

Dt.04-08-2011: PW1 IS PRESENT, OATH IS ADMINISTERED: FURTHER EXAMINATION IN CHIEF BY SMT.BC., ADV. FOR PLAINTIFF:

I have filed my affidavit in this case to record my Examination-in-Chief and contents of the said affidavit are true and correct. The said my affidavit is recorded as my Examination-in-Chief.

(At this stage, further examination in chief is deferred at the request.)

(Typed to my dictation in open Court.)

R.O.I.& A.C.,

(MANJULA)
III Addl. CC & S.J.,
Bangalore.

ದಿನಾಂಕ: 11-08-2015 ರಂದು ಸಾಕ್ಷಿದಾರ ಹಾಜರಿದ್ದು, ಅವರಿಗೆ ಪ್ರಮಾಣವಚನ
ಭೋದಿಸಲಾಯಿತು.

O.S.4832/2007 PW1

ದಿ 15.6.1964 ರ ನೊಂದಾಯಿತ ಕ್ರಯಪತ್ರವನ್ನು ಅಂತ ಮತ್ತು
 ಅದರ ಬೆರಳಚ್ಚು ಮಾಡಿದ ನಕಲನ್ನು ! ಅಂತ, ದಿ 16.8.1959 ರ
 ಕ್ರಯಪತ್ರದ ದೃಢೀಕೃತ ನಕಲನ್ನು " ಅಂತ,(ಸದರಿ ದಾಖಲೆಗೆ ಪ್ರತಿವಾದಿ ಪರ

ವಕೀಲರ ಆಕ್ಷೇಪಣೆಗೆ ಒಳಪಟ್ಟು ನಿಶಾನೆ ಕೊಡಲಾಗಿದೆ.) ಅದರ ಬೆರಳಚ್ಚು ಮಾಡಿದ ನಕಲನ್ನು # ಅಂತ, ಅಸಲು ದಾವಾ ನಂ 912ಃ2002 ರಲ್ಲಿ ದಿ 13.2.2007 ರಂದು ಸಿಸಿಹೆಚ್-25 ರಲ್ಲಿ ಮಧ್ಯಂತರ ಅರ್ಜಿ ಸಂಖ್ಯೆ 9 ರ ಮೇಲೆ ಆದ ಆದೇಶದ ದೃಢೀಕೃತ ನಕಲನ್ನು \$ ಅಂತ, ಖರ್ಚಿನ ಹಣ ಕಟ್ಟಿದ ಬಗ್ಗೆ ನ್ಯಾಯಾಲಯದ ಒಂದು ಪಾವತಿಯನ್ನು % ಅಂತ, ದಾವಾ ಆಸ್ತಿಯ ಖಾತಾ ದೃಢೀಕರಣ ಪತ್ರವನ್ನು & ಅಂತ, ಕರ ಕಟ್ಟಿದ ಪಾವತಿಯನ್ನು ' ಅಂತ ಮತ್ತು ಮಂಜೂರಿ ಮಾಡಿದ ನಕಾಶೆಯನ್ನು (ಅಂತ ಗುರುತಿಸಲಾಯಿತು.

) * + ,

(ಪ್ರತಿವಾದಿ ಪರ ವಕೀಲರ ವಿನಂತಿ ಮೇರೆಗೆ ಮುಂದೂಡಲಾಯಿತು.)

(ತೆರೆದ ನ್ಯಾಯಾಲಯದಲ್ಲಿ ನನ್ನ ಉಕ್ತಲೇಖನಕ್ಕೆ ಬೆರಳಚ್ಚು ಮಾಡಲಾಯಿತು.)

ಓ.ಹೇ.ಕೇ.ಸ.ಇ.ಎ.ಒ.,

(ಪಿ.ಎಸ್.ಬಾಳಿಕಾಯಿ)

3ನೇ ಅ.ನ.ಸಿ.ಮತ್ತು ಸ.ನ್ಯಾ.,(ಪ್ರಭಾರ)

ಬೆಂಗಳೂರು.

Witness present and duly sworn on : 20-01-2017

Cross exam by Sri BNJ Advocate for defendant No.1 to 3:-

I was born in the year 1962. Now my age is 54 years. I again say that my date of birth is 10.3.1963. Plaintiff is my father. My paternal grandfather name is Ramaswamy. It is true that Smt. Chinna Kanamma is my grandmother. My grandfather had two sons viz., 1. Poongavanam and 2. Armugam (plaintiff). It is incorrect to suggest that my said grandfather had two more sons by name Kuppuswamy and Doraiswamy. I do not know my said grandfather originally hails from which place. I have not seen my said grandfather. I do not know that my father/plaintiff knows better about his brothers Kuppuswamy and Doraiswamy. Even I do not know that the said Kuppuswamy and Doraiswamy are no more.

I do not know that the said Kuppuswamy died leaving behind four sons and two daughters. Likewise I do not know that the said Doraiswamy is survived by five sons and one daughter. I do not know that even after knowing all these things intentionally my father did not implead the sons and daughters of Kuppuswamy and he did not implead Doraiswamy. It is incorrect to suggest that if he comes to the Court he has

to tell the truth, my father has sent me by giving power of attorney. I volunteer that he is aged. It is incorrect to suggest that my father is hale and healthy.

It is true that Poongavanam Naidu was working in Binny Mills. It is true that old property No.3, new No. U-66 of K.P. Agrahara was purchased by the said Poongavanam Naidu in the year 1959 and it is his self acquired property. At the time of its purchase it was a vacant site later he built a house with Mangalore Tiled Roofing. I do not know when he built that house. It is true that my father knows about this thing. Based on the information given by my father I have stated that house was built there. It is true that I do not have any personal knowledge of 1959 sale deed and construction of house there, thereafter as I was not born in those days. But it is incorrect to suggest that in the said house my said senior uncle and my father were residing jointly. I again say that through my father I came to know that he was living there jointly with my Senior Uncle. We have no document to show that my father and my senior uncle were living together there till 1964.
(At this juncture cross examination is deferred as court time is over hence deferred)
(Typed to my dictation in open court)

Witness present and duly sworn on : 28.3.2017

Further cross exam by Sri BNJ advocate for defendant No.1 to 3:-

It is true that my father had filed suit against defendant No.1 at O.S.No.912/2002. In the said suit my father did not plead that he purchased the eastern portion on 15.6.1964. Though we were acquainted with the said fact it was not properly presented by our advocate, therefore we withdrew that suit. In the year 1959 Poongavanam Naidu constructed building measuring 12 ½ ft x 80 ft in the western portion of the said property. Then my father and Poongavanam Naidu were living together in that western portion. But I do not know before constructing in that western portion where they were residing. I again say that at the time of constructing that western portion they were residing in Cottonpet, Bangalore. It is true that I am not having

personal knowledge of their said residence as I was not born in 1959. It is true that based on the information given by my father I am so stating. In 1959 foundation was laid in the western portion only. It is true that eastern portion was vacant then. I do not know in which year foundation was constructed in the eastern portion. In 1959 ground floor was constructed in the western portion and in 1973 the first floor, second floor with a small room there was constructed. In the year 1964 we constructed ground floor in the eastern portion. I can produce documents to prove construction of 1964.

It is true that the suit property consists of 10 portions and it is western portion of that entire property. I volunteer that there is a temple in the ground floor also. From the year 1964 we separated from Poongavanam Naidu by shifting our residence to the eastern portion. Then my father was doing selling vegetables in KR Market, Bangalore. It is true that till

his death Poongavanam Naidu was residing in the suit schedule property. It is true that after his death his wife continued to reside there.

Defendant No.1 is the resident of Shankarapuram which is near to Thiruvannamalai. I cannot produce document to show that in that village my grandmother was running a small hotel. Our said maternal grandmother died in 1972. My mother and my aunt bought the defendant No.1 to Bangalore when her father died. Now my mother is no more and she died in the year 1999.

My maternal grandmother-Kannammal had five daughters and two sons. Now none of the said seven children of my said grandmother are alive. Except my mother and aunt rest of them were residing in Chennai and other places. When defendant No.1 was brought to Bangalore she was about 8 years age. If it is suggested that she was residing with Smt. Dhanabhagymmal, she

was residing in that house as well as in our house. It is incorrect to suggest that the said Dhanabhagyammal brought the defendant No.1 to Bangalore and with her only defendant No.1 was residing all the time. If it is suggested that defendant No.1 was serving them till their last breathe, she was residing with them by working there.

O.S.No.912/2002 was filed by my father against defendant No.1. It is true that the said suit was filed by my father and Rajeshwari. Claiming suit property the said suit was filed. It is true that in the said suit it was pleaded that Rajeshwari is the adoptive daughter of my father. It is true that she is not the adoptive daughter of my father. It is incorrect to suggest that knowing fully well my father took such false flee. It is true that the said case was filed for entire property i.e., the eastern and western portion together. My father was aware that Rajeshwari was not an adopted daughter of

Poongavanam Naidu. It is true that my father was very much aware of his title to the eastern portion. If it is suggested that even after knowing these facts my father signed that plaint of that case, after coming to know the said wrong he withdrew that suit. Then I accompanied my father to advocates office to give instructions to file that suit. However I did not read the plaint of that case. Its contents were readover to my father. I do not know what all documents were produced by my father in that case. It is true that certified copies of the documents now shown to me were produced by my father in O.S.No.912/2002. Death certificates of Poongavanam Naidu and Dhanabhagyammal are marked as Ex.D1 and Ex.D2. Another death certificate of Dhanabhagyammal as Ex.D3, Cemetery Report as Ex.D4, G tree as Ex.D5, Voters ID card of Armugam and Rajeshwari as Ex.D6 and Ex.D7, letter of Bangalore City Co-operative Bank as Ex.D8. Notices issued by Rent

Controller as Ex.D9 and Ex.D10, their envelopes as Ex.D11 to Ex.D13, BWSSB receipt and bill as Ex.D14 and Ex.D15, BESCO bills and receipts as Ex.D16 to Ex.D19, BMP endorsement as Ex.D20, EC as Ex.D21, letter of Binny Mill as Ex.D22, office copy of the legal notices as Ex.D23 to Ex.D33. It is true that my father knows better about the said documents. I do not know whether the G tree shown in Ex.D5 is proper or not. I cannot identify my father's signature on the said document. I do not know whether my father identifies his signature on Ex.D5. I have not enquired my father about the authenticity of the documents produced in that case. It is incorrect to suggest that I have also signed on Ex.D5 in English as "Pazhani A". I have signed in the Ex.P1 and it is marked as Ex.P1(a) and I have also signed on my examination chief affidavit on every page.

O.S.4832/2007 PW1

(At this juncture further cross examination is deferred
for want of time)

(Typed to my dictation in open court)

R.O.I & A.C.

(RON VASUDEV)
III Addl.CC & SJ

Witness present and duly sworn on : 28.6.2017

Further cross exam by Sri BNJ advocate for defendant
No.1 to 3:-

Plaintiff and Poongavanam brought the defendant
No.1 when she was aged 8-9 years and on the death of
her father. As a result defendant No.1 was residing in
the houses of plaintiff as well as Poongavanam. If it is
suggested that the said Poongavanam celebrated her
marriage, myself and our father also contributed to it. It
is incorrect to suggest that since they had no issues the
said Poongavanam and his wife Dhanabhagyammal
brought defendant No.1 when she was minor. It is true

that the said couple had no issues. It is also true that till the death of said couple defendant No.1 was residing with them. It is incorrect to suggest that defendant No.1 never resided with the plaintiff. I have no document to show that she ever resided there with the plaintiff.

It is true that on the death of Poongavanam on 3.10.1993 the suit property was succeeded by Dhanabhagyammal. It is true that she died on 23.2.2000. It is true that in Ex.D3 in para No.1 it is wrongly stated that Smt. Rajeswari is the d/o Late R. Poongavanam. It is incorrect to suggest that the suit property as well as its eastern portion are having same property number. U-66 shown in the plaint schedule refers to the postal number. It is true that even eastern portion is also having same number. It is incorrect to suggest that in para No.1 of Ex.D24 it is wrongly claimed that property No.3, 1st main road, KP Agrahara,

Corporation Division No.23, Bangalore 23 was jointly purchased by Armugam and Poongavanam. There is no document to show that plaintiff contributed to purchase that property. Without looking at the records it is not possible to say whether either in this suit or O.S.No.912/2002 the plaintiff has pleaded that he contributed to purchase the said property. In my examination chief I have not deposed to the said fact of joint purchase. I do not know the contents of the sale deed produced at Ex.P2. It is true that plaintiff knows about that document very well.

I do not know whether Smt. Dhanabhagyammal was putting her signature or her LTM. I again say that I am not knowing whether she was signing. 4-5 months after the death of said Dhanabhagyammal the plaintiff came to know execution of Will by her. If it is suggested that as per the said registered Will dated 9.2.1995 the suit property has to go to the share of defendant No.2

O.S.4832/2007 PW1

and 3, the plaintiff is disputing the very execution of the Will. It is true that in the earlier suit O.S.No.912/2002 plaintiff did not plead regarding the said Will. It is true that on the death of Poongavanam, Smt. Dhanabhagyammal became the absolute owner of the suit property.

(At this juncture further cross examination at the request of the counsel as one more chance)

(Typed to my dictation in open court)

R.O.I & A.C.

(RON VASUDEV)
III Addl.CC & SJ

Witness present and duly sworn on : 14.7.2017

Further cross exam by Sri BNJ advocate for defendant
No.1 to 3:-

I am not aware of Will executed by Smt. Dhanabhagyammal. It is incorrect to suggest that on her death i.e. on the death of Dhanabhagyammal the

defendant No.1 developed the suit property. It is true that the said defendant No.1 is receiving rents of the suit property. If it is suggested that she has also carried out the required repairs of the said property, by filing IA I have objected for the same and the said IA is pending. It is incorrect to suggest that in this case court has passed an interlocutory order directing the plaintiff not to obstruct in the defendant No.1's possession. I volunteer that in fact the court has directed her to maintain the existing nature of the building. I am aware of the interim order passed in this case. I am not aware that similar such order was passed in O.S.No.912/2002. It is true that the said order was passed on 20.11.2003. It is true that in this case court has permitted the defendant No.1 to carry out the necessary repairs. It is incorrect to suggest that when she was carrying out the said repairs myself and plaintiff unnecessarily interfered in her said work and

filed false complaint against her. It is incorrect to suggest that inspite of such an order in her favour, we are disturbing her possession. It is true that in para No.16 of my chief at Sl.No.(v) I have stated regarding the certified copy of the Will. It is true that the said Will is of Dhanabhagyammal.

I do not know that my father/plaintiff is acquainted with one Sahadeva Swamy. It is incorrect to suggest that I am not personally acquainted with the facts of this suit. I do not know that suit property is portion of larger extent of property bearing No.28/A. It is true that total extent of the said larger extent of the property is 15+38x80 feet. It is true that out of that total extent Poongavanam has sold only 5 + 20 x 70 feet to us.

It is incorrect to suggest that plaintiff has no right or interest in the property in excess of what he purchased from Poongavanam. It is true that on the

O.S.4832/2007 PW1

death of Poongavanam the property retained by him was succeeded by his wife Smt. Dhanabhagyammal. I am not aware that through a Will the said Dhanabhagyammal bequeathed that property to the defendant No.1 and 3.

Cross exam: defendant No.4 and 6 are placed exparte. Defendant No.5, 7 to 11 are called out, they are absent, there is no representation on their behalf, hence cross examination by them taken as nil.

Re-exam: Nil

(Typed to my dictation in open court)

R.O.I & A.C.

(RON VASUDEV)
III Addl.CC & SJ

O.S.4832/2007 PW1