

**IN THE COURT OF THE PRL.JUNIOR CIVIL JUDGE (JUVENILE COURT)-
CUM JUDICIAL MAGISTRATE OF FIRST CLASS: AT NALGONDA**

Present:-Smt.B.Soujanya,
Prl.Junior Civil Judge (Juvenile
court)-cum Judicial Magistrate
of First Class, Nalgonda.

(Dated this, the 10th day of February, 2022)

ORIGINAL SUIT No.162 of 2013

Between: -

Pallepothula Karthaiah S/o. Chinnaiah Age: 48 yrs, Occ: Agriculture,
R/o. Kammagudem H/o. Munugode Village and Mandal, Nalgonda
District.

...Plaintiff

And

1. Gorentla Mariyamma W/o. Jojaiah Age: 65 yrs, Occ: House hold, R/o.
Kammagudem H/o. Munugode Village and Mandal, Nalgonda District,
2. Gorentla Chinnaiah S/o. Jojaiah Age: 38 yrs, Occ: Agriculture, R/o.
Kammagudem H/o. Munugode Village and Mandal, Nalgonda District.

.. Defendants

This suit is coming for final hearing on 13-12-2021 in the presence of Sri V.Surendar Reddy, Advocate for the plaintiff and Sri.Nukala Narsimha Reddy, Advocate for the defendants and upon hearing both the counsels, on perusal of the material on record and the matter having stood over for consideration till this day, the court delivered the following:

:: J U D G M E N T ::

The plaintiff filed suit against defendants for perpetual injunction restraining them from interfering with the peaceful possession and enjoyment of the suit schedule property.

2. The brief averments of the plaint is that the plaintiff is the owner and possessor of the agricultural land admeasuring AC.1-05 gts in Sy.No. 259/Vu/1 having purchased the same from Miryala Lingamma under registered sale deed vide Doc.No.2754/2011, dt.31.10.2011 and Ac. 0-30 gts in Sy.No. 260/A having purchased the same from

Gorentla Jayamma under Simple Sale Deed situated at Munugode Village and Mandal, Nalgonda District. The plaintiff got proceedings under B/1371/2006, dated 12.08.2007 by regularizing the sale transaction from then onwards the name of the plaintiff is recorded in revenue records and also issued pattedar pass book and title deed in his favour. The plaintiff also obtained crop loan by depositing his title deed.

3. The defendants are no way related to the suit schedule property. The plaintiff was raising cotton crop in the suit schedule property by investing huge money and getting good yield. The value of the suit schedule property is also increased in recent past. As such the defendant with a eyesore are trying to interfere with the possession of the plaintiff over the suit schedule property. On 05.06.2013 the defendant along with the henchmen trying to interfere with the enjoyment and possession of the suit schedule property and the same has been resisted by the plaintiff and there is an apprehension to continue the same as such filed the suit seeking perpetual injunction against them.

4. The defendant No.1 and 2 made their appearance through Advocate and filed written statement denying the averments of the plaint, with regard to the each and every facts and submitted that the defendants are the owners and possessors of the suit schedule property which was ratified by the revenue authorities and also plaintiff filed the present suit with the intention to grab their property and prayed for dismissal of the suit.

5. Basing on the rival contentions and pleadings on both sides the court has framed the following issues for trial:-

1. Whether the plaintiff is entitled for the relief of permanent injunction as prayed for?

2. To what relief ?

6. In order to substantiate their respective contentions, the plaintiff examined himself as PW.1 and got marked Ex.A1 to A8 in support of his case. Ex.A1 is the Original Registered Sale Deed, dated 31.10.2011 vide document no. 2754/2011, Ex.A2 is the Original Pattedar pass book of plaintiff, Ex.A3 and A4 are the amendment registers for the years 2006-07, 2011-12, Ex.A5 to A8 are the C.C of pahanies from 2004-05 to 2012. Plaintiff also examined an independent witness as PW.2. On behalf of defendant the Defendant no.2 examined himself as DW.1 and got marked Ex.B1 to B16. Ex.B1 is the Original Registered Sale Deed dated 11.05.2017 vide document no. 1250/2017, Ex.B2 is the Original Pattedar Pass book cum Title Deed, Ex.B3 to B15 are the CC's of Pahanies for the years 1996-97 till 2019 for various years. Ex.B16 is the certified copy of 1-B ROR. The defendants also got examined another third party to the proceedings as DW.2 in this case.

Heard both the counsels for plaintiff and defendants.

Issue No.1:-

7. The relief sought against the defendants by the plaintiff herein is for perpetual injunction restraining the defendants and their men from interfering with the possession and enjoyment of the suit schedule property. The relief of perpetual injunction is guided by three cardinal principles. That the plaintiff must prove the prima facie case in his favour, balance of convenience and irreparable loss. The relief of perpetual injunction will be granted by following the guidelines under

section 38 of the Specific Relief Act. The same can be given when the plaintiff establish before the court the lawful possession followed by title and there is breach of an obligation existing in his favour by the opposite party.

8. The plaintiff based his case on Ex.A-1 under which he got the title of the item no.1 of suit schedule property. Ex.A-1 is registered sale deed executed by one Miriyala Lingamma in his favour. Though the sale recitals says she is the absolute owner but the averments of plaint and recitals of Ex.A-1 does not say about the link documents or as to how she acquired the title. If the cross examination of PW.1 is seen he admitted clearly that his vendor has no alienable right and that the Ex.A-1 is not supported by sale consideration. Once Ex.A-1 is not supported by sale consideration then the same is an invalid document and can not be looked into even though it is a registered document. It is held by the Hon'ble Apex court in Dr.Yedla Ramesh Naidu Vs. Sub Registrar , Sabbavaram, Vishakapatnam in 2009(1)ALT 256 that "mere registration of sale deed by registering authority under the Registration Act does not confer any title and it only records the sale transaction between the parties. It was also held that no person can transfer better title than that he possess. Mere registration of document does not dispense with the necessity to prove the execution when the same was denied." In this case also the vendor of the plaintiff has no alienable right to pass on to the plaintiff. Pw-1 himself admitted in the cross examination that originally her husband was the owner from whom they purchased and no sale deed was executed by him and after his death the plaintiff got

executed Ex.A-1 through the widow of his original vendor without giving any sale consideration. As such the plaintiff here had failed to prove that he is the lawful owner of the item no.1 of the suit schedule property.

9. The plaintiff also claims ownership and possession of the item no.2 of the suit schedule property. Item no.2 is the agricultural land to an extent of Ac.0.30 gts situated in Sy.No.260/A of Munugode village having purchased the same under simple sale deed from Gorantla Jayanna and his name is reflected in pahanies after the mutation proceedings were issued in his favour vide D/1371/2006 dt 12-8-2007. The plaintiff had not filed the said simple sale deed and there is no document before the court to say that the said item no. 2 property is situated within the said boundaries. The plaintiff also has not examined the vendor of such simple sale deed nor has filed the said mutation proceedings. It is well known principle that one who pleads and asserts must prove. When the plaintiff is claiming the ownership and possession over the certain extent within the certain boundaries then its his duty to prove the ownership. The mere entries in the revenue records will not confer any title. The revenue records will not locate or identify the property more particularly in case when there is dispute with regard to the identification of property. It is held by the Hon'ble Apex Courts time and again that the revenue record entries will not confer any title. As held in 2002 (1) ALT 466 (DB) in Sajana Granites, Madras and Another Vs. Manduva Srinivasa Rao and others that "the entries in revenue records do not confer title nor they are conclusive of title and title cannot be declared based on such entries. The plaintiff cannot depend on the

weakness of defendants' case. He shall establish his possession and title over the suit schedule property". In this case also the learned counsel for the plaintiffs was arguing that the defendants have not specifically put up their defence except denying their case. It is for the plaintiff to prove its case by placing cogent and relevant oral and documentary evidence and it cannot rely on the weakness or the defects of the defendants. The plaintiff has thus failed to prove the ownership and possession over the suit schedule property.

10. The plaintiff has also not averred specifically as to when the item no.2 was purchased. It's a vague pleading that he purchased the same under simple sale deed and got it mutated. But the said mutation proceedings were not filed as such there is no documentary evidence to say that the plaintiff is the owner of the item no.2 of the suit schedule property. It is the contention of the defendant that the defendant filed all the documents especially Ex.B-1 which is subsequent to the suit. May be it is true but it is the plaintiff who has to prove his title but not the defendant as discussed supra.

11. The contention of the defendant is that there is no evidence to prove the regularization of the simple sale deed and that the 13 B certificate is also not filed. The court also is of the opinion that there is no such evidence to say that plaintiff is also the owner of the item no.2 of the suit schedule property in absence of the simple sale deed and 13-B certificate and also the regularization proceedings as pleaded in the chief examination.

12. The plaintiff himself was examined as PW-1 to prove his case. In the cross examination he clearly admitted that it is difficult to identify the suit schedule property within the boundaries mentioned in the plaint. The plaintiff had also not filed the village map nor filed any sketch annexed to the plaint. The said admission makes it clear that plaintiff is not aware of the suit schedule property physically and he cannot identify the same. An inference can be drawn that the purpose of the filing of the suit is to take the assistance of the court in identifying the property or to take possession of the property under the garb of the injunction order. The plaintiff is claiming the property under sham documents which have no validity before the eye of law. The plaintiff also admitted that he has not shown the defendant's land as northern boundary in plaint. He further admitted that the item no.1 schedule property is measuring Ac.1.05 gts he is in possession of Ac.0.35 gts. The southern boundary of his land in Sy.No.259 is catholic society but he has not mentioned the same in plaint schedule nor in Ex.A.1. Pw-1 also admitted that the defendants are also having the lands in Sy.No.259 and 260 having purchased the same under registered sale deeds. Defendants filed Ex.B-1 in support of the same. As seen from his evidence it is very clear that the issue is with regard to the identification of the property. Plaintiff is unable to identify his property. Already revenue authorities conducted survey and panchanama in which the names of Defendant no.2 and his family members names and their respective possessions were made. The same is suppressed by the

plaintiff in the plaint and simply mentioned that the defendants have no right or title over the same.

13. The supporting witness of PW-1 i.e., PW.2 has admitted in the cross examination that except survey number he do not know the contents of his chief examination affidavit. He clearly stated that the boundaries mentioned in the plaint schedule are not correct and that there is a temple in suit schedule property. He also denied to have conducted any panchayat between the parties and that he only came to depose in favour of plaintiff. The plaintiff has caused much loss to his case by examining PW-2 but however he assisted the court in arriving at the conclusion that suit has been filed with wrong boundaries and the said boundaries are not in existence.

14. Ex.A-1 is not supported by consideration and it is executed by a person who has no right to execute. The same is hit by the principle in legal maxim “nemo dat quod non habet” which means no one can pass better title than what he has. Ex.A-2 to A-8 will not confer any title especially when the identification of the property is in dispute and the same cannot be of any much use to the plaintiff. After going thoroughly through the oral evidence of PW-1 and PW-2 there is no much necessity to look into the evidence lead by the defendants.

15. The defendants have not specifically pleaded anything in the written statement but during the course of cross examination of PW-1 and PW-2 they had placed their defence. Their case is that Defendant

no.2 purchased the agricultural dry land to an extent of Ac.0.11 gts in Sy.No.259/UU, an extent of Ac.0.03 gts in Sy.No.260/UU, an extent of Ac.0.21 gts in Sy.No.259/A1 and Ac.0.06gts in Sy.No.260/A1 from the pattedars Irukulapati Jojaiah and Arogyayya under registered sale deed vide doct no. 1250/2017 dt 11-5-2017 for sale consideration of Rs.2,05,000/-. He also succeeded the agricultural lands to an extent Ac.0-08 gts in Sy.No. 260. From the date of purchase and acquisition the defendants have been in possession of their extent of lands. Their names were incorporated in revenue records as well. All the above facts have been admitted by the plaintiff in his cross examination and the defendant had filed Ex.B-1 to 16 which include the pattedar pass book and pahanies and also 1B ROR certificate. There is no formal proof required in view the admission made by the plaintiff. Though Ex.B-1 is subsequent to sale document but other pahanies. Though defendant admitted in the cross examination that the pahanies reflect the name of the vendors of plaintiff but the same cannot be taken into consideration as plaintiff failed to prove his title and possession . Dw-1 further clarified that there could not be any chance for the plaintiff to purchase the property from Gorentla Jayanna under simple sale deed when he died in 1970 it self. The plaintiff has cleverly not mentioned in the plaint as to when he purchased it. The plaintiff would have been aged 2 or 3 years by the time of death of Gorantla Jayanna. As such it is difficult to believe the version of plaintiff that he purchased the same during the life time of said Gorentla Jayamma.

16. In view of the above discussion it is needless to say that the plaintiff has failed to prove the prima facie case in his favour. He failed to establish his possession on the suit schedule property as on the date of filing of the suit. As such failed to prove consequently that there was breach of obligation by defendants. The plaintiff also failed to establish the balance of convenience and irreparable loss. Issue no. 1 is answered against the plaintiff.

Issue no.2:

17. In view of the findings given on the issue no.1, issue no.2 is answered against the plaintiff and that he is not entitled to the suit relief of perpetual injunction.

18. In the result suit is dismissed with costs.

(Dictated to steno, transcribed by her, corrected and pronounced by me in the open Court on this the 10th day of February, 2022).

Prl.Junior Civil Judge (Juvenile
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of First Class, Nalgonda

Appendix of evidence

Witnesses examined

For Plaintiffs:

PW1:Pallepothula Karthaiah

PW2:Karnati Peda Mallaiah

For Defendants:

DW1:Gorentla Chinnaiah

DW2:Reddimas Bala Showri

Documents marked

For Plaintiff:

Ex.A1 : Original registered sale deed bearing Doc.No.2754/2011,
dt.31.10.2011

Ex.A2 : Original Pattedar pass book of plaintiff.

Ex.A3 : CC of amendment register for the year 2006-07.

Ex.A4 : CC of amendment register for the year 2011-12

Ex.A5 : CC of Pahani for the year 2004-05

Ex.A6 : CC of Pahani for the year 2007-08

Ex.A7 : CC of Pahani for the year 2008-09

Ex.A8 : CC of Pahani for the year 2012 (2 in number)

For Defendant:

- Ex.B1 : Original Registered Sale deed bearing document no. 1250/2017,
dated 11.05.2017.
- Ex.B2 : Original Pattedar pass book cum title deed.
- Ex.B3 : CC of Pahani for the year 1996-97
- Ex.B4 : CC of Pahani for the year 1997-98
- Ex.B5 : CC of Pahani for the year 1998-99
- Ex.B6 : CC of Pahani for the year 1999-2000
- Ex.B7 : CC of Pahani for the year 2000-01
- Ex.B8 : CC of Pahani for the year 2001-02
- Ex.B9 : CC of Pahani for the year 2003-04
- Ex.B10: CC of Pahani for the year 2004-05
- Ex.B11: CC of Pahani for the year 2005-06
- Ex.B12: CC of Pahani for the year 2006-07
- Ex.B13: CC of Pahani for the year 2007-08
- Ex.B14: CC of Pahani for the year 2008-09
- Ex.B15: CC of Pahani for the year 2019 (4 in no.)
- Ex.B16: Certified copies of 1-B (ROR) (3 in no.)

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