

IN THE COURT OF DEPUTY COMMISSIONER, BALLARI

APPEAL No.56/2011-12

Present: Sameer Shukla, IAS
Deputy Commissioner,
Ballari

BETWEEN:

- 1) Smt.Gangamma W/o Late J.Basavarajappa
 - 2) J.Veeresh S/o Late J. Basavaraja
 - 3) J.Mallayya S/o Late J. Basavaraja
 - 4) Smt. Netramma W/o Jadeppa
 - 5) Shavithramma S/o Late J. Basavaraja
- all are R/o Vaddatti Village, Ballari Taluk & Distract.
(rep by sri. B.M. Suresh advocat, Ballari)

.....**Appellants**

V/s

- 1) The Assistant commissioner Ballari
 - 2) The Tahasildar Ballari
 - 3) Sinduvalu Eramma W/o Gadilingappa
Vaddatti Village, Ballari Taluk, & Distract
- (rep by sri. D.Mallayya advocat, Ballari) **Respondents**

This Revision petition is filed against the orders passed by the Assistant Commissioner Ballari in RAP No/208/2009-10 dated 10-5-2011 in respect of bearing Sy.No 283 measuring 3.00 acres out of 7.66 acres of Vaddatti Village in Ballari Taluk.

[A] Facts of the case;

1) The Tahasildar Ballari in the case No REV/Dispute/99/07-08 dated 16-7-2009 ordered to mutate the land bearing Sy.No 283 measuring 7.66 acres of Vaddatti Village in Ballari Taluk, in the name of the purchaser Smt. Sindavala Eramma W/o Gadilingappa of Vaddatti village as per the register sale deed D.No.293/2007-08.

2) Aggrieved by the said order the appellants herein appealed to the Assistant Commissioner U/sec. 136(2) of the Karnataka Land Revenue Act 1964, assailing the orders of the Tahasildar No.99/2007-08 dt: 16-9-2009. But, the Assistant commissioner in the impugned orders No.Rev/API/208/2009-10

dt: 10-5-2011 confirm the orders of the Tahasildar by rejecting the appeal.

3) Questioning the said orders of the Assistant Commissioner the present appeal is filed. Notices were issued and both the parties were represented by their learned advocates.

[B] The advocate for the appellant submitted the following grounds in support of the claim:

1) The impugned land is the ancestral property of the appellant and a suit for partition in O.S.No.234/2007 was pending before the II Addl Civil Judge (Sr.Dvn) Ballari.

2) That when the civil suit is pending the respondent No.3 has purchased the land in D.No.293/2007-08 utter violation of Principles of Justice.

3) Immediately the appellants herein filed an objection to the mutation proceedings in the Taluk Office Ballari, but the Tahasildar Ballari in disputed case No.Rev/99/2007-08 dt: 16-9-2009 ordered for effecting mutation on the ground that he has no powers to cancel the sale deed and directed to agitate the matter in the civil court.

4) Aggrieved by the orders of the Tahasildar an appeal U/sec.136(2) was preferred before A.C. Ballari in RAP No.208/2009-10 and the Assistant Commissioner No.2 without appreciating the fact rejected the appeal by upholding the orders of the Tahasildar Ballari.

5) Hence, having no other go the appellant herein approached by filing this appeal to quash the said orders of R1 and R2 as the said orders have been passed when the partition suit in O.S. No.234/2007 was pending in the civil court.

6) Therefore, the R1 & R2 have passed the orders which was to be excised by the civil court and hence requested to set-aside the said orders.

[C] The learned advocate for the respondent submitted

1. That when the registered document is received for mutation, the Tahasildar has no power to reject it as it is only the civil court which has got powers to interfere.

2. The suit referred to by the appellant and the consequent appeal preferred by them have already been disposed by the civil court as the same have been dismissed.

3. The entire allegation of partition rights of the appellant is false and in correct.

4. After the J-Form was received it is bound and duty of the Revenue Officer to carry out the mutation changes.

5. Hence, the orders passed by the Assistant Commissioner is legally correct and therefore, the same may be upheld in the interest of justice.

[D] The arguments of the respective learned advocates were heard in detail and the records were verified. Based on these the following points come to light.

1. The impugned land was transferred to the R3 Sindaval Eramma through a registered sale deed D.No.293/2007-08.

2. When the J-form pertaining to the transaction was received and the appellants herein objected to the mutation the same was referred to the Tahasildar U/sec.129 of KLR Act and

the Tahasildar after conducting the enquiry in case No.Rev/dispute/99/2007-08 dt: 16-9-2009 ordered for mutation as per the sale deed subjected to the result of the court order in OS No.234/2007.

3. When appeal was filed before the learned Assistant Commissioner he also concurred with the orders of the Tahasildar Ballari dt: 16-9-2009.

4. It is a settled question of law that the rights accrued through registered sale deeds shall be mutated by the Revenue Authority and if at all anybody have got objections they have to agitate the matter in the competent civil court, as the RTC entries are only presumptive entries and are subjected to the orders of the Civil Courts.

5. Therefore, this court does not find any legal infirmities in the orders passed by R2 & R3. Hence, the following,

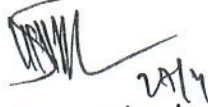
ORDER

APPEAL No.56/2011-12

Date: 27-4-2016

The appeal is Rejected.

Order dictated and computerized copy edited and pronounced by me, in the open court on 27-4-2016.


Deputy Commissioner
Ballari.