

Witness present and duly sworn on 14/02/2025.

Further Cross Examination by advocate for Claimant No.1.

4. It is false to suggest that sale deed has been executed claiming that Khata was standing in the name of Kempa Kadaraiah. When a certified copy of the sale deed confronted to witness and questioned to the witness that ("ಬ್ಯಾಲಾಳು ಗ್ರಾಮದಲ್ಲಿ ಕೆಪ ಕದರಯ್ಯನ ಹೆಸರಿಗೆ ಖಾತೆ ಇದ್ದು ನಮ್ಮಗಳ ಸ್ವಾಧೀನ ಅನುಭವಗಳಲ್ಲಿರುವ ಸರ್ವೆ ನಂಬರ್ 59 ನೇ ನಂಬರ್ 3 ನೇ ಪೋಡು ಜಮೀನು " ಎಂಬ ಉಲ್ಲೇಖ ಇದೆ) that there is reference that the property in survey no. 59/3 is in the name of Kempa Kadaraiah and that was in their possession ; the witness said she is not aware of the said document. I can not say there is a reference of survey no. 59/5 measuring 17 guntas with the boundaries in the said sale deed dated 28-06-1973. I do not know as the third party executed the sale deed in favour of Kalingamma, the said sale deed is not binding on Kempa Kadaraiah. I do not know Claimant No.1 – Sri. B.K. Kempaiah is the son of aforesaid Kempa Kadaraiah. When it is questioned to the witness that property in survey no. 59/5 originally belongs to Kempa Kadaraiah ; the witness said she has purchased the property from Kalingamma. It is false to suggest that property in survey no. 59/3 and 59/5 is and was in possession of the family of Kempa Kadaraiah till that has been acquired. It is false to suggest that claimant no.1 came to know

about the sale deed executed in favour of Kalingamma in the year 2011-12. It is false to suggest that immediately after knowing about the said sale deed when claimant no.1 obtain the documents he found that revenue records of survey no. 59/3 and 59/5 was standing in the name of Kempa Kadaraiah till 2006. I do not know in the year 2006-07 Khata of the property has been changed to the name of Kalingamma without issuing the notice to the original owner.

5. It is false to suggest that Kalingamma was not in possession of the property sold to me in the year 1994. It is false to suggest that property sold to me was also not stading in the name of Kalingamma when the sale deed has been executed in my favour in respect of survey no. 59/5. It is false to suggest that without verifying any documents I have got executed the sale deed in my name. It is false to suggest that my sale deed is void and not binding on the claimant no.1.

6. I know about the case filed by claimant no.1 before the Assistant Commissioner. I have appeared before the Assistant Commissioner in the said case. I do not know the said case number. The case before the Assistant Commissioner decided in my favour. I do not know whether I have produce the order of A.C. in this case or not. It is false to suggest that in R.A. 176/2013-14 the Assistant Commissioner set aside the change of khata in the name of

Kalingamma and order to change the Khata in the name of claimant no.1. I do not know that the Assistant Commissioner in his order stated that mutation has been caused after 33 years without giving notice to original owner and the sale deed has been executed by 3rd party.

7. I do not know that the claimant no.1 caused legal notice to the respondent claiming that he is the owner of acquired property. I do not know the statement given by one Kempaiah S/o Chikka Kempaiah before the Assistant Commissioner. I do not know that said Kempaiah given a statement before the Assistant Commissioner stating that Kempa Kadaraiah had only son by name Kempaiah who was studying at Bengaluru. I do not know one Revanna was working at Panchayath as a Vice Chairman. I do not know that Kalingamma was the second wife said Revanna. I do not know that said Revanna has take Kempaiah, his brothers and his mother to the Sub Registrar Office and taken their signatures claiming the financial difficulties. It is false to suggest that said Kempaiah given a statement before the Assistant Commissioner that the property in survey no. 59/5 belongs to Kempa Kadaraiah. I do not know when Kempa Kadaraiah was died. I do not know said Kempa Kadaraiah died in the year 1963. When it is questioned to the witness that can you give the boundaries to the property purchased

by you ; the witness said the property purchased by her bounded with the properties of other, but I can not say the name of said property owners. The property purchased by me was situated at Byalalu. When it is questioned to the witness that how many times you have visited the said property ; the witness said she has cultivated the said property. I can not say the name of the persons who are cultivating the neighboring lands. It is false to suggest that I never visited the said property and also never cultivated the said property. It is false to suggest that my vendor has not acquired any right, title and interest over the property on the basis of alleged sale deed claimed by my vendor. It is false to suggest that as my vendor has not acquired any right, title and interest over the property I do have not acquired any right, title and interest over the property claimed by me. It is false to suggest that as my vendor has not purchased the property, she has not got mutated the property in her name and also she was not in possession of the said property till 2007. It is false to suggest that inspite of the knowledge that my vendor has no right, title and interest over the property, I have purchased the property. It is false to suggest that in the objection filed by me in the various proceedings that Kempa Kadaraiyah had no issues are surviving LR's. I have not verified any documents

produced by claimant no.1 showing that he is the son of Kempa Kadaraiah and Nagamma.

The Learned Advocate for Claimant No.1 prays time for further cross examination of P.W.1.

On perusal of order sheet it is found that, on 29-02-2024, the prayer of claimant no.1 to defer the case for cross examination was allowed with specific direction to complete cross examination of P.W.1 on 19-04-2024.

On 19-04-2024, P.W.1 has been partly cross examined, thereafter, case has been posted for cross examination of P.W.1 on 27-06-2024.

On 27-06-2024, the prayer of claimant no.1 for further cross examination was allowed on payment of cost of Rs.1,000/- and the specific request of learned advocate for claimant no.1 the case was on posted on 13-08-2024 and on 13-08-2024 P.W.1 has been partly cross examined and thereafter case has been posted for further cross examination of P.W.1 on 27-09-2024.

On 27-09-2024 P.W.1 was present, again the learned advocate for claimant no. 1 prays time for further cross of P.W.1 that was allowed with specific direction to complete the cross examination on 19-11-2024.

On 19-11-2024, P.W.1 was present and the case was called twice in the morning session and there was no representation on behalf of claimant no.1 on 19-11-2024. Hence, the case is again called at 3.50 P.M and that time advocate for claimant no.1 prays time for further cross of P.W.1, but the said prayer was rejected and taken as no further cross examination of P.W.1 .

Thereafter, the case was posted for the evidence of claimant no.1 on 16-12-2024.

On 16-12-2024, there was no representation on behalf of claimant no.1 on the first hearing. Thereafter, the case is again called at 12.20 P.M. and even at that time there was no representation on behalf of claimant no.1. Hence, taken as no evidence on behalf of claimant no.1 and case was posted for arguments.

Subsequently, on 22-01-2025, the claimant no.1 filed IA No. 5 & 6 to recall P.W.1 for cross examination that was allowed by the court on payment of cost of Rs.500/- each with specific direction to complete the cross examination of P.W.1 without seeking further date on the morning session itself. Accordingly, the case is posted today for further cross examination.

Even today, the case is taken up for cross examination at 12.10 P.M and at that time claimant no.1 prays time for payment of

cost. Hence, the case is passed over and this court waited till 1.10 P.M. for further cross of P.W. 1. Meantime, there was no representation on behalf of claimant no.1 when the case is called at 12.50 P.M. All these facts are well within the knowledge of claimant no.1, hence, prayer to defer the case for cross examination of P.W.1 certainly can not be accepted.

Therefore, in the case on hand the court has granted more than sufficient time and even more than 3 hearing dates though proviso to Order 17 prescribes only 3 hearing dates for a stage in the case. Hence, prayer is rejected and taken as no further cross examination of P.W.1.

Re-examination: Nil.

(Typed to my dictation in open court, as the deposition is proceeded with).

R.O.I. & A.C.

(Padma Prasad)
II Addl. City Civil & Sessions
Judge, and Spl. Judge,
Bangalore City.