

IN THE COURT OF DEPUTY COMMISSIONER UTTARA KANNADA KARWAR

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

No. RB/Tech Appeal/CR-04/12-13



Between

Krishna Vishweshwar Bhat
R/o Kodlalli Tq: Sirsi
(Represented through Advocate Sri S M Pandit)

.... Appellant

V/s

1. Govind Vishweshwar Bhat
Since deceased by his LR's
 - a. Anasuya Govind Bhat
 - b. Vishweshwar Govind Bhat
 - c. Umanand Govind Bhat
R/o Kodlalli Tq: Sirsi
 - d. Shamala Gurupad Hegde
R/o Bakkal Tq: Sirsi
 - e. Laxmi Vishweshwar Hegde
R/o Sampakhand Tq: Sirsi
 - f. Shantala Ganapati Hegde
R/o Bhairumbe Tq: Sirsi
2. Ganga Kom Vinayak Bhat
3. Ganapa Nagu Gouda
4. Mahabaleshwar Huliya Gouda
All are R/o Kodlalli Tq: Sirsi
5. Deputy Director of Land Records, Karwar
6. Tahsildar, Sirsi
(Represented through Advocate Sri B S Pai)

.... Respondents

Sub: Appeal filed u/s 56 of Karnataka Land Revenue Act 1964 against the Hissa Phodi and PT sheet prepared in respect of Sy No. 17 of Kodagibail village in Sirsi Taluk.

Preamble:

The instant appeal has been filed against the order of Deputy Director of Land Records, Karwar in file No. ಕಂ/ಕಾಂ/ಭೂಮಾ/ಭೂದಾಖಲೆ/ಮೇಲ್ಮನವಿ-40/10-11 dated: 15-03-2012. Notices were issued to both parties.

The brief facts of the case are as follows:

Sy No. 17 Kodagibail village totally comprised of 5-20-0(A-G-A) area. As per the oral partition in the family the Appellant got 1-20-0(A-G-A), Respondent No. 1 got 1-20-0(A-G-A) and Respondent No.3 got 1-0-0(A-G-A) share in the suit property. In the remaining land Respondent No.3 Ganapa Gouda got 1-0-0(A-G-A) and Respondent No.4 Mahabaleshwar Gouda got 0-20-0(A-G-A). The Appellant filed an appeal before Deputy Director of Land Records, Karwar against the Hissa phodi and PT sheet prepared by Tahsildar, Sirsi vide order No. SIMR/PHS-455/2005-06 and Deputy Director of Land Records vide his order dated: 27-03-2008 dismissed the appeal. Against this order the appellant filed appeal before this court and as per Deputy Commissioner Karwar's order No. RB/Tech Appeal/CR-5/08-09 dated: 23-11-2009 the appeal was allowed and directed the Tahsildar for resurvey. Again in 2010 the appellant filed against the Hissa phodi and PT sheet prepared by the Tahsildar for the second time before Deputy Director of Land Records, Karwar and Deputy Director of Land Records, Karwar vide his order dated: 15-03-2012 dismissed the appeal. Being aggrieved by this order the Appellant filed appeal before this court.

The Advocate for the Appellant argued that.

1. As per the Hissa phodi the suit land was divided in to 8 hissas. But the land of the Appellant is different from his enjoyment and possession.
2. In spite of direction given by this court Tahsildar approved the earlier division. Hence the Appellant challenged the sub division.

Hence he requested to allow the appeal and to direct the Tahsildar to make Hissa Phodi as per their enjoyment and possession.

On perusal of the lower court records, written argument of the Appellant and appeal memo reveals that Deputy Director of Land Records, Karwar as per order dated: 27-03-2008 dismissed the appeal. Against this the appellant filed appeal before Deputy Commissioner, Karwar and Deputy Commissioner, Karwar vide order dated: 23-11-2009 ordered for resurvey. In 2010 again on the same subject the Appellant filed appeal before Deputy Director of Land Records, Karwar and Deputy Director of Land Records, Karwar dismissed the appeal. Against this the appellant filed the instant appeal. But earlier on the same issue order has been passed by this court after verifying the records. As per Deputy Commissioner, Karwar vide order dated: 23-11-2009 resurvey was done on 29-07-2010. The copy of joint statement recorded by Taluka Surveyor dated: 29-07-2010 is perused and it shows in the presence of this appellant and respondents, surveyor has measured the land on the same day and it has been specifically mentioned as "ಶಿರಸಿ ತಾಲ್ಲೂಕು ಕೊಡಗಿ ಬೈಲಿ ಗ್ರಾಮ ಸ.ನಂ. 17 ರ ಅಪೀಲು ಅರ್ಜಿ ನೀಡಿದ ಮೇರೆಗೆ ತಾಲ್ಲೂಕು ಭೂಮಾಪಕರು ಮುಂಚಿತವಾಗಿ ನೋಟೀಸ್ ನೀಡಿ ನಿಗದಿತ ದಿನಾಂಕ: 27-07-2010 ರಂದು ಸ್ಥಳಕ್ಕೆ ಬಂದು ನಮ್ಮ ನಮ್ಮ ವಹಿವಾಟ ಅನುಸರಿಸಿ ಅಳತೆ ಮಾಡಿರುತ್ತಾರೆ. ಅಳತೆಯ ಬಗ್ಗೆ ಯಾವುದೇ ತಂತಿ ತಕರಾರು ಇರುವುದಿಲ್ಲ ಎಂದು ಒಪ್ಪಿ ಸಹಿ ಮಾಡಿ ಕೊಟ್ಟಿರುತ್ತೇವೆ".

1. ಕೃಷ್ಣ ವಿಶ್ವೇಶ್ವರ ಭಟ್ಟ (ಸಹಿ ಇದೆ) (Present appellant)
2. ಮಹಾಬಲೇಶ್ವರ ಹುಲಿಯಾ ಗೌಡ (ಸಹಿ ಇದೆ) (Respondent No. 4)
3. ಗಣಪಾ ನಾಗು ಗೌಡ (ಸಹಿ ಇದೆ) (Respondent No. 3)
4. ಗೋವಿಂದ ವಿಶ್ವೇಶ್ವರ ಭಟ್ಟ(ಸಹಿ ಇದೆ) (Deceased Respondent No. 1)
5. ಶ್ರೀಮತಿ ಗಂಗಾ ವಿ ಭಟ್ಟ(ಸಹಿ ಇದೆ) (Respondent No. 2)

It clearly shows in appellant and respondents presence the survey has been done and they had no objection for the said survey. Therefore, the appellant and respondents have no rights to raise any objection regarding survey dated: 29-07-2010 once they had given consent for the same in field.

Hence, I proceed to order as follows:

No. RB/Tech Appeal/CR-04/12-13

Date: 19-09-2016

Order

Appeal is dismissed. The order of Deputy Director of Land Records, Karwar in file No. ಕಂ/ತಾಂ/ಭೂಮಾ/ಭೂದಾಲುನಿ/ಮೇಲ್ಕನವಿ-40/10-11 dated: 15-03-2012 is hereby confirmed.

(Order dictated to the Stenographer not computerized, read and pronounced in open court on 19-09-2016)



[Signature]
19/9
Deputy Commissioner
Uttara Kannada, Karwar