

IN THE COURT OF DEPUTY COMMISSIONER UTTARA KANNADA KARWAR

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

No. RB/RTR/CR/40/2014-15

1. Chairman Swami Vivekananda Shikshana
Sansthe Formerly known as
Bhandari Shikshana Sansthe,
Kodibag, Karwar

.... Petitioner

Sub: Application of Chairman Swami Vivekananda Education
Society, Kodibag Karwar dated: 23-02-2017.

Preamble:

The Petitioner filed application dated 23-02-2017 to enumerate the mutation register and record of rights in Column No. 9 in respect of the granted land as per the directions of the Hon'ble High Court of Karnataka Dharwad Bench in WP No. 110426/2015 dated 06-10-2015 and Review Petition No. 1100116/2015 dated 15-09-2016.

The Brief Facts of the Case are as follows:

The Petitioner Swami Vivekananda Shikshana Sansthe Formerly known as Bhandari Shikshana Sansthe, Kodibag, Karwar was granted land measuring 4-8-4 (A-G-A) in Sy.No. 155(P),156(P), 161, 144, 143 and 141(P)of Kodibag Village in Karwar Taluka by the then Deputy Commissioner under order No. LND/2/SR/1295 dated 29-09-1969.

Based on the proposal of Assistant Commissioner Karwar in file No. Bhoomi/ViVa-66/2006-07 dated 01-02-2012, the Tahasildar was directed through Assistant Commissioner Karwar vide this office letter No. KamSha/Bhoomi-1/CR36/2011-12 dated 17-02-2012 to submit a proposal regarding permanent grant to the petitioner institution by making an entry in column no. 9 in RTC as Sarkari Pada after getting it De-notified by Forest Authorities. Thereafter the petitioner filed petition under Section 136 (3) of Karnataka Land Revenue Act for entering the name of the petitioner Trust in the RTC. Hence notice was issued to the petitioner, Tahasildar, and Deputy Conservator of Forest Karwar in RB/RTR/CR-40/14-15 dated 11/03/2015. Thereafter an endorsement dated 04-05-2015 was issued to the petitioner with a direction to file the appeal before the Assistant Commissioner Karwar. In the meanwhile the petitioner approached Hon'ble High Court of Karnataka Dharwad Bench by filing WP No. 110426/2015. The writ petition was allowed vide order dated 06-10-2015 with direction to the Deputy Commissioner to pass appropriate order in accordance with law within one month. A Review petition was filed before the Hon'ble High Court in Review Petition No. 100116/2015 which

was dismissed vide order dated 15-09-2016 by upholding the order in the writ petition. Hence the petitioner filed the application as stated above.

After receiving the application of the petitioner, letter dated 25-10-2016 in file No. RB/RTR/CR-40/2014-15 was sent to Chief Conservator of Forests, Canara Circle, Sirsi for taking necessary steps. The Chief Conservator of Forests, Canara Circle, Sirsi had directed the Deputy Conservator of Forest Karwar to send a proposal. The DFO Karwar sent the proposal to Chief Conservator of Forest, Sirsi vide letter dated 30-11-2016. The matter is now pending before the Forest Department.

However it is evident from the records that the above said granted land was originally forest land. The petitioner institution sought for granting the land to accommodate high school. The then Deputy Commissioner decided to grant the said land to the petitioner institution. But the forest department which was running timber Depot in the said land, turned down the request for releasing the said land to the Revenue Department. However the State Government (Forest Department) subsequently decided to shift the said timber depot from Kodibag to Kadra as per the order No. afo-6-fad-68 dated 09-02-1968. Again the Deputy Commissioner addressed a letter to the Conservator of Forests, Canara Circle, Dharwad, bearing No. IND/II/I/SR/1295 dated 28-05-1968 recommending for proposal to grant the above said land in favour of the petitioner institution. The Conservator of Forest and the Deputy Commissioner, after due inspection of the land recommended for deforesting of the said land and to release the same to Revenue Department. Accordingly the government has accorded permission for deforesting and release of said 4 Acres 8 Guntas 4 anas of land to the Revenue Department for granting the same to the petitioner institution in accordance with Land Grant Rules vide government order No. AFD542 68 dated 02-01-1969. Thereafter the said land was released in favour of the Revenue Department and it was granted to the petitioner institution under order No. LND 2/SR-1295 dated 29-09-1969 and possession was handed over to the petitioner institution.

In the background of the above factual situations the Hon'ble High Court of Karnataka in the order dated 06-10-2015 has observed as hereunder.

"When the Deputy Commissioner has directed, by virtue of letter dated 17-02-2012, mentioning in the said letter with regard to earlier grant of said land in the favour of the petitioner, why he requires a proposal from the Tahasildar. In my opinion, same becomes redundant because the land has already been granted by virtue of the order of the Deputy Commissioner dated 29-09-1969. Therefore, it goes without saying that the

Deputy Commissioner after getting the records from the Tahasildar has to be confine himself with regards to the change of entry at Column No. 9 only so far as the above said land is concerned".


The above order was upheld vide order dated 15-09-2016 in the above said Review petition. This office has to comply the order. However the land is not yet de-notified by the Forest Authorities. But the forest land has to be reduced from VFR & other forest records by means of de-notification. This is currently under process in forest department who are not a party in the original case. Hence after careful scrutiny of entire material on record in the background of the direction issued by the Hon'ble High Court of Karnataka as stated above. I proceed to pass the following order.

No. RB/RTR/CR/40/2014-15

Date: 16-08-2017

ORDER

Tahasildar Karwar is hereby directed to enter the name of the petitioner institution in Column No. 9 of the RTC in respect of Sy.No. 155(P), 156(P), 161, 144, 143 and 141(P) totally measuring 4-8-4 (A-G-A) in Kodibag Village Karwar Taluka with a condition of restriction in column No. 11 in RTC that this land is not transferrable till the de-notification by Forest Department.


**Deputy Commissioner,
Uttar Kannada, Karwar**

Copy to:

1. Tahasildar, Karwar for necessary action with records Page No. 1 to .
2. Chairman, Swami Vivekanand Shikshana Sansthe, Kodibag, Karwar for information.
3. Assistant Commissioner, Karwar Sub Division Karwar for information and necessary action.
4. Chief Conservator of Forest, Canara Circle, Sirsi for information and necessary action.
5. Deputy Conservator of Forest, Karwar Division Karwar for information and necessary action.