

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-13/16-17



Between

1. Smt. Mumtaz Banu Kom Abdul Khadher Mohammed Hussain sab
R/o Kerekoppa, Ta: Sirsi.
(Represented through Advocate Sri. N.S Bhat)

.... Appellant

V/s

1. Tahasildar Sirsi
2. Assistant Commissioner Sirsi.
3. Smt. Husna Banu Ahmed Shaikh
R/o Hubli Road, Sirsi.
(Represented through Advocate Sri. P.S Bhat)

.... Respondents

Sub: Appeal filed u/s 50 of Karnataka Land Revenue Act 1964 against the order of Assistant Commissioner, Sirsi in file Bhusu/AP/Viva-22/10-11 dated: 15-6-2011 in respect of Sy no.8/2 of Kerekoppa village in Sirsi Taluk.

Preamble:

The instant appeal has been filed against the order of Assistant Commissioner, Sirsi in file No. Bhusu/AP/Viva-22/10-11 dated: 15-6-2011 notices were issued to both parties.

The brief facts of the case are as follows.

The respondent No. 3 Smt. Husna Banu Ahmed Shaikh has purchased an extent of 0-6-0 in Sy. No. 8/2 of Kerekoppa Village in Sirsi Taluka from the appellant through registered sale deed. Revenue inspector Sirsi vide his letter 13-5-2010 reported that the purchaser has not produced the required document such as income certificate of purchaser and agriculturist certificate as per section 79A and 79B of Karnataka land reforms act 1961, and it is violation of section 79A and 79B of Karnataka land reforms act 1961. After due enquiry Assistant commissioner Sirsi vide his order dated 15-6-2011 ordered that there is violation of section 79A and 79B of Karnataka land reforms Act 1961 and the sale transaction is nul and void. Against this order the appellant filed the appeal before this court.

The argument of the Advocate for the petitioner are as follows :

1. The Suit land is granted to the appellant by Government. The appellant has borrowed loan from respondent No. 3. So She pledged the suit land in favour of appellant. Later the appellant filed suit before the civil court to get the possession of the land. But Tahasildar Sirsi wrongly submitted the report to Assistant Commissioner Sirsi to cancel the grant as the condition of grant is violated. Accordingly Assistant Commissioner Sirsi cancelled the mutation entry. The order of Assistant Commissioner, Sirsi and the report submitted by Tahasildar Sirsi is illegal and against the principles of natural justice.

2. The appellant has not sold the property. She only pledged it for loan. After filling suit No. 71/2011 before civil court. The appellant got the sale deed cancelled. Now the Suit property is in her possession.
3. As per the decree order appellant requested to enter her name to the suit property. Assistant Commissioner has power to delete the name only. and Deputy Commissioner has got power to cancel the land granted.
4. The advocate for appellant produced the copy of compromise decree passed in O.S No. 171/2011 and requested to give direction to enter the name of appellant.

Hence he requested to allow the appeal and set aside the order of the Assistant Commissioner, Sirsi.

The Advocate for Respondents did not filed any written argument so it has been decided to dispose the case on records available in the case.

On perusal of the lower court records and order of Assistant commissioner, Sirsi it is clear that the impugned order dated 15-06-2011 is passed U/s 79A and 79B of Karnataka Land Reforms Act 1961. The advocate for the appellant produced copy of the compromise decree dated 15-10-2011 is O.S.No.171/11 on the file Principle Civil Judge Sirsi between appellant and respondent. But it is pertinent to note that, as soon as the order dated 15-06-2011 is passed by the Assistant Commissioner, Sirsi U/s 79A and 79B of Karnataka Land Reforms Act 1961, the land vests in Government. The Compromise decree in O.S. No. 171/11 is dated 15-10-2011 subsequent to the date of the order passed by the Assistant Commissioner. This goes to show that civil suit was filed after the land vested in Government. The parties have no right to enter into a compromise before the Civil Court in respect of Government land. It appears that a collusive suit was filed before the Civil Court with an intention to defeat the order passed by the Assistant Commissioner. Further, the Revenue Authorities are not party in the civil suit. Therefore the compromise decree is not binding on the Revenue Authorities.

Hence, after careful scrutiny of entire material on record I proceed the following order.

No. RB/RTR/CR-13/16-17

Date: 21-08-2017

Order

Appeal is dismissed

(Order dictated to the Stenographer, got computerized, verified and pronounced in open court on 21-08-2017)



[Signature]
21/8
**Deputy Commissioner,
Uttara Kannada, Karwar.**

Copy to:-

1. Advocate Sri. N.S Bhat and Sri. P. S Bhat for information.
2. Assistant Commissioner, Sirsi for information and necessary action.
3. Tahasildar Sirsi for information and necessary action with Lower court in file No. RRT/Viva-415/16-17 dated:25-7-2016 page No.1 to page No.40 and page No.1 to 38 (2 files)