

(2023) 10 KAR CK 0033

In the Karnataka High Court

Case No : Writ Appeal No. 834 Of 2023 (KLR-RES)

B K Narayanaswamy Since Dead By His Lrs & Others

APPELLANT

Vs

State Of Karnataka Represented By Its Principal Secretary,
Vidhan Soudha, Bangalore-560001 & Others

RESPONDENT

Date of Decision : 27-10-2023

Acts Referred:

Karnataka Land Revenue Act, 1964 — Section 133

Citation : (2023) 10 KAR CK 0033

Hon'ble Judges : Prasanna B. Varale, CJ; Krishna S Dixit, J

Bench : Division Bench

Advocate : M J Alva, Niloufer Akbar, Arjun R Khot

Final Decision : Dismissed

Judgement

Prasanna B. Varale, CJ

1. This intra-court appeal seeks to lay a challenge to a learned Single Judge's order dated 28.06.2023 whereby private respondents' W.P.No.23394/2021 (KLR-RES) having been favored Deputy Commissioner's order dated 02.11.2021 passed in R.P.No.18/2016-2017 has been set at naught, subject to out come of the title suit in O.S.No.1475/2021.

2. Learned counsel appearing for the appellants vehemently argues that the entries in the revenue records ought to have been continued in the name of his clients since they happened to be the successors of the person concerned in whose name such entries existed for about three decades or so. He also points out that the entries having been mutated during the pendency of this appeal, that would cause prejudice to his clients since they have presumptive value under Section 133 of the Karnataka Land Revenue Act, 1964; he hastens to add that on the basis of change of entries, the position of his clients over the land in question runs risk of interference. So arguing, he seeks invalidation of the impugned order.

3. Learned Additional Government Advocate appearing the official respondent Nos.1 to 4 and learned private counsel appearing in caveat for respondent Nos.5 & 6 oppose the appeal pointing out the pendency of the title suit; they also make submission in justification of the impugned order and the reasons on which it has been constructed.

4. Having heard the learned counsel for the parties and having perused the appeal papers, we decline indulgence in the matter broadly agreeing with the reasoning of the learned Single Judge. At para 3 of the impugned order, the following observations have been rightly made:-

"Admittedly, the property was owned by one late Kaverappa. After his demise, the revenue entries are required to be changed in the name of the petitioners. However, mere change of revenue entries in the name of the petitioners does not amount to declaring that the petitioners are the owners of the property. It is for the Civil Court to decide the dispute as to ownership. This order does not come in the way of the Civil Court deciding o.S.No.1475/2021 in accordance with law. If the suit is decreed in favour of respondent Nos. 5 to 7 herein, they are entitled to have the revenue entries mutated in their favour. Mere change of revenue entries does not alter the possession of the property by either of the party. Respondents nos.5 to 7 are always at liberty to make necessary applications in the pending original suit to protect their possession, if any."

5. The vehement submission of the learned counsel for the appellants that their possession is being threatened on the basis of the entries that have been made pursuant to order of the learned Single Judge and therefore, the same is liable to be voided, is bit difficult to countenance. It has been a settled position of law since the days of Privy Counsel that the entries in the revenue records do not lend title to the persons in whose name they do stand. It hardly needs to be stated that the appellants be they plaintiffs or defendants can maintain an application for order of temporary injunction to protect their possession and that whatever is observed in the impugned order will not come in their way.

In the above circumstances, this appeal being devoid of merits is liable to be and accordingly dismissed, costs having been made easy.