

(2006) 11 KAR CK 0023
In the Karnataka High Court
Case No : Writ Petition No. 4205 of 2005

D.S. Basavegowda and Others

APPELLANT

Vs

The Deputy Commissioner and Others

RESPONDENT

Date of Decision : 15-11-2006

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2008) 1 KarLJ 346 : (2007) 2 KCCR 1046

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

Bench : Single Bench

Advocate : R.S. Ravi, for the Appellant; R. Kumar, HCGP for R1 to 3 and L.S. Chikkangoudar, for R4 to 8, for the Respondent

Judgement

V.G. Sabhahit, J.—This Writ Petition is filed being aggrieved by the order passed by the Deputy Commissioner, Mysore District, Mysore dated 20-12-2004.

2. It is the case of the petitioners that they made an application to enter their names in place of respondents 4 to 8 in respect of Sy. No. 63,67,68 and 78 measuring 3 acres, 5 acres 3 guntas, 6 acres 20 guntas and 8 acres 7 guntas respectively and the Tahsildar ordered to enter the name of the applicants-petitioners. Being aggrieved by the same, appeal was preferred before the Assistant Commissioner, Hunsur Sub-Division, Hunsur and the Assistant Commissioner held that parties have to approach the Civil Court and obtain an order of declaration and accordingly, passed the order on 11 /07/2002. Being aggrieved by the same, respondents 4 to 8 preferred revision before the Deputy Commissioner and the Deputy Commissioner has held that since the name of respondents 4 to 8 has already been entered in the year 1960-61 and since it is the petitioners who are asking for change of entry, it would be appropriate that the petitioners are directed to obtain necessary declaration from the civil Court and make an application for change of entry and accordingly allowed the revision and set aside the order passed by the Assistant Commissioner, Hunsur and directed the petitioners to approach the Civil Court and obtain declaration of right

in respect of the above said lands. Being aggrieved by the same, this Writ Petition is filed.

3. I have heard the Learned Counsel appearing for the petitioners, the Learned Counsel appearing for respondents 4 to 8 and the Learned High Court Government. Pleader appearing for respondents 1 to 3.

4. It is clear from the perusal of the material on record that the name of the respondents 4 to 8 has already been entered in the record of rights from 1960-61 and it is the petitioners who have filed an application for change of entry and wherefore the question of both the parties approaching the Civil Court for declaration does not arise as ordered by the Assistant Commissioner and wherefore the Deputy Commissioner has rightly set aside the order passed by the Assistant Commissioner and the order directing the petitioners, who want their names to be entered in the revenue records in place of respondents 4 to 8, to approach the Civil Court as an entry has already been made in the name of respondents 4 to 8 in the revenue records, is justified and when the petitioners want their names to be entered by deleting the names of the respondents 4 to 8, at this stage, they have to obtain necessary declaration from the Civil Court and thereafter make an application for change of entry.

5. The Deputy Commissioner has directed the petitioners to approach the Civil Court and obtain necessary declaration and it is well settled that any order passed by the Revenue Authorities is always subject to declaration that may be granted by the Civil Court and at this stage, I do not find any reason to interfere with the order passed by the Deputy Commissioner, as the same does not suffer from any error or illegality, 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 approach the Civil Court and obtain necessary declaration of title and make an application for change of entry and the Civil Court shall independently decide the question of title without reference to the order passed by the Revenue Authorities regarding the entry in the record of rights.

6. Accordingly, the Writ Petition is disposed of with the above said observations.