

IN THE COURT OF DEPUTY COMMISSIONER UTTARA KANNADA KARWAR

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



No. RB/Tech Appeal/CR-04/16-17

Between

1. Sri. Ishrappa Sheshagiri Hegde,
2. Sri. Narayan Sheshgiri Hegde,
3. Sri. Mahabaleshwar Sheshgiri Hegde,
R/o Chikkamavalli Village Post:Kannigeri Tq: Yellapur.
(Represented through Advocate Sri P.S.Bhat)

.... Appellants

V/s

1. Sri. Gopalkrishna Sheshagiri Hedge.
2. Sri. Timmanna Sheshagiri Hegde.
Both are R/o Chikkamavalli Village Post:Kannigeri Tq: Yellapur.
(Represented through Advocate Sri. N.S.Bhat)

.... Respondents

Sub: Appeal filed u/s 49 and 56 of Karnataka Land Revenue Act-1964 against the KJP survey in respect of Sy. No. 126 of Kannigeri village in Yellapur Taluk.

Preamble:

The instant appeal has been filed against the order of Deputy Director of Land Records, Karwar in file no. ಕಂ/ತಾಂ/ಭೂಮಾಪನ/ಭೂವಾಣಿನಿ/ಮೇಲ್ಕನವಿ-94/16-17 dated: 03-11-2016. Notices were issued to both parties.

The brief facts of the case are as follows:

The suit property Sy no. 126 totally consisted of 7-17-0 (0-21-0 Pot Kharab) and Actual extent 6-36-0. In pursuance to the wantani patra made by appellants and respondents by way of registered partition deed dated: 21-4-1997, this survey number was divided as Sy no. 126/1 an extent of 0-2-0, Sy no. 126/2 an extent of 0-2-0, Sy.no.126/3 an extent of 0-27-0, Sy. no.126/4 an extent of 0-27-0, Sy.no.126/5 an extent of 0-27-0, Sy.no.126/6 an extent of 0-34-0, Sy No.126/7 an extent of 0-34-5 (Pot Kharab 0-4-0) remaining area 0-30-5, Sy no. 126/8 with an extent of 0-4-8, Sy.no. 126/9 an extent of 0-4-0, Sy. no. 126/10 an extent of 0-8-0 Pot kharab 0-1-0 remaining area 0-7-0, Sy.no, 126/11 an extent of 0-35-4 Pot kharab 0-5-0 remaining area 0-30-4, Sy. no. 126/12 an extent of 0-31-13 Pot kharab 0-5-0 remaining area 0-26-13, Sy no. 126/13 an extent of 0-26-5 Pot kharab 0-3-0 remaining area 0-23-5, and Sy no. 126/14 with total extent of 0-33-5, Pot Kharab 0-3-0 balance area 0-30-5. Survey map of Sy no 126 was prepared as per Akar bandh and Hissa phodi was made. The details of allotment as per partition deed and as per phodi map is described as under-

SL No.	Name	Sy. No and Hissa No.	Type of Land	As per partition deed (Vantani)	As per Phodi Map
1	Ishrappa S Hegde	126/11	Bagayat	0-36-0	0-35-0
		126/8	House	0-4-8	0-4-8
		126/4	Tari	0-27-0	0-27-0
2	Gopalkrishna S Hegde	126/7	Bagayat	0-33-0	0-34-0
		126/9	House	0-4-8	0-4-8
		126/3	Tari	0-27-0	0-27-0
3	Narayan S Hegde	126/12	Bagayat	0-26-13	0-26-13
		126/5	Tari	0-27-0	0-27-0
4	Timmanna S Hegde	126/13	Bagayat	0-33-0	0-26-0
		126//6	Tari	0-27-0	0-34-0
5	Mahabaleshwar S Hegde	-	Bagayat	0-33-5	0-33-5

Appellant Shri Ishrappa S Hegde claims that bagayat land an extent of 0-1-0 is made less as per phodi map and an extent of 0-1-0 has been added to respondent no. 1 Shri Gopalkrishna S Hegde. Therefore any sort of addition or deletion of the area cannot be made without proper documents. Hence the phodi map of Sy. No. 126 Hissa No. 1 to 14 is not proper. Appellants preferred an appeal before Deputy Director of Land Records, Uttara Kannada Karwar against the Hissa phodi prepared by ADLR Sirsi in Sy. No. 126 of Kannigeri Village. Deputy Director of Land Records, Uttara Kannada Karwar dismissed the appeal reasoning that survey was made in the presence of all parties on the basis of Akar bandh and not on the basis of classification of land. Being aggrieved by this order the appellant filed the instant appeal before this court

The advocate for the appellant argued that

1. Phodi map and Hissa Form No. 4 and 11 are contrary to law and true facts of the case.
2. ADLR Sirsi has not followed the registered partition deed and has prepared phodi map. This phodi has to be rejected.
3. Phodi Hissa map which is prepared as per Hissa 4 and 11 has to be cancelled and direction has to be issued to DDLR for resurvey.

Hence he requested to allow the appeal.

The advocate for the respondent pleads that DDLR order is correct and States that same to be taken as their argument.

Question before this court is

1. Whether the prayer of the appeal can be considered?

Ans:- Affirmative.

After perusal of the lower court records written argument it reveals that Sy no. 126 totally consisted of 7-17-0 (0-21-0 Pot Kharab) and Actual extent 06-36-0 was joint family property of the appellants and respondents. This Sy. No. 126 was divided among the appellant and respondent as per registered partition deed dated: 21-4-1997. While dividing the said Sy.no. 126 survey was made in the presence of all parties on the basis of Akar bandh and not on the basis of classification of land. Now after the lapse of 20 years the appellants is objecting that Hissa map was not prepared as per registered partition deed. It is observed that the extent of Akar bandh tallies with the extent mentioned in RTC. There is no necessity of doing re-survey after the lapse of 20 years. Hence I proceed the following order.

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Date: 25-09-2017

Order

Appeal is dismissed

(Order dictated to the Stenographer, got computerized, verified and pronounced in open court on 25-09-2017)



**Deputy Commissioner,
Uttara Kannada, Karwar.**

Copy to:-

1. Advocate Sri P.S. Bhat and Sri N.S. Bhat for information.
2. Deputy Director of Land Records Uttara Kannada, Karwar for information and necessary action with Lower court file no. ಕಂ/ತಾಂ/ಭೂಮಾಪನ/ಭೂದಾಖಲೆ/ಮೇಲ್ಕನವಿ-94/16-17 dated: 03-11-2016 page No. 1 to page No.56.
3. Tahasildar Yellapur for information and necessary action.