

KABG500011432019



IN THE COURT OF PRINCIPAL SENIOR CIVIL JUDGE, GOKAK

BEFORE: Sri. Umesh S. Atnure

B.Com.LL.B.(Spl)

Prl.Senior Civil Judge, Gokak

Civil Miscellaneous No.19/2019

DATED THIS 05th DAY OF JUNE-2026

01. Smt. Basavva W/o. Mahadevappa Demashetti,
Age: 70 years, Occ: Household,
R/o: Mamadapur, Tq: Gokak.
02. Smt. Kashavva W/o. Bhimappa Mandiyar,
Age: 68 years, Occ: Household,
R/o: Yarajaravi, Tq: Savadatti.
03. Smt. Savitri W/o. Irappa Akki,
Age: 58 years, Occ: Household,
R/o: Bendigeri, Tq: Belagavi.
04. Smt. Kasturi W/o. Sannappa Gidulanavar,
Age: 56 years, Occ: Household,
R/o: Mamadapur, Tq: Gokak.

Petitioners

- Versus -

01. Dundappa S/o. Gulappa Pattanshetti
Since deceased.
02. Basavaraj S/o. Dundappa Pattanshetti,
Age: 35 years, Occ: Agriculture,
R/o: Panchanayakanahatti, Tq: Gokak.

03. Shrishail S/o. Dundappa Pattanshetti,
Age: 23 years, Occ: Agriculture,
R/o: Panchanayakanahatti, Tq: Gokak.
04. Vishwanath S/o. Dundappa Pattanshetti,
Age: 22 years, Occ: Agriculture,
R/o: Panchanayakanahatti, Tq: Gokak.

Respondents

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Petitioners by Sri.D.B.A., Advocate
Respondents by Sri.P.M.H., Advocate

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DATE OF:

1.	Institution of Petition	:	13.12.2019		
2.	Date of disposal	:	05.06.2026		
			Year/s	Month/s	Day/s
	Total Duration		06	05	22

: ORDERS ON MAIN PETITION :

1. The petitioners who are the plaintiffs in OS.No.98/2019 filed this present petition U/o.XXXIX Rule 2A R/W Section 2(B) of CPC and Contempt of Court Act.
2. It is the case of the petitioners that they have instituted a suit in OS.No.98/2019 before Hon'ble II Additional Senior Civil Judge, Gokak for the relief of partition and separate possession against the respondents. The said case was posted on 16.09.2019 for taking steps before that day they came to know

that the defendant No.1 wanted to change the katha of the suit property, so the petitioner No.1 filed an application U/o XXXIX Rule 1 and 2 R/W section 151 of CPC restraining them not to change any name in the katha extract of the suit property. The Hon'ble court was pleased to passed an order directing to maintain status-quo as on today in respect of the revenue documents pertaining to the suit property. The petitioner No.1 obtained the certified copy of the order passed by this court and produced the same before Tahasildar, Gokak on 19.11.2019. Subsequently the respondents colluding with the Tahasildar, Gokak got created false MR.No.H-34/2019-20 dated 23.11.2019 to the property bearing R.S.No.474 of Hirenandi village and the name of respondents were entered in the RTC extract of the suit property. It clearly goes to shows that respondents intentionally disobeyed the order passed by this court and illegally got entered their names in the RTC extract of the R.S.No.474 of Hirenandi village by colluding with the revenue authorities. Hence, the respondents are to be punished by sending them to civil imprisonment and imposing fine and to attaching the property belonging to the respondents. Hence, they prayed to allow the application.

3. During the pendency of this petition, the respondent No.1 died and respondents No.2 to 4 appeared through their counsel.
4. The respondent No.3 filed objections to this application by denying entire contention of the petitioners. Further contended that they have not violated any order of this court intentionally. Further they contended that as per the compromise decree passed by the Hon'ble Senior Civil Judge, Gokak in OS.No.207/2018 in respect of the suit property, the respondent No.1 filed an application before the Assistant Commissioner, Bailhongal immediately after passing the final decree and in the said application is transferred to the Tahasildar, Gokak for mutation of the names of the respondents based on the compromise decree. When the application was filed by the respondent No.1 before revenue authorities there was no any injunction or status-quo order was passed against the respondents as such, they have not violated any order of this court as contended by the petitioners. It is the duty of the revenue authorities to mutate the names of the respondents on the basis of the compromise decree passed by the court. Further he contended that the respondent No.2 is serving in Indian Army, he is residing at his service place, as such the

respondent No.2 has not violated any order of this court and respondent No.3 is also not filed any application before revenue authorities to mutate their names in the RTC extract of the suit property as such, they have not violated any order passed by this court. The petitioners have intentionally not made Thasildar, Gokak as party to this petition. Hence, prayed to reject the petition.

5. The respondent No.4 filed objections to this petition by denying entire contentions of the petitioners. Further he contended that the petitioner filed an application U/o XXXIX Rule 1 and 2 R/W Section 151 of CPC before the court restraining the defendants maintain status-quo with regard to the revenue entries in the suit property. When the order was passed already the respondents have submitted the application for change of katha based on the compromise decree passed in OS.No.207/2018 as such he has not violated any order passed by the court. The petitioners by suppressing the material fact only with an intention to harass them, they have illegally filed this present petition as such the respondent No.4 prayed to reject the petition.
6. In support of the case the petitioners, the petitioner No.1 is examined as P.W.1 and got marked Ex.P1 to 3 and closed their

side. The respondent No.2 is examined as RW1 and got marked Ex.R1 to 12 and closed their side.

7. Heard the arguments of both side. Perused the application and records.
8. The following points that arise my consideration are as follows:

POINTS

1. Whether the petitioners proves beyond all reasonable doubts that the respondents have intentionally changed the katha in their names in respect of R.S.No.474 of Hirenandi village inspite of prohibitory order passed by this court on 28.08.2019?
 2. Whether petitioners are entitled for relief sought for?
 3. What order?
9. My findings to the above points are as under;

Point No: 1 :- In the Negative

Point No: 2 :- In the Negative

Point No: 3 :- As per final order for the following;

//REASONS//

10. **Point No: 1:-** This present petition is filed by the petitioners U/o XXXIX Rule 2A of CPC alleging that in OS.No.98/2019 the petitioners have filed an application U/o XXXIX Rule 1 and 2 praying to restraining the defendants from the changing the revenue records of the suit property. Accordingly Hon'ble II Additional Senior Civil Judge passed an order on 28.08.2019 directing the parties to maintain the status-quo with regard to the revenue entries pertaining to the suit property. The petitioners contending that during the pendency of the status-quo order the respondents colluding with the revenue authorities got entered their names in the RTC extract of R.S.No.474 of Hirenandi village, even though they are having knowledge that the court has passed status-quo order with regard to the changing the revenue records pertaining to the suit property as such, they are liable to punished as per the provision of Order 39 Rule 2A.
11. The proceedings U/o XXXIX Rule 2A of CPC is a serious matter. The court is empower to order to take away the liberty of an individual and order detention of the person, who violates the order, in civil prison. The power conferred under Order 39 Rule 2A is penal in nature. The burden is heavily on the person who alleges disobedience to prove the ingredients of offence beyond

reasonable doubt. There should be clear proof that order to be disobeyed was clear, unambiguous and willful knowledge of the contents of the order which was disobeyed. Hence, heavy burden is castes upon the petitioners to prove beyond all reasonable doubt that the respondents have intentionally disobeyed the status-quo order passed in OS.No.98/2019 on 28.08.2019.

- 12.** In support of the case of the petitioners, the petitioner No.1 is examined as PW1, in her examination-in-chief she deposed as per contentions taken by her and she got marked certified copy of the order sheet in OS.No.98/2019 as per Ex.P1, application given by to the Tahasildar dated 19.11.2019 as per Ex.P2, RTC extract of R.S.No.474 as per Ex.P3. As per the contention of the petitioners the Hon'ble II Additional Senior Civil Judge passed status-quo order on 28.08.2019. After passing the status-quo order the respondents have got certified MR.No.H-34/2019-20 dated 23.11.2019 in respect of R.S.No.474 of Hirenandi village. In the cross-examination of PW1, she deposed that herself and her sisters are filed the suit for partition in respect of 10-12 properties and she can't say the date on which they have filed injunction application before the court and she denied that in her petition she has not stated the date on which the respondents have got change the katha in their favour and she

also denied that she has not stated the date on which order was passed by the revenue authorities for change of katha. She deposed her ignorance that who has filed order copy before the Tahasildar and on which date. She admitted that as per the compromise decree passed in OS.No.207/2018 Shivanagouda filed application before the Tahasildar for change of katha. She has not included in the Shivanagouda in this petition. She further deposed her ignorance that on 30.11.2018 Shivanagouda filed application before the revenue authorities for change of katha as per the compromise decree and based on that application a notice was issued on 27.05.2019 for measuring the properties. She further deposed that according to her on 28.08.2019 status-quo order was passed. Further she admitted that in between the sons of Shivanagouda and Dundappa there is no cordial relationship and she further admitted that her son marriage was solemnized with the daughter of Shivanagouda and she denied that in view of the said relationship she is having cordial relationship with the Shivanagouda. She denied that even though the respondents have not violated any court order only with an intention to harass the respondents, she has filed this false petition.

13. When the petitioners are approached this court praying for punishing the respondents for violation of status-quo order dated 28.08.2019 heavy burden lies on the petitioners to prove beyond all reasonable doubt that even though the respondents are having knowledge about the status-quo order dated 28.08.2019 they have intentionally violation the status-quo order.
14. From the oral and documentary evidence adduced by the petitioners nothing worth is brought on record to show that the present respondents have intentional violated the status-quo order dated 28.08.2019 and got entered their names to R.S.No.474 of Hirenandi village. The petitioners are not produced any material documentary evidence to show that on which day the respondents have filed application before the Tahasildar for change of katha and on which date the Tahasildar has pass the order for change of the katha. The PW1 in her cross-examination clearly admitted that as per the compromise decree passed in OS.No.207/2018 Shivanagouda has filed an application before the Tahasildar for change of katha and she has not made the Shivanagouda as party to this petition. By perusing the order sheet marked Ex.P1 it is clear that the Shivanagouda is the defendant No.2 in OS.No.98/2019

but the said Shivanagouda is not made as party to this petition as the Shivanagouda has filed application for change of katha as per the compromise decree in OS.No.207/2018. Hence, the material documentary evidence and oral evidence of PW1 is not helpful to prove that the respondents are willfully violated the status-quo order dated 28.08.2019.

15. The respondent No.2 is examined as RW1, in his examination-in-chief he deposed as per contentions taken by them. He got marked application filed before revenue authorities for preparing the 11-E sketch of R.S.No.474 of Hirenandi village as per Ex.R1, notices issued by the revenue authorities as per Ex.R2 and 3, certified copies of the return envelops as per Ex.R4 to 7, postal receipt as per Ex.R8, statement as per Ex.R9, certified copy of the 11-E sketch as per Ex.R10, boundary report as per Ex.R11, RTC extract of R.S.No.474 as per Ex.R12. By perusing the Ex.R1 it is clear that on 30.11.2018 Shivanagouda Gulappa Pattanshetti filed application before the survey authorities for preparation of 11-E sketch as per the compromise decree passed in OS.No.207/2018 and accordingly the survey authorities have issued notice to the respective parties, conducted the panchanama, surveyed the land, prepared the 11-E sketch and fix the boundaries. These proceedings were took

place on 27.05.2019 i.e., prior to filing an application by the petitioners U/o XXXIX Rule 1 and 2 of CPC. Hence, it is clear that prior to filing an application by the petitioners for injunction order 11-E sketch was prepared by conducting the survey and fix the boundaries. The application was filed by the Shivanagouda Gulappa Pattanshetti who is the defendant No.2 in OS.No.98/2019 and from the Ex.R1 to 12 it is clear that the present respondents have not at all filed any application for change of katha in respect of R.S.No.474 of Hirenandi village. Hence, from the documentary evidence adduced by the respondents it is clear that the present respondents have not filed any application before the revenue authorities for change of katha but the Shivanagouda has filed application before the revenue authorities for mutating the names of the respective parties as per the compromise decree passed in OS.No.207/2018 and accordingly after preparing the 11-E sketch the revenue authorities have change the katha as such, the names of present respondents are appearing in the RTC extract of R.S.No.474 of Hirenandi village. Hence, it is clear that the respondents have not violated the status-quo order dated 28.08.2019.

- 16.** The RW1 is cross-examined by the learned counsel for the petitioners. By perusing the cross-examination of RW1 nothing

worth is brought on record to show that the respondents intentionally have filed application before the revenue authorities for change of katha in their name in respect of R.S.No.474 of Hirenandi village. Further in the cross-examination of RW1 it was contended that the present respondents only filed application before the revenue authorities without the signature of Shivanagouda but in this regard there is no acceptable material evidence is brought on record to show that even though having the knowledge of status-quo order the present respondents have filed application for change of katha through Shivanagouda. Hence, whatever contentions taken by the petitioners in the cross-examination of RW1 is not helpful for the petitioners in order to prove beyond reasonable doubt that respondents have intentionally violated the order dated 28.08.2019.

17. From the cross-examination of PW1 it is clear that the Shivanagouda is none other than the brother of the petitioners and the petitioner No.1 was solemnized marriage of her son with daughter of the Shivanagouda and the present respondents are the brothers of Shivanagouda and the petitioners and further it appears from the records that the dispute was arose in between the petitioners, respondents, Shivanagouda and other family

members with regard to their family properties and civil suits were filed by the respective parties in respect of their family properties. Now the petitioners are having cordial relationship with the Shivanagouda and the relationship in between the Shivanagouda and respondents is strained. Hence, it is clear that due to that strained relationship of the respondents with the Shivanagouda, the petitioners have filed this petition only with an intention to harass the respondents. From the oral and documentary evidence of both the parties it appears that the petitioners are not approached this court with clean hands and they have suppress the material fact that the Shivanagouda has filed application before the revenue authorities for preparing the 11-E sketch and they have also not made the Shivanagouda as party to this petition, it shows the clear intention of the petitioners. Hence, I am of the considered view that the petitioners are failed to prove that the respondents have intentionally violated the status-quo order dated 28.08.2019 and got mutated their names to the R.S.No.474 of Hirenande village. Hence, **I answered the Point No.1 in the Negative.**

18. **POINT No.2:-** The petitioners are failed to prove beyond all reasonable doubts that the respondents have intentionally violated the status-quo order hence, they are not entitled for the

relief sought by them. Hence, **I answered the Point No.2 in the Negative.**

19. POINT No.3:- For the above stated reasons, I proceed to pass the following;

: O R D E R :

The petition filed by the petitioners Under Order XXXIX Rule 2A R/W Section 2(B) of CPC and Contempt of Court Act, is hereby dismissed.

No order as to costs.

(Dictated to Stenographer transcribed and typed by him, script corrected, signed and then pronounced in the open court by me on this the **05th DAY OF JUNE-2026**)

(Umesh S.Atnure)
Prl.Senior Civil Judge, Gokak.

: ANNEXURE :

List of witnesses examined on behalf of petitioner:-

PW-1 : Smt. Basavva W/o. Mahadevappa Demashetti

List of exhibited documents marked on behalf of petitioner:-

Ex.P1 : C/C of order sheet in OS.No.98/2019

Ex.P2 : C/C of application

Ex.P3 : RTC extract

List of witnesses examined for the Respondents:-

RW-1 : Basavaraj Pattanshetti

List of exhibited documents marked for the Respondents:-

Ex.R1	:	Application for preparation of 11-E sketch
Ex.R2 & 3	:	Notices
Ex.R4 to 7	:	C/C of Return envelops
Ex.R8	:	C/C of Postal receipt
Ex.R9	:	C/C of Statement
Ex.R10	:	C/C of 11-E sketch
Ex.R11	:	Boundary report
Ex.R12	:	RTC extract

(Umesh S. Atnure)
Prl.Senior Civil Judge, Gokak