

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-16/15-16



Between

1. Shri. Ganesh Gangadhar Yaji
R/o Sindur Po: Kharwa Tq: Honnavar
(Represented through Advocate Sri P. S. Bhat)

.... Revision Petitioners

V/s

1. Shri. Shambhu s/o Manjunath Hegde
2. Shri. Timmanna s/o Manjunath Hegde
3. Shri. Narayan s/o Manjunath Hegde
All are R/o Apsarkonda Po: Kelaginoor, Tq: Honnavar
4. Shri. Subray s/o Shivaram Hegde
R/o Kelaginoor, Tq: Honnavar
(Represented through Advocate Sri. N. S. Bhat)

.... Respondent

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/Tiddupadi/viva-53/2010-11 dated: 14-09-2011.

Preamble:

The revision petition came to be filed against the order of Assistant Commissioner, Bhatkal in file No. RTS/Tiddupadi/viva-53/2010-11 dated: 14-09-2011. Notices were issued to both parties.

The brief facts of the case are as follows:

Sri. Ganesh Gangadhar Yaji was having 1/3rd share in Sy. No. 336/17 an extent of 0-6-0 (A-G-A) including pot kharab 0-1-0 actual area 0-5-0 (A-G-A) of Kelaginoor village of Honnavar Taluka. Respondent no. 1, 2, 3 have filed an application to Tahashildar Honnavar to make the correction of the records on the basis of Land Tribunal order dated: 8-8-1981. Tahashildar Honnavar referred this case to Assistant Commissioner, Bhatkal since Assistant Commissioner was having power to correct the RTC in Bhoomi software. Assistant Commissioner, Bhatkal in his order No. RTS/Tiddupadi/viva-53/2010-11 dated: 14-09-2011 rejected the appeal and directed to approach competent court. In between this Tahashildar Honnavar referred this case for RTC correction to Assistant Commissioner, Bhatkal on 14-8-2015 an Assistant Commissioner, Bhatkal given endorsement no. RTS/Kandaya adalat/viva-2015-16 dated: 17-8-2015. Tahashildar Honnavar made an mutation entry no. H9/2015-16 dated: 19-8-2015 was mutated and the name of petitioner Ganesh Gangadhar Yaji was deleted from record of rights of Sy. No. 336/17. 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. Sy. No. 336/17 is the Malki property of Sri. Ganesh Gangadhar Yaji who has got 1/3rd right. The remaining 1/3rd right belongs to Respondent no. 1, 2, 3 the legal heirs of Late. Manjunath Hegde and 1/3rd right to Respondent no. 4 Sri. Subray Shivaram Hegde.

2. Respondent No. 1, 2, 3 legal heirs of Late Manjunath Hegde filed an application before Tahashildar Honnavar for correction of Record of rights on basis of Land Tribunal order. Tahashildar Honnavar referred this case to Assistant Commissioner, Bhatkal. Assistant Commissioner, Bhatkal called all documents by land tribunal for verification. After verification he rejected the application of Respondent no. 1, 2, 3 with direction to keep the 1/3rd right of the petitioner along with 1/3rd right of the respondent 1, 2, 3 and 1/3rd right of the Respondent no. 4 on record.
3. Tahashildar Honnavar by hiding earlier order referred the matter to make the correction of RTC of Sy no. 336/17 in Kandaya Adalat without giving notice to the petitioners. On this basis Assistant Commissioner, Bhatkal ordered to remove the name of the petitioner. There by the name of the petitioner was deleted affecting mutation entry no. H9/2015-16 dated: 19-8-2015.
4. There is no any order of the Land tribunal regarding granting of half right to Respondent no. 1,2,3 by name Ganapati Manjunath Hegde. This land was not at all converted into Karnataka Sarkara.
5. The petitioner and respondents have given a statement claiming 1/3rd right which was undisputed before Assistant Commissioner, Bhatkal in his order RTC correction/Viva/53/2010-11 which was upheld the right of petitioner and respondent 1/3rd right each by dismissing it on 14-9-2011. While passing this order no notice was send to revision petitioner.
Hence he requested to allow the revision petition and to keep the name revision petitioner Shri. Ganesh Gangadhar Yaji who has got 1/3rd right in Sy no. 336/17 of Kelaginoor village.

The argument of the respondent is as follows:

1. The contention of the revision petition is false. Sy no. 336/17 an extent of 0-5-0 is the 1/3rd malki property of respondent father Shri. Manjunath Hegde and 1/3rd right of Shri. Subray Shivram Hegde and remaining 1/3rd right was of Shri. Gangadhar Parameshwar Yaji as tenant and Shri. Ganapati Manjunath Hegde have filed Form no.7 to claim this land. Land Tribunal have passed order no. 12/125+54/220 dated 13-1-1978 in favor of Shri Ganapati Manjunath Hegde has land owner as per Form no. 10 mutation entry no. 4517 has also been effected. Hence Shri Gangadhar Paramdeshwar Yaji does not have any right in this land.
2. This Land Tribunal order has not been in challenge by petitioner in any court. Shri Ganapati Manjunath Hegde have got 1/3rd right and respondent father Shri Manjunath Hegde has got 1/3rd right of his joint family property in Sy no. 336/17.
3. At the time of correction of RTC the appellatant name was deleted as per revenue records.
4. Assistant Commissioner has rightly ordered in Kandaya Adalat order dated 14-9-2011.
5. Contention of the revision petitioner is not correct that Land Tribunal order has not been passed in this land.
Hence he requested to dismiss the appeal.

On perusal of Lower Court records and written argument of both parties it reveals that Sri. Ganesh Gangadhar Yaji was having 1/3rd share in Sy. No. 336/17

an extent of 0-6-0 (A-G-A) including pot kharab 0-1-0 actual area 0-5-0 (A-G-A) of Kelaginoor village of Honnavar Taluka. Respondent no. 1, 2, 3 have filed an application to Tahashildar Honnavar to make the correction of the records on the basis of Land Tribunal order dated: 8-8-1981. Tahashildar Honnavar referred this case to Assistant Commissioner, Bhatkal since Assistant Commissioner was having power to correct the RTC in Bhoomi software. Assistant Commissioner, Bhatkal in his endorsement No. RTS/Tiddupadi/viva-53/2010-11 dated: 14-09-2011 rejected the appeal and directed to approach competent court. After this order Assistant Commissioner, Bhatkal have passed one more order dated: 14-10-2011 stating that 1/3rd right of Sri. Gangadhar Parameshwar Yaji has to be corrected in the RTC at the time of Kandaya Adalat. Since Sri Gangadhar Parameshwar Yaji name exists in the Record of Rights at the time of 1959-60. Hence this case is a fit case to be remanded back to Assistant Commissioner, Bhatkal for fresh enquiry after giving opportunity to all the parties and pass appropriate order. I proceed the following order.

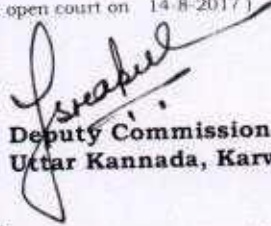
No. RB/RTR/CR-16/15-16

Date: 14-8-2017

Order

Revision petition is allowed. Assistant Commissioner, Bhatkal order No. RTS/Tiddupadi/viva-53/2010-11 dated: 14-09-2011 and dated 14-10-2011 are set aside. Assistant Commissioner, Bhatkal to re-enquire and pass appropriate orders.

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


**Deputy Commissioner,
Uttar Kannada, Karwar**

Copy to:-

1. Advocate Sri P.S Bhat and Sri. N.S Bhat for information.
2. Assistant Commissioner, Bhatkal for information and necessary action with Lower court in file No. RTS/Tiddupadi/viva-53/2010-11 dated: 14-09-2011 page No.1 to page No. 43.
3. Tahasildar Honnavar for information and necessary action.

