

(2013) 03 KAR CK 0079

In the Karnataka High Court

Case No : Writ Petition No. 33605 of 2010 (LB-RES)

K. Ramaraj Urs

APPELLANT

Vs

The Deputy Commissioner, Ramanagaram District and Others

RESPONDENT

Date of Decision : 19-03-2013

Acts Referred:

Karnataka Municipalities Act, 1964 — Section 322(1)

Citation : (2013) 3 KarLJ 67

Hon'ble Judges : A.S. Bopanna, J

Bench : Single Bench

Advocate : G.S. Balagangadhar, for the Appellant; Manjula R. Kamadolli, High Court Government Pleader, Kumar and Kumar, Sri G.V. Shashi Kumar for Indo Legal INC, for the Respondent

Judgement

A.S. Bopanna, J.—The petitioner is before this Court assailing the order dated 6-10-2010 which is impugned at Annexure-K to the petition. The petitioner has also sought for a direction to restore the khatha of the schedule property in the name of the petitioner in the records of the second respondent-Town Municipality, Kanakapura. The case of the petitioner is that he is the owner of the property bearing No. 631/591 situate at 25th Ward, Fort, Kodihalli Road, Kanakapura Town, Ramanagara District. The property originally belonged to his brother B.K. Venugopala Raje Urs, who has bequeathed in his favour under a will dated 12-3-2008. In that regard, the petitioner has sought for change of revenue entries in respect of the said property, on the death of his brother and the will coming into force. The respondents 3 to 6 who are the legal representatives of the deceased Venugopala Raje Urs claim to have succeeded to the said property. Hence, they have disputed the will and they contend that they are entitled to the said property and therefore, the revenue entries made in the name of the petitioner is not justified. In that regard, the private respondents have filed a petition in Mun. R.P. No. 7/2008-09 u/s 322(1) of the Karnataka Municipalities Act, 1964. The Deputy Commissioner on considering the said revision has by the impugned order dated 6-10-2010 arrived at the conclusion that the revenue

entries made is not justified and has set aside the same. The petitioner claiming to be aggrieved by the same is before this Court.

2. Learned Counsel for the petitioner would at the outset point out that certain observations made by the Deputy Commissioner with regard to the will and the probate not being obtained in that regard is not justified and therefore, the conclusion ultimately reached by the Deputy Commissioner is not justified.

3. In that regard, having perused the reasons assigned by the Deputy Commissioner, it appears as if the Deputy Commissioner is seeking to decide the civil rights of the parties. While disposing of the revision petition, such power is not available to the Deputy Commissioner and observation in that regard are not sustainable. The validity or otherwise of the will and the rights of the parties can only be considered by a Competent Civil Court as held by a Full Bench of this Court in the case of C.N. Nagendra Singh Vs. The Special Deputy Commissioner and Others, : C.N. Nagendra Singh Vs. The Special Deputy Commissioner and Others, If this aspect of the matter is kept in view, notwithstanding the fact that the reasons assigned by the Deputy Commissioner are not justified, the ultimate conclusion in any event cannot be faulted i.e., for the reason that the revenue entries effected by the authorities based on the will cannot be accepted at this juncture, when the will is being contested by the private respondents herein. In any event, it is not in dispute that the petitioner herein has filed a suit in O.S. No. 348 of 2010 which is pending consideration before the Civil Judge (Senior Division), Ramanagar. Hence, the right to the property in any event would be decided in the said suit. Therefore, liberty is reserved to the petitioner to thereafter approach the Revenue Authorities depending on the result of the suit. Until disposal of the suit, a direction is issued to the respondents to incorporate the details of the suit in O.S. No. 348 of 2010 which is pending relating to the subject property in the Revenue Registers. Such entry shall be made on the request being made by the petitioner by filing an application with the second respondent.

With the said observations, the petition stands disposed of. No costs.