



HC-KAR



**IN THE HIGH COURT OF KARNATAKA,
AT DHARWAD**

DATED THIS THE 1ST DAY OF DECEMBER, 2025

**BEFORE
THE HON'BLE MR JUSTICE ANANT RAMANATH HEGDE**

WRIT PETITION NO.100504 OF 2021 (KLR-RR/SUR)

BETWEEN:

SHRI. RUKMANNA
S/O. SHANKAR ZUNJWADKAR,
AGE. 51 YEARS, OCC. AGRICULTURE,
R/O. KHAIRWAD, K. NANDGAD-591 302,
TQ. KHANAPUR, DIST. BELAGAVI.

... PETITIONER

(BY SRI. PRASHANT F. GOUDAR, ADVOCATE)

AND:

1. THE DEPUTY COMMISSIONER,
DC COMPOUND, BELAGAVI-590 001.
2. THE ASSISTANT COMMISSIONER,
BELAGAVI SUB-DIVISION,
MINI VIDHANSOUDA,
BELGAUM-GOIA ROAD,
KHANAPUR-591 302.
3. THE TAHASILDAR,
MINI VIDHANSOUDA,
BELGAUM-GOIA ROAD,
KHANAPUR-591 302.
4. SHRI. MARUTI S/O. MALLAPPA MADAR,
AGE. 56 YEARS, OCC. AGRICULTURE,
R/O. KHAIRWAD, K. NANDGAD-591 302,
TALUK: KHANAPUR, DIST. BELAGAVI.
(POSING TO BE THE GPA HOLDER OF
RESPONDENT NOS.5 TO 9)





5. SHRI. TUKARAM S/O. MALLAPPA MADAR,
AGE. 39 YEARS, OCC. AGRICULTURE,
R/O. KHAIRWAD, K. NANDGAD-591 302,
TAL. KHANAPUR, DIST. BELAGAVI.
6. SMT. DYAMAVVA W/O. MALLAPPA MADAR,
AGE. 74 YEARS, OCC. AGRICULTURE,
R/O. KHAIRWAD, K. NANDGAD-591 302,
TAL. KHANAPUR, DIST. BELAGAVI.
7. SMT. MALLAVVA W/O. IRAPPA MADAR,
AGE. 54 YEARS, OCC. HOUSE WIFE,
R/O. KHAIRWAD, K. NANDGAD-591 302,
TAL. KHANAPUR, DIST. BELAGAVI.
8. SMT. GANGAVVA W/O. SUBHASH KOLKAR,
AGE. 49 YEARS, OCC. HOUSE WIFE,
R/O. KHAIRWAD, K. NANDGAD-591 302,
TAL. KHANAPUR, DIST. BELAGAVI.
9. SMT. NIRMALA D/O. MALLAPPA MADAR
A/M NIRMALA W/O. KALLAPPA MADAR,
AGE. 47 YEARS, OCC. HOUSE WIFE,
R/O. KHAIRWAD, K. NANDGAD-591 302,
TAL. KHANAPUR, DIST. BELAGAVI.

... RESPONDENTS

(BY SMT. MALA B. BHUTE, AGA FOR R1 TO R3;
SRI. GIRISH A. YADWAD, ADV. FOR R4 & R5 TO R9;
R4 IS A GPA HOLDER OF R5 TO R9)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE A WRIT IN THE NATURE OF CERTIORARI, QUASHING THE IMPUGNED ORDER DATED 29.09.2020 PASSED BY THE DEPUTY COMMISSIONER, BELAGAVI/RESPONDENT NO.1 IN RB/RTA-231/2016-2017 PRODUCED VIDE ANNEXURE-J.

THIS PETITION COMING ON FOR ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:



ORAL ORDER

(PER: THE HON'BLE MR JUSTICE ANANT RAMANATH HEGDE)

This petition is filed assailing the order dated 29.09.2020 by First Respondent-Deputy Commissioner, in exercise of Jurisdiction under Section 136(3) of the Karnataka Land Revenue Act, 1964 (Act, 1964).

2. In terms of the impugned order, the Deputy Commissioner has set-aside the order passed by the Assistant Commissioner, who in turn had confirmed the Tahasildar's order, certifying the mutation based on the disputed Will. In addition, the Assistant Commissioner had directed the parties to approach the Civil Court to establish their respective claims on the disputed Will.

3. In terms of the impugned order, the Deputy Commissioner has cancelled the mutation based on the Will, and directed that entry to be made in the names of the natural heirs.



4. The petitioner/legatee is before this Court with a prayer to set aside the order of the Deputy Commissioner and to restore the mutation based on the Will.

5. Learned Counsel for the petitioner/legatee submits that the Tahasildar and Assistant Commissioner were prima facie satisfied with the execution of the Will and rightly certified the mutation based on the Will, subject of course, to the final verdict of the Civil Court. The Deputy Commissioner in exercise of jurisdiction under Section 136(3) of the Act, 1964 could not have set aside the said orders is the submission.

6. Learned counsel appearing for the contesting respondents submits that even before the impugned order is passed, the respondents had filed suit in O.S.No.257 of 2016 challenging the alleged Will. The said suit is decreed holding that the alleged Will is not proved. Thus, urged to dismiss the petition.



7. The Court has considered the contentions and perused the records.

8. It is settled in terms of various authoritative judgments, that the Revenue Authorities do not have the jurisdiction to decide the claims based on the Will/Testament. It is for the Civil Court to adjudicate the validity or otherwise of the Will/testament.

9. This being the well-settled legal position, the Tahasildar and the Assistant Commissioner could not have certified the mutation based on the disputed Will.

10. The Deputy Commissioner followed the well-settled position of law in this regard and has set-aside the mutation based on the Will. There is no merit in the petition.

11. However, the petition of this kind points out the lacuna in the law. This Court sitting in this jurisdiction has noticed that several writ petitions assailing the orders



passed by the Tahasildar, Assistant Commissioner and the Deputy Commissioner in mutation proceedings arising from the orders passed under Chapter-XI of the Act, 1964.

12. Section 135 of the Act, 1964, reads as under:

"Section 135 – Bar of suits-No suit shall lie against the State Government or any officer of the State Government in respect of a claim to have an entry made in any record or register that is maintained under this Chapter or to have any such entry omitted or amended

Provided that if any person is aggrieved as to any right of which he is in possession, by an entry made in any record or register maintained under this Chapter, he may institute a suit against any person denying or interested to deny his title to such right, for a declaration of his right under Chapter VI of the Specific Relief Act, 1877; and the entry in the record or register shall be amended in accordance with any such declaration."

13. Section 135 of the Act, 1964, prohibits the suit against the State Government or any Officer of the State Government, in respect of a claim to have an entry made in any record or register maintained under Chapter-XI.



However, the proviso to Section 135 of the Act, 1964 provides that any party, aggrieved by an entry made in the record or the register maintained by the revenue authorities under the Chapter XI of Act, 1964, may institute a suit against any person denying or interested to deny the title or possession.

14. From the aforementioned provision, it is apparent that the dispute relating to possession or title over the immovable property affected by any mutation has to be adjudicated by the competent Civil Court.

15. The full Bench of this Court in ***Jayamma and Others vs State of Karnataka, rep., by its Secretary, Department of Revenue and Others***¹ has held that the parties need not exhaust the remedies of appeal and revision before filing the suit as provided under proviso to Section 135 of the Act, 1964 whenever the dispute arises as to the title and possession of immovable property.

¹ ***ILR 2020 Kar 1449***



16. Despite the declaration of law being so, parties are approaching the Revenue Authorities challenging the orders under Chapter XI of the Act, 1964, by filing an appeal to the Assistant Commissioner against order passed by Tahasildar, and a revision to the Deputy Commissioner against order passed by Assistant Commissioner.

17. After the disposal of the proceeding before the Deputy Commissioner, or sometimes after the disposal of the proceeding before the Assistant Commissioner, the parties are approaching the High Court challenging the orders passed by the Revenue Authorities. Innumerable writ petitions are filed despite a specific provision under Section 135 of the Act, 1964, which provides for a comprehensive suit to establish the possession as well as title.

18. The High Court in exercise of writ jurisdiction under Article 227 of the Constitution of India against order passed by the Tahasildar, Assistant Commissioner and the Deputy Commissioner in respect of matter covered under



Chapter-XI of the Act, 1964, is not adjudicating the title and possession of the parties. Same has to be decided by the competent Civil Court.

19. It appears, that lack of a specific provision in the Act, 1964, or in the Code of Civil Procedure, 1908, to seek a stay of operation of impugned mutations/orders under Chapter XI of the Act, 1964, in a Civil suit, drives the parties to approach the Authorities under the Act, 1964 and ultimately the High Court to seek a stay of operation of impugned orders or mutations. Existing law provides for parallel or sequential proceedings resulting in avoidable delay in the adjudication process.

20. To put it differently, the law in the present form is encouraging multiple proceedings in different forums over one *lis*, where decision before Revenue Authorities is subject to the decision of the Civil Court. Given the enormous workload on the Courts and Revenue Authorities,



it is high time to revisit the law which encourages parallel proceedings before various forums.

21. The exercise before the Revenue Authority where there cannot be any conclusive decision relating to title and possession, (as the decision of the Revenue Authority would be subject to the decision of the competent Civil Court) is unnecessary. Such situation has to be avoided in the interest of a litigant seeking justice and to reduce the workload on the Authorities and the High Court as many such disputes end up in High Court, where the High Court would only be saying disputed entries/mutations will be subject to the result of the suit by the competent Civil Court.

22. Section 135 of the Act, 1964, is a pointer to a comprehensive remedy in the form of a civil suit. However, the specific provision is not incorporated in the Statute to seek a stay of the operation of the Orders of Tahasildar, Assistant Commissioner or Deputy Commissioner under



Chapter XI of the Act, 1964, when an aggrieved person approaches the Civil Court. The omission does not work out the remedy suggested under proviso to Section 135 of the Act, 1964 in full measure. Having pointed to a remedy under the Specific Relief Act, 1963, the legislature ought to have enabled the Civil Court to pass appropriate interim measure to stay the operations of the orders under Chapter XI of the Act, 1964. If so done, then it accords with law in ***Jayamma*** supra.

23. Probably a provision enabling the Civil Court trying a comprehensive suit, to stay the operation of the orders under Chapter XI of the Act, 1964 would achieve the purpose and object of the proviso to Section 135 of the Act, 1964 and may also avoid unnecessary parallel proceeding under the Act, 1964.

24. It is for the Law Commission to suggest appropriate measure and the Legislature to pass appropriate law to avoid parallel or sequential litigation



before the Appellate/Revisional Authorities under Chapter-XI of the Act, 1964, when the title dispute is to be resolved in competent Civil Court.

25. Experience would tell us that most of the disputes originating before the Tahasildar under Chapter XI of the Act, 1964 would travel up to the High Court after going through the remedy of Appeal under Section 136(2) and Revision under Section 136(3) of the Act, 1964. As already noticed, the adjudication in these forums is not conclusive and are subject to the result of the suit by the competent Court.

26. This being the position, a Revision before the Deputy Commissioner appears to be unnecessary exercise in a dispute covered under Chapter XI of the Act, 1964. The legislature may debate as to its efficacy of a Revision under Section 136(3) of the Act, 1964 and take a final call.



27. The discussions in paragraph No.15 onwards are aimed at inviting the attention of the stakeholders to find a suitable solution aimed at speedy and cost effective justice.

28. Hence, the following:

ORDER

- i. The writ petition is ***dismissed***.
- ii. The Registry to send the copy of order to the Chairman, the Karnataka State Law Commission, the Principal Secretary to Department of Parliamentary Affairs and Legislation and also the Principal Secretary to the Department of Revenue.

**Sd/-
(ANANT RAMANATH HEGDE)
JUDGE**

Para 1 to 7-EM,
Para 8 to end-AM
CT:BCK
LIST NO.: 1 SL NO.: 28