

Witness duly sworn on 22-02-2023:

Cross Examination of PW1 by Smt. RMH Adv. for Defendants :

1. We have given genealogy in the plaint. I am unable to say full name of Bhika who has shown as Propositus and also do not know when he died. Bhika has no daughters he has only male issues. I have not seen Bhika, Neyya and Tana they all died before my birth. Neyya and Tana has no female issues they are having only male issues. I am having sister by name Vaishnavi. My father has a sister by name Gunavanti Appanna Patil. Plaintiff no.2 and 3 are having a sister by name Satyabama Ashok Gaonkar. Vishnu father of plaintiff no.8 has no daughters. Plaintiff no.4 having a sister I do not remember her name. To the question that, above female members referred are not parties to the suit, witness answers that, later they were added as defendant no.21 to 24. To the question that, Tana branch female members are not added as parties in this suit, witness answers that, already we have added defendant no.21 to 24 they are only female member representing Tana branch. My Subhadra Pundalik Gavade is alive. I do not know the name of mother of plaintiff no.4. Witness volunteers that, she is no more. She

--14--

died nearly 15 years back. We have not produced death certificate of mother of plaintiff no.4. I do not know the name of mother of plaintiff no.2 and 3. I do not know the name of mother of plaintiff no.8. It is true that, we have not shown the name of our mother and mother of remaining plaintiffs. Similarly we have not shown the names of daughters in the genealogy. It is false to suggest that, without giving complete genealogy we are trying to misleading the court.

2. I do not know, whether Ex.P36(a) is not in accordance with Ex.P36. Narayan has given vardi for certifying ME No.47. I have not seen the vardi given by Narayan for certifying ME No.47. We have not obtained certified copy of vardi given by Narayan. It is true that, there is no mention in Ex.P36 about vardi given by Narayan. As per Ex.P36 names were entered in the ROR. ME No.47 is certified in the year 1955. It is true that, till date no body challenged ME No.47. It is true that, as per Ex.P36 the names of 3 sons of Neya by name Narayan, Laxman and Arjun only were entered in ROR in respect of Sy no.10, 11 and 4. It is true that, in respect of other lands the names of sons of Neya were entered to the extent of 8 annas

--14--

and name of Tana the brother of Neyya was entered to the extent of 8 annas, Witness volunteers that, there is no partition held in the family. We are cultivating suit lands together therefore I am deposing that there is no partition held in the family properties. Sy no.28, 29 and 3 were purchased out of the income of the joint family properties. I was not present at the time of purchase of those properties. I have no personal knowledge about the source for payment of consideration amount and who has paid the consideration amount. I have not seen the sale deeds pertaining to Sy no. 28, 29 and 3. All the three lands were purchased on 19.12.1955. We have not obtained certified copies of said sale deeds. One Rama Dema Gavada and Ganesh Maya Gavada are not related to us. Those two persons are having right in the sy no.3. we have not produced any documents to show in respect of which area out of R.S.No3 those persons are having their rights and for what extent. Rama Dema Gavada and Ganesh Maya Gavada are died leaving behind their legal heirs. Their legal heirs are not party to this suit.

For want of time deferred at 3.00pm.

Witness duly sworn at 04.20pm on 22-02-2023:

Further Cross Examination of PW1 by Smt. RMH Adv. for Defendants :

3. Suit properties Sy no.4, 10/P1 and 11/P1 were earlier standing in the names of Bhika who is shown as original propositus in the plaint genealogy. I do not know in which document Bhika name was shown in respect above three lands, Witness volunteers that, my father was telling me that Bhika's name was entered. Prior to filing of this suit we have not verified document whether Bhika name was standing in any documents. Till today I have not seen the documents which contains Bhika's name. To the question that, Tana during his life time, had never claimed the above three properties as derived from Bhika and he is having rights in those properties, witness answers that, no such occasion arrived to claim as there was no partition held. I do not remember when Tana died. To the question that, in the year 1960 after the death of Tana names of his sons entered in the records which were standing in the name of Tana as per Ex.P40, witness answers that, may be there names entered but I do not know how their names entered without partition.

--14--

It is true that, I have produced warsa mutation of Tana as per Ex.P40. It is true that, as per Ex.P40 the names of my grandfather and his two brothers names were substituted in place of Tana in respect of his property. To the question that, whether yourself and other plaintiffs have questioned the mutation Ex.P40, witness answers that, we had no occasion to challenge it hence we have not challenged. It is true that, our names are substitute after the death of our predecessors as per the properties mentioned in Ex.P40. Till this day our names are continued accordingly. It is true that, names of all the plaintiffs never entered in respect of Sy no.4, 10/P1 and 11/P1 properties. To the question that, suit is intended to claim sy no.4, 10/P1 and 11/P1, witness answers that, they are claiming partition in all the properties. To the question that, is there any dispute between you all plaintiffs and defendants no.1 to 9 in respect of any other suit properties except sy no.4, 10/P1 and 11/P1, witness answers that, we need partition in all properties. Defendants no.10 to 20 are not related to either plaintiffs or defendants no.1 to 9. defendant no.10 to 20 never cultivated lands with us they

--14--

are cultivating their lands and we are cultivating our lands. In ROR our names and names of defendant no.10 to 20 are not shown as separate cultivators. It is true that, since no sub division is effected in the ROR separate cultivation is not shown. It is false to suggest that, even separate cultivation of defendant no.1 to 9 is not shown in the RTC because of no sub division effected in ROR . It is false to suggest that, I am deposing falsely stating that the suit schedule properties are joint family properties and in joint possession of defendants no.1 to 9 and they are jointly cultivating.

At this stage further cross examination is deferred at the request of defendant counsel.

(Typed to my dictation in the open Court)

R.O I & A.C

**Senior Civil Judge & JMFC
Khanapur**