

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-26/16-17



Between

1. Smt. Sarojini Kom Mahadeva Naik
R/o Tulassingara, Tq: Honnavar.
2. Smt Roopa W/o Gajanan Naik,
R/o Tulasi Nagar, Tq Honnavar.
3. Sri Sayinath S.o Mahadeva Naik
R/o Tulasi Nagar Taluk Honnavar.
(Represented through Advocate Sri M.L.Naik)

.... Revision Petitioners

V/s

1. Smt. Mahadevi Kom Madeva @ Madav Naik,
R/o Mutta Paiki Hudgod Tq: Honnavar.
2. Smt. Parvati Kom Abijith Mugdalvar,
R/o Mutta Paiki Hudgod, Tq: Honnavar.
3. Smt. Mamata Kom Suresh Poojari,
Mutta Paiki Hudgod, Tq: Honnavar.
4. Smt. Savitri D/o Madeva @ Madhav Naik,
R/o Mutta paiki Hudgod, Tq: Honnavar.
5. Kumari Deepa D/o Mahadeva Naik,
R/o Rulasi Nagar Tq:- Honnavar.
6. Kumari Seema D/o Mahadeva Naik
R/o Tulasi Nagar, Tq: Honnavar.

.... Respondents

Sub: Revision Petition filed u/s 136(3) of Karnataka Land Revenue Act 1964 against the order of Assistant Commissioner, Bhatkal in file No. RTS/AP/SR-55/2014-15 dated: 05-05-2016 in respect of Mutation entry No. H4/2013-14 pertaining to Sy no.4/3A & 104/10,104/7B,110,115/1 and 115/5B of Mutta village in Bhatkal Taluka.

Preamble:

The instant revision petition has been passed against the order of Assistant Commissioner, Bhatkal in file No. RTS/AP/SR-55/2014-15 dated: 05-05-2016. Notices were issued to both parties.

The brief facts of the case are as follows:

The suit land Sy No. 4/3A & 104/10,104/7B,110,115/1 and 115/5B of Mutta village in Bhatkal Taluka, belongs to Late Mahadev Govind Naik, Revision Petitioner No.1 is the wife and revision petition No.2 and 3 and respondent No.5 and 6 are the children of Late Mahadev Naik. After the death of Mahadev Naik revision petitioner No.3 moved an application to Tahsildar to mutate his name as UFM undivided family manager to the suit property. But it was objected by respondent No.1 as she is the first wife of Late Mahadev Naik and respondent No.2 to 4 are daughters. so she requested to enter their names to the suit property. After due enquiry the Deputy Tahsildar ordered to mutate the names of all revision petitioners and respondents to the suit property. Accordingly Mutation entry No. H4/2013-14 was certified. The revision petitioners challenged this entry before Assistant Commissioner, Bhatkal who in order dated 05-05-2016 dismissed the appeal. Being aggrieved by this order the revision petitioners filed the revision petition before this court.

The Advocate for the revision petitioner argued that :

1. The order passed by lower courts is contrary to law and facts of the case. They usurped the jurisdiction of the Hon'ble Civil Court in proving relationship.

2. Lower Courts failed to note that respondent No.1 to 4 have not produced any documents to prove their relationship with late Mahadev Naik.
3. They failed to note that revenue authorities have no jurisdiction to decide heirship.
4. Instead of mutating the name respondent No.1 to 4. Assistant Commissioner, Bhatkal has to direct the parties to prove their relationship before the Civil Court.
5. Lower Courts have misapplied the law to the facts of the case .

Hence he requested to allow the appeal.

Notices were served to the respondents But they remained absent. So they were made exparte. Hence it has been decided to dispose the case on the records available in the case.

On perusal of the lower court records and appeal memo it reveals that the suit property belonged to late Mahadev Govind Naik and the dispute is regarding the legal heirship between two wives and their children. Deputy Tahashildar in his order no. RTS/DSR/23/2013-14 dated 23-8-2014 order to mutate the name of all legal heirs. Accordingly Mutation entry no. H4/2013-14 was certified. Revision petitioner challenged this entry before Assistant Commissioner, Bhatkal. Assistant Commissioner, Bhatkal dismiss the appeal. Since this case is regarding legal heirship. Hence, I proceed the following order.

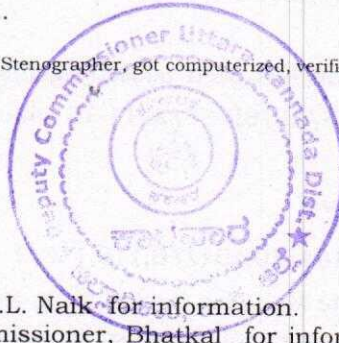
No.RB/RTR/CR/26/16-17

Date: 29-05-2017

Order

Revision petition is allowed. This case is remanded back to Assistant Commissioner, Bhatkal for fresh enquiry and to jointly mutate in the name of all legal heirs of Late Mahadev Govind Naik .

(Order dictated to the Stenographer, got computerized, verified and pronounced in open court on 29-5-2017)



Jirabuo
24/5
**Deputy Commissioner,
Uttar Kannada, Karwar**

Copy to:-

1. Advocate Sri. M.L. Naik for information.
2. Assistant Commissioner, Bhatkal for information and necessary action with Lower court file No. RTS/AP/SR-55/2014-15 dated: 05-05-2016. page No.1 to page No.
3. Tahasildar Bhatkal for information and necessary action.