

IN THE COURT OF DEPUTY COMMISSIONER UTTARA KANNADA KARWAR

Present: Sri. S S Nakul, I.A.S
Deputy Commissioner,
Uttar Kannada, Karwar.

No. RB/Tech Appeal/CR-09/15-16



Between

1. Shri Suresh Laxman Arudekar
 2. Smt. Anasuya Kom Ratnakar Arudekar
 3. Shri Ratnakar Laxman Arudekar
- All are R/o Bavikodla Taluk: Kumta
(Represented through Advocate Sri N. M. Madiwal)

.... Revision Petitioners

V/s

1. Shri Sumangala Narayan Kodkani @
Sumangala Kom Kamalakar Gokarna
2. Shri Laxman bin Rajaram Jodankar
3. Smt. Rukmini died by her LRs
Shri. Mahabaleshwar Govind Kurle
4. Shri Mukund died by his LRs
Shri. Dayanand Bhikari Giraf
5. Smt. Satyabhama W/o Nana Chodvekar
6. Shri. Tukaram Rajaram Ghodvekar
7. Smt. Lata Kom Srikant Bandekar
8. Smt. Laxmi died by her LRs
Shri. Pandarinath Putt Morge
All are R/o Bavikodla Tq: Kumta
9. Deputy Director of Land Records Uttara Kannada, Karwar
(Represented through Advocate Sri.P. S. Bht)

.... Respondents

Sub: Appeal filed u/s 56 (A) of Karnataka Land Revenue Act-1964 against the Hissa Phodi of Sy no. 4/1 of Bavikodla village in Kumta Taluka.

Preamble:

The instant appeal has been filed against the order of Deputy Director of Land Records, Karwar in file no. ೪೦/೩೮೦/ಭೂಮಿಮಾಲೀಕರ/ಭೂಮಿಮಾಲೀಕರ/ಮೇಲ್ವಿಚಾರಣೆ/54/14-15 dated: 10-9-2015. Notices were issued to both parties.

The brief facts of the case are as follows:

The appellants and the respondents are the adjacent land owners. Sy no. 4/1 of Bavikodla village consisted of 4-25-0(A-G-A) area. The respondent no. 1 filed application for phodi and after survey PT Sheet was prepared by ADLR Kumta. The suit property was divided into Hissa phodis. But the appellant filed appeal against the PT Sheet and Hissa phodi prepared by ADLR Kumta in respect of Sy no. 4/1 an extent of 0-23-10(A-G-A), 4/9 an extent of 1-25-0(A-G-A), 4/10 an extent of 0-2-0(A-G-A), 4/11 an extent of 0-23-10(A-G-A), 4/12 an extent of 0-23-9(A-G-A), 4/13 an extent of 0-23-9(A-G-A) and 4/14 an extent of 0-23-10(A-G-A) Deputy Director of Land Records, Karwar who in his order dated 10-9-2015 dismissed the appeal. Being aggrieved by this order the appellants filed the instant appeal before this court.

The advocate for the appellant argued that

1. The order of Deputy Director of Land Records Uttara Kannada, Karwar is contrary to law and facts of the case.
2. As per the order no. 638/10-11 of ADLR Kumta the Sy no. 4/1 of Bavikodla village was subdivided in to Sy no. 4/1, 4/9, 4/10, 4/11, 4/12, 4/13 and 4/14.

3. The suit property is situated near the Gokarna Beach. The respondent purchased the suit property and applied for phodi. But ADLR Kumta without considering the enjoyment and house property prepared the Hissa Map.
4. The appellant and respondent no 2 to 8 are poor fisherman. They mainly depended on sea for their lively hood. But in the Hissa Map the road to sea beach is closed.
5. The PT Sheet is not prepared as per their enjoyment.
6. Hence he is requested to cancel the PT Sheet and to direct for re survey.

The advocate for the respondent argued that

1. The respondent no. 1 is absolute owner to an extent of 0-23-10(A-G-A) in Sy. no. 4/1, an extent of 0-23-10(A-G-A) in Sy no. 4/11, an extent of 0-23-9(A-G-A) in Sy no. 4/12 an extent of 0-23-9(A-G-A) in Sy no. 4/13 and an extent of 0-23-10(A-G-A) in Sy no. 4/14 of Bayikodla village.
2. There is no road exists in the map. But the appellant along with others want to mention road in respondents land. The respondent no. 1 still left pathway in Sy no. 4/14 for the benefit of the local people. But officially it cannot be noted in the survey map. Now the appellant by adding the same in the survey map intends to file a suit for easement in the Civil Court. There is no scope for the revenue authority to mention the road and more over the respondent no. 1 does not intends to acquire the beach.

Hence he requested to dismiss the appeal.

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 and written argument of both parties it reveals that Sy no. 4/1 an extent of 4-25-0 (A-G-A) was divided as per Hissa phodi Sy no. 4/1 an extent of 0-23-10(A-G-A), 4/9 an extent of 1-25-0(A-G-A), 4/10 an extent of 0-2-0(A-G-A), 4/11 an extent of 0-23-10(A-G-A), 4/12 an extent of 0-23-9(A-G-A), 4/13 an extent of 0-23-9(A-G-A) and 4/14 an extent of 0-23-10(A-G-A) by ADLR Kumta as per the request of respondent survey was done and P.T. Sheet was prepared. But the appellants objected to this Hissa phodi that road was not mentioned in the Hissa Map. It is evident from the order of Deputy Director of Land Records, Karwar that there are no documents regarding the existence of road and there is no Kharab area mentioned in the RTC of the above mentioned survey number. Since there is no documentary evidence of having road in this survey number. This court have no jurisdiction to decide this matter. Parties are at liberty to approach Hon'ble Civil Court for any relief on easement rights. Hence I proceed the following order.

No. RB/Tech Appeal/CR-09/15-16

Date:27-03-2017

Order

Revision petition is dismissed.

(Order dictated to the Stenographer, not computerized, verified and pronounced in open court on 27-03-2017)



[Handwritten Signature]
27/3/17
**Deputy Commissioner,
Uttara Kannada, Karwar.**

Copy to:-

1. Advocate Sri N M Madiwal and Sri. P.S.Bhat for information.
2. Deputy Director of Land Records Uttara Kannada, Karwar for information and necessary action with Lower court file no. ಕಂ/ಕಾಂ/ಭೂಮಾಪನ/ಭೂದಾಖಲೆ/ಮೇಲ್ವಿಳಿ/54/14-15 dated: 10-9-2015 page No. 1 to page No.
3. Tahasildar Kumta for information and necessary action.