

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-02/16-17



**Between**

1. Smt. Susheela Nagappa Naik.  
R/o Gundibail, Chikkankod Tq: Honnavar  
(Represented through Advocate Sri M.L Naik)

.... Revision Petitioner

V/s

1. Tahasildar Honnavar.  
2. Assistant Commissioner Bhatkal.  
3. Smt. Mukta Satish Naik.  
R/o Gundibail, Chikkankod Tq: Honnavar  
(Represented through Advocate Sri. H. Uday Naik)

.... 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-48/2015-16 dated: 25-02-2016 relating to mutation entry No. H-12/15-16 in respect of Sy No.203, 205/3, 206/1, 206/2, 219/2 and 220 of Chikkankod 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-48/2015-16 dated: 25-02-2016. Notices were issued to both parties.

**The brief facts of the case are as follows:**

Original the suit property belonged to late Nagappa Timmappa Naik and revision petitioner Smt. Susheela Nagappa Naik is the wife of deceased Nagappa Naik. and Respondent No. 3 is Smt. Mukta Satish Naik is the adopted daughter. after the death of Nagappa Naik respondent No. 3 moved and application to Tahasildar jointly to mutated her name of revision petitioner. But it was objected by the revision petitioner. After enquiry Deputy Tahasildar Mavinkurva ordered to mutated the name of revision petitioner as UFM undivided family member to the suit property. Against the certification of this entry respondent file appeal before Assistant Commissioner, Bhatkal and Assistant Commissioner, Bhatkal by order dated: 25-02-2016 cancelled the mutation entry and ordered to mutate the names of petitioner and respondent No.3 jointly to the suit property. Being aggrieved by the order of Assistant Commissioner, Bhatkal the petitioners filed the revision petition before this court.

**The argument of the petitioner is as follows:**

1. The impugned order is perverse, capricious, arbitrary and contrary to law.
2. Assistant Commissioner, Bhatkal failed to note that when in respect of same matter, the suit is pending before the Civil Court at Honnavar in O.S No. 155/2015, then the revenue court has no jurisdiction to decide the matter.
3. Assistant Commissioner, Bhatkal failed to note that respondent No. 3 Smt. Mukta Satish Naik adopted daughters status is to be decided by the Hon'ble civil court.
4. Assistant Commissioner, Bhatkal failed to note that usual practice of the revenue court that in large number of persons the name of eldest person is to be mutated in the name of eldest person is to be mutated in the RTC as UFM.

5. Assistant Commissioner, Bhatkal failed to note that the term UFM shows the some other members of the family has got right in the property.
6. The respondent No.3 has not produced any documents to show that she resided with the appellant and her husband.
7. If the name of appellant is continued in the RTC no injustice will be caused to respondent No.3

Hence he requested to allow the appeal and pass order to mutate the name of appellant as UFM to the suit property.

**The argument of the respondent is as follows:**

1. The respondent No.3 is the adopted daughter of late Nagappa Naik, husband of appellant. During his life time he adopted respondent No.3 as his daughter with the consent of his wife means Smt. Susheela Nagappa Naik. The respondent No.3 stayed in the house of late Nagappa Naik. After the death of Nagappa Naik she moved application to Tahasildar to mutate her name jointly along with the appellant. Appellant objected this as only her name should be entered as UFM. But she never objected respondent No.3 is not their adopted daughter.
2. In R. A No. 46/2011 dated: 04-08-2014 of Civil Judge (Sr.Dn) Court this Resp. No. 3 has filed the copy of the Registered adoption Deed and marriage card of this appellant. The civil Judge Court has looked in to these documents and this appellant has not objected to the said documents. This adoption deed evidencing the description of ceremony of giving and taking of this Resp. No.3 in adoption on 5-4-1985. So U/S 16 of the Hindu Adoption and maintenance Act 1956 the Registered Adoption Deed has presumptive value. Therefore Hon'ble Civil Judge Court has rightly drawn inference that is available under section 16 of HAM Act 1956. Now this appellant cannot say there is a no valid giving and taking ceremony of adoption. The onus of rebutting the presumptive value heavily lies upon the appellant. So far as this aspect is concerned this appellant relying upon the decision reported in CIVIL LJ 2012 PART-2 PAGE 510.
3. Appellant prayer is that the suit property is the self acquired property of her husband. So her name should be mutated as UFM.
4. According to section 12 of Hindu Adoption and Maintenance Act 1956 and adopted child shall be deemed to be the child of his or her adoptive father or mother for all purpose with effect from the adoption.
5. As per citation reported in AIR 1966 S.C Page 12(2)AIR 1976 Allahabad page 283, in the Hindu law a widow cannot become the manager of Hindu undivided family. Appellant is the widow of deceased Nagappa Naik and Respondent No.3 is the adopted daughter. As per the amended Hindu succession Act 2005 the respondent No.3 becomes the coparcener in the joint family by birth.
6. No civil suit is pending before the court. Now the appellant is denying the facts of adoption which was admitted by herself in the Trial court and Civil court.

Hence he requested to dismiss the appeal.

On perusal of Lower Court records and written argument of both parties it reveals that the suit property originally belong to one Nagappa Naik. Appellant Smt Susheela Naik is the widow of Nagappa Naik. They adopted respondent No.3 as their daughter. After the death of Nagappa Naik the respondent No.3 gave an application to mutate their names jointly to the suit property. But it was objected



by the appellant that her name should be entered as UFM to the property. After due enquiry Assistant Commissioner, Bhatkal has rightly order to enter their names jointly. In R.A. No. 46/2011 Hon'ble Senior Civil Judge Honnavar has clearly mentioned that

*"As already stated, it clearly appears that the applicant is the wife of the deceased appellant and opponent no.6 is his adopted daughter. Therefore, they being the legal representatives of the deceased appellant are entitled to be brought on record as appellants on the death of the deceased appellant"*

If the appellant is aggrieved by this order she may approach the Hon'ble Civil court for relief.

I proceed the following order.

**No. RB/RTR/CR-02/16-17**

**Date: 14-8-2017**

**Order**

Revision Petition is dismissed

(Order dictated to the stenographer, got computerized, verified and pronounced in open court on 14-8-2017)



*[Handwritten Signature]*  
**Deputy Commissioner,  
Uttar Kannada, Karwar**

**Copy to:-**

1. Advocate Sri M.L Naik and Sri. H Uday Naik for information.
2. Assistant Commissioner, Bhatkal for information and necessary action with Lower court in file No. RTS/AP/SR-48/2015-16 dated: 25-02-2016 page No.1 to page No. 174.
3. Tahasildar Honnavar for information and necessary action.

