

KABG040009782000



IN THE COURT OF THE II ADDL. CIVIL JUDGE & JMFC,
AT: BELAGAVI.

Present: Smt. Lakshmibai Basanagoud Patil,

B.A, L.L.B.(Spl),

II Addl. Civil Judge & JMFC.,Belagavi.

Dated this 6th day of January, 2026

O.S No.620/2000

Plaintiff: Smt. Kalpana Siddhanath Naik

V/s

Defendant: Smt. Indutai Babu Patil and others.

PARTIES TO I.A.NO.V

Applicants/ Plaintiff: Shri. Arjun S/o Laxman Rajhans.

V/s

Opponent/Defendants: Smt. Indutai Babu Patil and others.

ORDERS ON IA NO.V

This is an application filed by the proposed plaintiff/Applicant under order 1 rule 10 (2) of C.P.C. to added/joined as plaintiff in the suit.

2. In support of this application, the applicant has sworn the affidavit it is stated that the deceased mother namely Smt. Malutai w/o Siddhanath Naik, of the present plaintiff, executed one Agreement of Sale on 11-12-1982, in favour of present applicant agreeing to sell property bearing R.S. No. 259 measuring 26 Gunthas of land along with Farm-House standing thereupon, of Village-Hindalaga, Tal. & Dist. Belgaum the then, for value. The deceased husband of Late Smt. Malutai Naik namely Sri. Siddhanath s/o Govind Naik the father of the plaintiff was granted occupancy rights pertaining to the suit property as he was in occupation, possession, cultivation & enjoyment of the suit property, but during that time he died untimely and unfortunately. Therefore the responsibility of the entire family came on the shoulders of deceased Smt. Malutai Naik, she being a courageous lady went ahead in the matter paid the entire premium of the land at one stretch of which the occupancy rights were granted in favour of her husband and got the land so granted converted to "Rayatava". Thereafter she executed an Agreement of Sale as she was in dire need of money to pay-off her hand loans & to meet out her family necessities. The plaintiff after attaining to the majority gave her consent for the Agreement of Sale executed by Smt. Malutai Naik in his favour.

3. The suit property being the self acquired property of Sri. Siddhanath Govind Naik, his sisters being greedy women thereafter initiated one litigation falsely claiming rights over the suit property falsely claiming the suit property to be their ancestral property. The said suit was numbered as Original Suit No. 621/1982. These sisters lost the litigation & they went up to the High Court of Karnataka. The Regular Appeal was number at Regular Appeal No.1767/2005 & these sisters lost in the same & went to High Court by preferring RSA. No.886/2006. In each of the stage of the litigations up to the High Court of Karnataka all the Courts up-held his valuable rights over the suit property & as such his name came to be mutated in to R of R (now RTC Records pertaining to the suit-property) by virtue of one Mutation Entry No. 8467 dated 11/09/2000.

4. Further, even his rights are protected & up-held by the Hon'ble High Court of Karnataka in those litigations. The counsel for the plaintiff fought out these litigations since its inception as Smt. Malutai had lot of faith in him & therefore she entrusted the entire legal work to him as her Counsel on records & after her death the present plaintiff had also after her mother engaged him only as her counsel to take care of the litigation. But now recently she has issued one notice to him expressing her disbelief further declaring he intentions to terminate him as her lawyer as such by filing

retirement memo got retired from the suit. The plaintiff should not have done so as the land is sold by her mother to him for which she has also given her valid consent therefore this is not proper on the part of the plaintiff owing to valuable rights over the suit property, there will be no loss or any hardship to either of the parties to this suit on the contrary he will be put to untold hardship, irreparable loss & great injustice would be caused to him. Hence, he pray for allow the application.

5. On other hand, the plaintiff has filed objection to the said application, it is contended that the 3rd party applicant is not sustainable in law. The 3rd party applicant was earlier advocate on record. The plaintiff has instituted this suit for the relief of possession in respect of the suit property against her sisters. The plaintiff has not at all executed any alleged agreement of sale dated 11/12/1982 in respect of an area measuring 26G comprised in R.S No.259 in favour of 3rd party applicant. So, far the alleged agreement of sale has not at all seen the light of the day. If really such alleged agreement of sale dated 11.12.1982 alleged to have been existed in that case, the alleged agreement of sale has no sanctity in the eye of law after lapse of 42 years. Thus the 3rd party applicant is trying to make out a new case on the basis of a created document and on the basis of such ground the 3rd party applicant

has no legal right for getting impleaded as party to the suit. Further submitted that mere conducting the matter as an advocate of plaintiff cannot be a ground for the purpose of submitting application for impleadment. The main relief sought for in the suit by the plaintiff is for possession and mesne profits and the rights and claim of the plaintiff against defendants can be decided effectually and conclusively without impleading 3rd party applicant. If his application is rejected no hardship or loss is going to cause to him. Hence, prays to reject the said application.

6. Heard the argument of the plaintiff and applicant counsel and following points are arising for my consideration:

1. Whether the applicant made out grounds to implead proposed plaintiff in the suit as necessary party for disposal of the case?

2. What order?

7. My answers to the above points in the following:

Point no. 1: In the **Negative**

Point no.2: as per final order for the following:

REASONS

8. POINT NO.1: The plaintiff has filed the present suit against the defendants for the relief of possession against the

Defendants directing the Defendant to hand over the actual and physical possession of the Suit Property to the plaintiff. Plaintiff has stated that, originally Suit Schedule Property was acquired by deceased father of plaintiff by name Siddanath. said late Siddanath being a tenant of the land in acquisition filed form No. 7 for the grant of occupancy right in his favour accordingly land tribunal, Belagaum. After conducting the enquiry the said property granted to the father of the plaintiff. On the basis of occupancy right thereafter land tribunal also granted form No,10 in favour of father of the plaintiff. After death of the father of the plaintiff, plaintiff's mother paid the occupancy price to the government regularly. The suit property never cultivated by the grand father of the plaintiff and also father of deceased Siddanath. The Defendants are no were concerned to the Suit Property, the plaintiff is the absolute lawful right owner of the property. After filing the suit the Defendants appeared through their counsel and filed the written statement. On the basis of the pleading this court was framed issued and conducting enquire, after completion of the both side evidence this court was passed the judgment and decree. Thereafter, aggrieved person prepared appeal to the appellate court i.e., 1st Addl C J (Senior Division) Belagavi. The said appellate court was also confirming the judgment and decree dated 01.09.2004 passed in

O.S No. 620/2000 thereafter the present Defendant No. 1 and 2 by name Smt. Indubai And Shantabai again prepared 2nd appeal before the Hon'ble High Court of Karnataka at R.S.A No. 888/2006 the said Hon'ble High Court of Karnataka was allowed the appeal petition the impugned judgment and decree passed by the trial court as well as the 1st appellate court are set aside further observed that it is made clear that the possession of the Defendants would depend on the out come of the O.S No. 11/1989 and matter is remanded to the trial court for consideration of the suit afresh. After remanded the suit the Defendant No.2 died very long back dated 14.03.2021 leaving behind her legal heirs since plaintiff has no claim against Defendant No.2 hence, the suit against Defendant No. 2 is dismissed as abetted. As per order sheet dated 05.02.2022 then case was posted for further evidence of the plaintiff. In the meanwhile, present application has been filed by the third party applicant by name Arjun S/o. Laxman Rajhans sought for implead the applicant as proposed plaintiff. In the present application the applicant stated that, during the lifetime of mother of the plaintiff by name Malutai W/o. Siddant Naik was executed one agreement of sale in favour of applicant dated 11.12.1982 agreed to sale property bearing RSA No. 259 measuring 26 guntas of land. The said property is being the self acquired property of the

Siddant Govinda Naik. Hence, applicant is necessary party to the suit.

9. On the other hand, the plaintiff filed the objection to the said application and denied the averments made in the application and contends that, third party applicant is not sustainable in law, the 3rd party applicant was earlier advocate on record the plaintiff has instituted this suit for the relief of possession in respect of Suit Property against her sister. The plaintiff has not at all executed in alleged agreement of sale dated 11.12.1982 in respect of an area measuring 26G comprised in RSA No.259 in favour of 3rd party applicant. Therefore, for the alleged agreement of sale has not at all same the right of the day. The alleged agreement of sale has no sanctity in the eye of law. After laps of 42 years therefore the present application not at maintainable in the eye of law. Hence, he pray for reject the said application.

10. Originally plaintiff has filed suit against the Defendant for recovery of possession in respect of Suit Schedule Property. The said property was granted to the father of the plaintiff. On the basis of occupancy right under the land tribunal Belguam and same was Issued form No.7 and 10. After death of the father of the plaintiff, Plaintiffs mother was paid the fee to said property. The present applicant as sought in his claim on the basis of agreement of sale

against the deceased mother of the plaintiff. Present suit is recovery of possession against her sisters. Therefore, applicant has to file separate suit for specific performance of contract and also he has to pay separate court fee. He cannot get any relief in the present suit. Therefore, accordingly, this court answer point No.1 is **Negative**.

11. POINT NO.2 : On above made discussion on point No.1, I proceed to pass the following:

ORDER

I.A.No.V filed by the proposed
plaintiff Under U/o 1 rule 10(2) R/w
sec. 151 of C.P.C is hereby rejected.

*(Directly Dictated to the Stenographer on computer, typed by her, revised, corrected
by me and then pronounced in the open court on this the 6th day of January 2026*)*

**II Addl. Civil Judge & JMFC
Belagavi**