(2006) 11 KAR CK 0011

In the Karnataka High Court

Case No : Writ Petition No. 13318 of 2006

Doddahanumappa and Others — APPELLANT

Vs

The Deputy Commissioner and Others — RESPONDENT

Date of Decision : 20-11-2006

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2007) 6 KarLJ 598 : (2007) 1 KCCR 769

Hon'ble Judges : V.G. Sabhahit, J

Bench : Single Bench

Advocate : K. Sreerangarajan, for the Appellant;

Judgement

V.G. Sabhahit, J.—This writ petition is filed being aggrieved by the order passed by the Deputy Commissioner, Bangalore Rural District, Bangalore allowing the revision petition and setting aside the order passed by the Assistant Commissioner, Doddaballapur Sub-Division, Bangalore.

2. It is the contention of the petitioners that the petitioners are the owners of the land comprised in Sy. No. 18/2 measuring 3 acres 12 guntas of Ex. KG. Dyavarahali and the said land has been granted to Motappa by Inam Abolition Deputy Commissioner, Bangalore. Respondents 4 to 7 practiced fraud and filed a joint compromise memo and obtained decree in O.S. No. 225 of 1991 from the Munsiff and Magistrate Court of Devanahalli and obtained the khata fraudulently vide Mutation Entry No. 21/95-96, dated 7-12-1995 and a criminal complaint has been filed against respondents 4 to 7. The petitioners filed an appeal before the Assistant Commissioner and the Assistant Commissioner allowed the appeal and set aside the entry in favour of respondents 4 to 7. Being aggrieved by the same, respondents 4 to 7 preferred revision before the Deputy Commissioner and the Deputy Commissioner allowed the revision and set aside the order passed by the Assistant Commissioner.

3. I have heard the learned Counsel appearing for the petitioners.

4. The learned Counsel appearing for the petitioners submitted that the decree obtained in O.S. No. 225 of 1991 is fraudulent and the joint compromise memo is also fraudulent and the said suit does not pertain to Sy. No. 18/2 and it is Kaneshumari No. 18/2. The learned Counsel further submitted that even the judgment and the seal of the Court is concocted by respondents 4 to 7 and a complaint has been filed before the Criminal Court and registered in PCR No. 24 of 1998. He further submitted that respondents 4 to 7 had committed fraud and the Assistant Commissioner has rightly set aside the entry and the Deputy Commissioner has erroneously allowed the revision by setting aside the order passed by the Assistant Commissioner without assigning any reasons.

5. I have considered the contentions of the learned Counsel appearing for the petitioners.

6. It is clear from the perusal of the material on record that there is no merit in the contention of the learned Counsel for the petitioners that the Deputy Commissioner has not assigned any reasons for setting aside the order of the Assistant Commissioner. The Deputy Commissioner has assigned valid reasons for setting aside the order of the Assistant Commissioner. Mutation entry is effected on the basis of the compromise decree passed in O.S. No. 225 of 1991 and the question as to whether the said compromise decree was obtained by fraud or not has to be ascertained by the Court which has granted the decree and the Revenue Authorities cannot go into the question as to whether the decree has been obtained fraudulently and wherefore the Deputy Commissioner has rightly held that entry is made on the basis of the compromise decree and the Revenue Authorities cannot go into the validity of the decree. There is no merit in the contention of the learned Counsel for the petitioners that Sy. No. 18/2 was not the subject-matter of suit O.S. No. 225 of 1991 and the petitioners were not parties to the said suit, as it is clear from the joint compromise memo produced by the petitioner as per Annexure-E that the subject-matter of the suit was Sy. No. 18/2 which is the subject-matter of this writ petition and the entry made in the revenue records are not Kaneshumari as submitted by the learned Counsel. It is also clear from the perusal of the joint compromise memo that Muniraju son of Chikkavenkatarayappa-respondent 5 is a party to the said suit and the question as to whether the said compromise decree has been obtained in accordance with law or has been obtained by practicing fraud, is to be determined by the Civil Court as the Revenue Authorities have no jurisdiction to go into the validity of the decree passed by the Civil Court.

7. Under the circumstances, the Deputy Commissioner has rightly held that entry is made on the basis of the compromise decree and the Assistant Commissioner was not justified in setting aside the said entry. It is well-settled that the Revenue Authorities have no jurisdiction to go into the validity of the decree passed by the Civil Court and if the petitioners feel that the said decree has been obtained by practicing fraud, they have to obtain necessary declaration about the validity of the said compromise decree and thereafter make an application for

change of entry.

8. Under the circumstances, I do not find any error or illegality in the order passed by the. Deputy Commissioner so as to call for interference in exercise of power of this Court under Articles 226 and 227 of the Constitution of India. However, it is open to the petitioners to obtain necessary declaration from the Civil Court about the validity of the compromise decree passed in O.S. No. 225 of 1991 and thereafter make an application for change of entry in accordance with law.

9. The writ petition is disposed of with the above said observations.

