



IN THE HIGH COURT OF KARNATAKA

DHARWAD BENCH

DATED THIS THE 28TH DAY OF MAY, 2024

BEFORE

THE HON'BLE MR JUSTICE PRADEEP SINGH YERUR

WRIT PETITION NO.102571 OF 2024 (KLR-RES)

BETWEEN:

SMT. APSANA @ SARIKA KHAN
W/O SIDDIQUE KHAN,
REPTED, BY GPA HOLDER,
BY SHRI SIDDIQUE KHAN S/O MOHAMMAD KHAN,
AGE: 44 YEARS, OCC: BUSINESS,
R/O: KODIBAG, KARWAR,
KARWAR TALUK,
DIST. KARWAR-581303.

... PETITIONER

(BY SRI DATTATRAYA TIMMANNA HEBBAR, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA,
REPTD. BY ITS PRINCIPAL SECRETARY,
DEPARTMENT OF REVENUES,
VIDHANSOUDHA, M.S. BUILDING,
AMBEDKAR VEEDHI,
BENGALURU-560001.
2. THE DEPUTY COMMISSIONER,
MINI VIDHAN SOUDHA BUILDING,
KARWAR-581301, COURT ROAD,
DIST. KARWAR.
3. THE TAHASILDAR,
MINI VIDHAN SOUDHA,
COURT ROAD, KARWAR-581301,
DIST. KARWAR.
4. THE ASSISTANT DIRECTOR OF LAND RECORDS,
OFFICE OF THE LAND RECORDS,
KARWAR-581301, DIST. KARWAR.

... RESPONDENTS

(BY SMT. GIRIJA S. HIREMATH, HCGP)





THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE WRIT IN THE NATURE OF MANDAMUS BY ISSUING THE DIRECTIONS TO THE RESPONDENT NO.3 TO ENTER THE NAME OF THE PETITIONER IN PURSUANCE OF REGISTERED SALE DEED DATED 14-2-2022 AND TO ISSUE A WRIT IN THE NATURE OF CERTIORARI BY QUASHING THE ENDORSEMENT/LETTER DATED 27.03.2024 BEARING NO.RTC/DURSTI./VIVA/1385/2023-24 WHICH IS ISSUED BY RESPONDENT NO.3 VIDE ANNEXURE-D AND THE LETTER/ENDORSEMENT DATED 15.02.2024, VIDE ANNEXURE-E WHICH IS ISSUED BY THE DIRECTOR, ASSISTANT DIRECTOR OF LAND RECORDS, KARWAR, VIZ., RESPONDENT NO.4 AND ETC.,.

THIS PETITION COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

Petitioner is before this Court questioning the endorsement issued by respondent No.3 by letter dated 27.03.2024 vide Annexure-D and the endorsement dated 15.02.2024 issued by respondent No.4 vide Annexure-E, wherein the mutation entries sought to be challenged in the revenue records were rejected by respondents No.3 and 4.

2. It is the case of the petitioner that she being a permanent resident of Karwar, is absolute owner of the property bearing Sy.No.20A/1A measuring 01 gunta 01 anna, situated at Kodibag village, Baad Circle, Sarvodaya Nagar, Parisara Karwar. Originally the property stood in the name of father of the seller by name Shri Sheikh Ismail



Sheikh Usman. The said Ismail Sheikh Usman gifted the scheduled property to Usman Ismail Shaikh and thereafter the property came to be sold to the petitioner by way of a registered sale deed dated 14.02.2021. Admittedly, the petitioner purchased the property by virtue of a registered sale deed from its seller. The copy of the sale deed is also produced along with this petition. Pursuant to the purchase of the property, petitioner has also paid tax to the municipal authorities. The same has been accepted.

3. This being the state of affairs, petitioner made an application to respondent No.3 Tassildar, Karwar, to enter her name in the property extract and other revenue records. But unfortunately, respondent No.3 failed to exercise his power and refused to enter the name of the petitioner in the revenue records and issued an endorsement dated 27.03.2024 which is produced at Annexure-D. Thereafter, petitioner filed an application before respondent No.4, Assistant Director of Land Records under RTI Act, to ascertain as to why the mutation entries have not been changed in the name of petitioner, for which it was replied



that there is a difference in the name of the seller and purchaser in the property extract previously and hence the names were not changed. Thereafter, the petitioner applied for the property extract and came to know that the name of the petitioner is not at all mentioned in the property extract. Therefore, the petitioner is constrained to approach this Court for the inaction of respondents No.3 and 4 for not adhering to its responsible duty of changing the mutation entries as required under law, despite the registered sale deed produced before him. It is the contention of learned counsel for the petitioner that once the document registered in accordance with law of the Registration Act and the Stamp Act is produced before the concerned authority, i.e., respondent No.3, Tahasildar is duty bound to enter the name of the registered owner as per the documents produced before him and having made such a request and not adhering to the request, respondent No.3 Tahasildar has clearly deviated from the said legal principles and the provisions of the Act. Therefore, the same is illegal, invalid and is liable to be set aside.



4. It is also stated that the respondents have blindly issued an endorsement that the names do not tally, which is also not forthcoming and no proper documents have been produced or substantiated by the respondent authorities. Hence the order being erroneous, the petitioner is before this Court seeking to quash the endorsement issued by respondent No.3 and for a direction to enter the name of the petitioner in the revenue records.

5. Per contra, learned HCGP representing the State sustains the order of the respondent authorities, i.e., the Tahasildar by contending that after enquiry the Tahasildar has come to know that there is a difference in the name of the buyer and seller. She contends that since there is a difference in the property extract and the sale deed, the same is sustainable and it is well within the powers of the authority to reject when there is a difference in the name which is not tallying with the documents produced by the petitioner.

6. Having heard the learned counsel for the petitioner, and learned HCGP for the state, the point that



requires for consideration is whether the respondent No.3 Tahasildar has the power to reject the entry of mutation when a registered document in accordance with law is presented for change of mutation entries.

7. In this regard, it is relevant to extract the provisions of section 128 of the Karnataka Land Revenue Act, 1964, which reads as under:

128. Acquisitions of rights to be reported.—

(1) Any person acquiring by succession, survivorship, inheritance, partition, purchase, mortgage, gift, lease or otherwise, any right as holder, occupant, owner, mortgagee, landlord or tenant of the land or assignee of the rent or revenue thereof, shall report orally or in writing his acquisition of such right to the prescribed officer of the village within three months from the date of such acquisition, and the said officer shall at once give a written acknowledgment of the receipt of the report to the person making it:

Provided that xxx xxxx xxxx.....

Provided further that any person acquiring a right by virtue of a registered document shall be exempted from the obligation to report to the prescribed officer:

8. According to the above said section 128 of the Act, there is a duty cast upon any person who acquires succession, ownership or right on the property to make an application to the prescribed officer within three months from



the date of such acquisition and the said officer shall at once give written acknowledgement to the said person. But the second proviso to the section which is extracted hereinabove exempts the obligation to report to the prescribed officer. When there is any document which is a registered document produced by the person to the prescribed officer, in the sense there is no requirement for the person to make an application or report to the prescribed officer when there is a registered document as required under law, completing all formalities of the requirement of registration under the Registration Act as it becomes a duty incumbent upon the officer to register the name of the person who has acquired the ownership on the basis of the document which is forwarded by the prescribed officer to the concerned revenue authority.

9. It is also relevant to extract sub section (4) of section 128 of the Act, which reads as under:

(4) No document by virtue of which any person acquires a right in any land as holder, occupant, owner, mortgagee, landlord or tenant or assignee of the rent or revenue thereunder, shall be registered under the Indian Registration Act, 1908 (Central Act 12 of 1908), unless the person liable to pay the registration fee also



pays to the registering authority such fees as may be prescribed for making the necessary entries in the record of rights and registers referred to in section 129; and on the registration of such a document, the registering authority shall make a report of the acquisition of the right to the prescribed officer.

10. This sub section very clearly states that once there is a registered document presented before any authority, the registration of such document shall be reported to the prescribed officer, who is duty bound to make the entry in the revenue records/mutation records with regard to change of name as per the document which is forwarded to him.

11. In the present case on hand, two situations have arisen. One is, the petitioner has made an application to the Tahasildar. Though application is made, the Tahasildar has refused to make an entry on the ground that there is a difference in the name in the property extract, which however, is not substantiated or convincing. Secondly, even if the petitioner, for the sake of argument, had not made any application, the authority by themselves are duty bound to



report the same to the prescribed officer of the revenue department to change the name in the mutation entries.

12. It is also relevant to note that there is no rival claim or any third party claims are made before the Tahasildar or the revenue authorities with regard to there being any fraud or mischief played with regard to the change of entries or the registered document produced before the prescribed officer/authority. Under the circumstances, the impugned order passed by the Tahasildar does not prescribe to the required provisions of the Act and the duty cast upon the officer. The same is erroneous and is liable to be quashed. Accordingly, I proceed to pass the following:

ORDER

- i) The writ petition is allowed.
- ii) The impugned order passed by respondent No.3 Tahasildar dated the 27.03.2024, is hereby quashed.
- iii) A writ of mandamus is issued to respondent No.3 to enter the name of the petitioner by virtue of the registered sale deed produced dated 14.02.2021 and make



such entries in the revenue records by incorporating the name of the petitioner.

iv) The entry shall be incorporated by respondent No.3 Tahasildar, within a period of two months from the date of receipt of a copy of the order.

Sd/-
JUDGE

MRK
CT:BCK
LIST NO.: 1 SL NO.: 34