



IN THE COURT OF THE I ADDITIONAL SENIOR CIVIL JUDGE, GOKAK

Present: K.M. SHANKAR, B.A.L., LL.B.,
I Addl. Senior Civil Judge, Gokak

Dated, this the 11th day of April, 2023

O.S.No.512/2019

Plaintiff: Shankar Siddappa Gundappagol,
Age: 64 years, Occ: Agriculture,
R/o: Rajapur village, Mudalagi taluk.

(By Sri.BKJ., Advocate)

V/s

Defendants: 1. Gangavva Subhash Gundappagol,
Age: 48 years, Occ: Household,
R/o: Rajapur village, Mudalagi taluk.

2. Suvarna Santosh Konakeri,
Age: 26 years, Occ: Household,
R/o: Dankali village, Hukkeri taluk.

3. Prasanna Subhash Gundappagol,
Age: 25 years, Occ: Agriculture,
R/o: Rajapur village, Mudalagi taluk.

4. Shrishail Subhash Gundappagol,
Age: 23 years, Occ: Agriculture,
R/o: Rajapur village, Mudalagi taluk.

(D1 to 4 By Sri.RMB., Adv.,)

Applicants : Gangavva and others
V/s
Opponent : Shankar

ORDERS ON IA-10 FILED UNDER ORDER 16 RULE 1 AND 2 R/W/S
151 OF CPC

Defendants have made the instant application seeking issuance of witness summons to the Tahasildar, Gokak to produce entire waradi file of MR.No.55/2003-04 including the original bond dated 08.10.2003 executed by the plaintiff, his wife and his daughters infavour of Subhash Siddappa Gundappagol in respect of land of R.S.No.20/1A/1/1A/C/1 of Duradundi village on the grounds that the plaintiff filed this false suit against the defendants for declaration that he is the owner of the suit property. At the paragraph 10 of page 6 of the plaint he has specifically contended that he challenged the MR.No.55/2003-04 before the Assistant Commissioner, Bailhongal. Further, at the paragraph 6 of page 10 of the plaint he has asserted that deceased Subhash created a document styled as apasat vatani patra. It was executed by him behind the back of the plaintiff in active collusion with his ill-wishers.

2. The plaintiff, his wife and his daughters executed the said document and it is signed by them in presence of panchas and based on the same MR.No.55/2003-04 was effected. Therefore, in order to prove the case of the defendants it is just

and necessary to call the entire waradi file i.e., MR.No.55/2003 including the original bond and application. They have produced the certified copy of the said deed dated 08.10.2003.

3. This application is resisted by the plaintiff contending that the grounds made therein are false and it is belated one. The relief sought by the defendants would not fall under the purview of Order 16 Rule 1 and 2 as the defendants have sought for production of entire waradi file. When the certified copies of the originals are available, the original documents cannot be called. In the case, the defendants have not produced any material to show that they have approached the concerned authority and they refused to supply the documents. Therefore, bare allegations made in the affidavit are not sufficient to consider the application. Mere waradi will not create right on the property. If original waradi is called no purpose would be served. The application is filed to drag on the matter on one or other way. The documents sought to be produced are not just and necessary to decide the case. Accordingly, it is prayed for dismissal of the application with cost.

4. I have heard the arguments of the learned counsels appearing for the parties and perused the material on record.

5. Points that arise for consideration of the court are;

1. Whether the defendants have made out grounds to allow the present application?

2. What Order?

6. Findings of the court on the above points are as under:

Point No.1: in negative and

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

R E A S O N S

7. Point No.1: as could be seen from the material on record, the defendants have sought for issuance of direction to the Tahasildar, Gokak to produce entire waradi file of MR.No.55/2003-04 including original bond dated 08.10.2003 executed by the plaintiff, his wife and his daughters infavour of Subhash Siddappa Gundappagol in respect of the land of R.S.No.20/1A/1/1A/C/1 of Duradundi village asserting that the plaintiff has asserted that deceased Subhash created a document styled as apasat vatani patra, which was executed by him behind the back of the plaintiff in active collusion with his ill-wishers. But, the defendants have

not explained about the relevancy of the said documents in the present case and also to prove their defence. That apart, so called documents are in the custody of the public office. Therefore, their certified copies can be obtained and produced and admitted into evidence. Even, the alleged partition deed (Apsat Vatani) has already been admitted in the evidence. In the circumstances, this court finds no reason to call the so called documents from the office of the Tahasildar, Gokak and the application is devoid of merits and hence the point No.1 is answered in the negative.

8. Point No.2: in view of the findings arrived on the point No.1, I proceed to pass the following:

O R D E R

The IA-10 filed Under Order 16 Rule 1
and 2 R/W/ Section 151 of CPC, is hereby
dismissed.

There shall be no order as to cost.

(Dictated to the stenographer on computer, typed by
him, revised, corrected and then pronounced by me in the open
Court on this the 11th day of April, 2022)

Sd/-
(K.M.SHANKAR)
I Addl. Senior Civil Judge, Gokak