

KABK710000412023



**O.S./13/2023**

{CASE\_CAUSE\_TITLE}

**IN THE COURT OF PRL. CIVIL JUDGE & JMFC,**

**JAMKHANDI, AT: JAMKHANDI**

**PRESENT :**

**SRI ABDUL RAHIMAN. A. MULLA**

*B.A.L, LL.B. (Hons.)*

**Prl. Civil Judge & JMFC,**

**Jamkhandi**

**Dated this 11<sup>th</sup> day of August-2023**

**O. S. No.13/2023**

1. Smt. Kashibai W/o Sahadev Mohite  
Age: 60 years, Occ: Household work,  
R/o Kalabilagi village, Tq: Jamkhandi,  
Dist: Bagalkot.
2. Smt. Sunita @ Sunanda W/o Chandrashekhar  
Ambli, Age: 35 years, Occ: Household work,  
R/o Kalabilagi village, Tq: Jamkhandi,  
Dist: Bagalkot.

**..... Plaintiffs.**

**(By Sri.A.P.K., Advocate)**

**V/s.**

1. Shri. Sahadev S/o Anand Mohite  
Age: 68 years, Occ: Agriculture,  
R/o Kannolli village, Tq: Jamkhandi,  
Dist: Bagalkot.

2. Sundabai D/o Shrikanth Jadhav  
Calling herself as Sundabai  
W/o Sahadev Mohite, Age: 50 years,  
Occ: Household work,  
R/o Kannolli village, Tq: Jamkhandi,  
Dist: Bagalkot.
3. Shri. Tanaji Calling himself as  
S/o Sahadev Mohite Age: 25 years,  
Occ: Agriculture, R/o Kannolli village,  
Tq: Jamkhandi, Dist: Bagalkot.
4. Shri. Netaji Calling himself as  
S/o Sahadev Mohite Age: 23 years,  
Occ: Agriculture, R/o Kannolli village,  
Tq: Jamkhandi, Dist: Bagalkot.
5. Ujawala Calling herself as  
D/o Sahadev Mohite @ Smt, Ujawala W/o  
Mahadev Jadhav Age: 22 years,  
Occ: Household, R/o Billur, Tq: Jatt,  
Dist: Sangali State: Maharashtra.

**..... Defendants.**

**(By D-1, 2, 4 & 5 Sri.G.S.B., Advocate)**

**(By D-3 Sri. S.B.K., Advocate)**

**I. A. No.II**

1. Smt. Kashibai W/o Sahadev Mohite  
and another.

**.....Applicants/Orgl. Plaintiffs.**

**V/s.**

1. The Tahasildar, Jamkhandi  
Dist: Bagalkot.

**..... Opponent.**

**ORDERS ON I. A. No.II FILED BY PLAINTIFFS UNDER  
SECTION 94 (e) R/W SECTION 151 OF C.P.C.**

The present suit is filed by plaintiffs against defendants for the relief of declaration and partition and separate possession and along with the suit, this application is filed by plaintiffs praying this court to prohibit Tahasildar, Jamkhandi from not to change revenue records of suit schedule property bearing R.S No.129/\*/9 measuring 2 acre 19 guntas situated at Kannolli village till disposal of suit.

2. In the affidavit annexed to the application, plaintiff No.2 averred that they have filed this suit for relief of declaration and partition and separate possession. Plaintiff No.1 is legally wedded wife of defendant No.1 and she is daughter of defendant No.1. The suit schedule property is ancestral joint family property and no partition has been effected by metes and bounds between plaintiffs and defendant No.1. In the meanwhile defendant No.1 has executed gift deed dated 23-11-2022 in favour of defendant No.3 and 4 with respect to suit schedule property behind their

back and without their knowledge and only intention of defendant No.1 is to deprive their legitimate share over suit schedule property. Immediately they have filed objections before Tahasildar for not to enter the names of defendant No.3 and 4 in the record of rights and amongst these grounds, prayed to allow the application.

3. Defendants filed their objections by filing memo adopting the written statement as objections to this application and contended that plaintiffs are not in possession and enjoyment of suit schedule property. The original propositus Anand S/o Maruti Mohite had five sons and five daughters and without impleading them as parties, present suit of plaintiffs is not maintainable. Further plaintiffs have not included RS No.129/2, RS No.129/5 and RS No.129/9 and one house situated in Kannolli village as suit schedule properties.

4. It is further contended that defendant No.1 has executed registered gift deed in favour of defendant

No.3 and 4 with respect to suit schedule property on 23-11-2022, wherein it is clearly mentioned by defendant No.1 that defendant No.3 and 4 are his children. Plaintiffs by quarreling with defendant No.1 started to reside in parental house about 40 years back and hence plaintiffs are not entitled for the reliefs claimed in the application and amongst these grounds, prayed to reject the application.

5. Heard. Perused the records placed before the court.

6. The points that arise for my consideration are as under :

1. Whether plaintiffs have made out sufficient grounds to allow the application ?

2. What order ?

7. My findings to the above points are as under:

**Point No.1**... In the Negative,

**Point No.2**... As per the final order for the following :

### **REASONS**

8. **POINT No.1**: It is specific case of the plaintiffs that defendant No.3 and 4 on the strength of

gift deed executed by defendant No.1 in their favour are attempting to enter their names in the record of rights and hence it is necessary to prohibit opponent from not to change the revenue entries with respect to suit schedule property.

9. In support of his contention, plaintiffs produced in all 6 documents i.e., RTC extract of R.S. No.129/9, certified copy of registered gift deed date 23-11-2022, certified copy of M.E No.3256, photocopy of Aadhar card and voters I.D. card of plaintiff No.1 and certified copy of school certificate of plaintiff No.2.

10. On the contrary, defendants contended that plaintiffs have left the company of defendant No.1 by quarreling with him about 40 years back and residing in their parental house and defendant No.2 is legally wedded wife of defendant No.1 and defendant No.3 to 5 are legitimate children of defendant No.1. Out of love and affection, defendant No.1 has executed registered gift deed with respect to suit schedule property on 23-

11-2022 in favour of defendant No.3 and 4 and now they are in possession and enjoyment of the same.

11. In support of their contention, defendants produced 20 documents i.e., certified copy of RTC extracts of suit schedule property from the year 1964 to 1999 and 2023, certified copy of M.E. numbers photocopy of gift deed and photo copy of Aadhar card of defendants and school leaving certificate of defendants.

12. It is pertinent to note here that the claim of plaintiffs in the application is against opponent, who is admittedly not a party to the suit.

13. Whether plaintiffs are the wife and daughter of defendant No.1 or whether defendant No.2 to 5 are the wife and children of defendant No.1 is a matter of trial and same cannot be adjudicated at this stage of the case by holding mini trial.

14. It appears that only to snatch an order from the hands of this court, present application is filed by plaintiffs before the court, which is devoid of merits.

The opponent being a statutory body is governed by its rules and regulations and this court cannot prevent a statutory body from carrying out its function in due course of law. Under such circumstances, no sufficient grounds are made out by plaintiffs to allow the application. Hence for the above said reasons, I answer Point No.1 in the '**Negative**'.

15. **POINT No.2:** For the reasonings and findings given to point No.1, I proceed to pass the following :

**ORDER**

I.A. No.II filed by plaintiffs under  
Section 94 (e) R/w 151 of C.P.C is  
hereby rejected.

Parties to bear their own costs.

*(Dictated to the Stenographer directly on computer and typed by him,  
and corrected, printout taken, signed by me and then pronounced in the open  
court on this the **11<sup>st</sup> day of August- 2023**)*

**(Abdul Rahiman A. Mulla)**  
Prl. Civil Judge & JMFC,  
Jamkhandi.