no. 1 to 4 filed an appeal before Assistant Commissioner, Kumta. Assistant Commissioner, Kumta after hearing the matter rejected the appeal on the basis that court has no jurisdiction to reject the registered gift deed. 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 Deputy Commissioner Uttar Kannada Karwar is the only authority to represent the same before Sub-Registrar. In this case the Panchayath Development officer of Soppinahosalli got transferred the land as per registered gif deed without any authority. Therefore the gift deed itself is void and mutation cannot be effected on the basis of gift deed.
2. As per Panchayat Raj Acr Section 111,112,113 and 241 only the secretary has got power, P.D.O has no authority to act on behalf of panchayat. The said mutation entry No. 14/2011-12 of Soppinhosalli village to be cancelled.
3. The gift deed executed by Respondent No.3 dated 28-3-2011 is on the basis of condition that if the construction is not done within a period of one year the land in question shall have to transfer to the Respondent No.3 by Respondent No.2 forthwith.
4. Since the gift deed condition is violated without constructing the panchayath building. On that ground itself the revision ought to allow.
5. There is no resolution passed by the Soppinhosalli panchayath members in the meeting to construction of the building in the disputed land. Moreover all the people and the panchayath member in total majority have against the construction of the building in the said land. Hence the gift deed shall have to be cancelled.

Hence he requested to all the appeal.

The argument of the Advocate for petitioner are as follows :

1. The revision is filed by persons having no cause of action against the order passed by the Assistant Commissioner Kumta.
2. The mutation entry No. 5-2011-12 was based on registered gift deed executed by Respondent No.3 in favour of the Soppinahosalli panchayath. The revision is not maintainable.
3. The questioned mutation entry is based on 'J' form issued in pursuance of registered gift deed. Such entry cannot be disturbed.
4. The petitioner have no locus standee to challenge the mutation entry except jealousy. The Asssistant Commissioner, Taluk Panchayat and the Zilla Panchayath have opined that Soppinahosalli is the proper place for situation of panchayat office.



5. The dispute in this is only with regard to the validity of mutation entry not the situation or place of panchayat. The petitioners are trying to compound the confusion.

Hence, he requested to dismiss the appeal.

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 Vishweshwar Yuvaka Mandali Soppinahosalli Kumta executed registered gift deed in Sy no. 16B of an extent of 0-5-0 (A-G-A) non agricultural land out of total extent of 1-0-0 (A-G-A) in favor of Executive Officer Taluk Panchayat Kumta represented by Panchayat Development Officer Soppinahosalli Gram Panchayat Tq: Kumta on 28-3-2011. As per J-Slip Tahashildar Kumta made mutation entry in the RTC. Revision petitioner no. 1 to 4 submitted written objection to Village Account Soppinahosalli against the mutation entry no. 5-TR-8 dated 17-8-2011. Taluka Shirastedar, Kumta Taluk heard the matter and rejected the appeal. Against the order of the Taluka Shirastedar, Kumta taluka, revision petitioner no. 1 to 4 filed an appeal before Assistant Commissioner, Kumta. Assistant Commissioner, Kumta after hearing the matter rejected the appeal on the basis that court has no jurisdiction to reject the registered gift deed. Being aggrieved by this order the revision petitioner filed instant petition before this court. Once registered gift deed is done, it cannot be questioned in Revenue Court. Parties are at liberty to approach Hon'ble Civil Court for relief. Hence I proceed the following order.

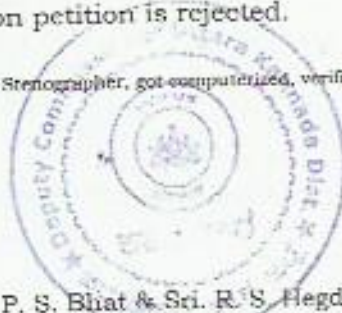
No. RB/RTR/CR- 23/2013-14

Date: 27-3-2017

Order

Revision petition is rejected.

(Order dictated to the Stenographer, got computerized, verified and pronounced in open court on 27-3-2017)



[Signature]
27/3
Deputy Commissioner,
Uttara Kannada, Karwar.

Copy to:-

1. Advocate Sri. P. S. Bhat & Sri. R. S. Hegde Gali for information.
2. Assistant Commissioner, Kumta for information and necessary action with Lower court file No. RTS-AP-Viva-14/2012-13 dated: 01-08-2013. page No.1 to page No.
3. Tahasildar Kumta for information and necessary action.

