

A. Basavarajappa Vs. Tahsildar, Davanagere and ors.

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SooperKanoon Citation : sooperkanoon.com/375690

Court : Karnataka

Decided On : Sep-13-2001

Reported in : 2002(2)KarLJ619

Judge : V. Gopala Gowda, J.

Acts : [Karnataka Land Revenue Act, 1964](#) - Sections 61 and 140(2); [Code of Civil Procedure \(CPC\) , 1908](#) - Sections 9

Appeal No. : Writ Petition No. 25675 of 2001

Appellant : A. Basavarajappa

Respondent : Tahsildar, Davanagere and ors.

Advocate for Def. : P. Satyanarayana, Additional Government Adv. and ;S.S. Guttal, Adv.

Advocate for Pet/Ap. : F.V. Patil, Adv.

Disposition : Petition allowed

Judgement :

ORDER

V. Gopal Gowda, J.

1. Since the petitioner is seeking a writ of mandamus, rule issued and with the consent of the learned Counsels for the parties the matter is taken up for final disposal.

2. The petitioner claims to be the owner of 4.28 acres of land in Survey No. 76/P of Hosakundawada Village in Davanagere District, has filed this writ petition seeking a direction to respondents 1 and 2 to consider his application at Annexure-D to measure the land and to fix up the boundaries. His grievance is that the adjacent owners had removed the boundary stones. The first respondent-Tahsildar has issued the impugned endorsement at Annexure-E, dated 20-6-2001 stating that since suit in Original Suit No. 28 of 2001 is pending between the parties, at this stage it is not possible to consider his application under Section 140(2) of the Karnataka Land Revenue Act. The petitioner is seeking to quash the said endorsement and a direction to the first respondent to consider his application at Annexure-D.

3. I have perused the impugned endorsement. Prima facie the reason assigned therein is contrary to Section 61 of the Act. It provides exclusive jurisdiction of Revenue Courts to determine, decide or dispose of any matter which is empowered to do so under the Act and the jurisdiction of Civil Courts is barred. In view of this, the impugned endorsement is contrary to the statutory provision and liable to be quashed.

4. The writ petition is allowed and the impugned endorsement at Annexure-E is quashed. The first respondent is directed to take, consider and dispose of the application of the petitioner at Annexure-D within eight weeks from the date of receipt of a copy of this order.