

IN THE COURT OF THE CIVIL JUDGE (SR.DVN.)
AND JMFC., ANEKAL.

Present: Sri. Mahanthappa, B.A., LL.B.,
Civil Judge (Sr.Dn.) & JMFC., Anekal,
O.S. NO. 905 / 2007

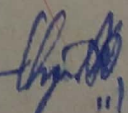
Dated this the 11th day of September, 2009.

- Plaintiffs. 1. Smt. Thimmakka,
W/o Late Anjinappa,
Aged about 65 years,
Residing at Doddabanasavadi,
Bangalore City.
2. Smt. Nalini,
W/o A. Linga Reddy,
Aged about 45 years,
Residing at NO. 119/3,
13th A Cross, Lakkasandra,
Extension, Bangalore - 30.

(Sri. K.M.P., Advocate)

V/S

- Defendants : 1. Sri H.T. Venkataswamyreddy,
S/o Late Thimmareddy,
Aged about 80 years,
Residing at Doddakannahalli,
Village, Varthur Hobli, Carmalaram Post,
Sarjapura Road, Bangalore East Taluk,
Bangalore District.

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2. Sri Ganesh,
S/o Late Obala Reddy,
Aged about 40 years,

3. Sri H.T. Nanjunda Reddy,
S/o Late Thimma Reddy,
Aged about 55 years,

4. Sri H.T. Nagappa Reddy,
S/o Late Thimma Reddy,
Aged about 57 years,

5. Sri H.T. Veerappa Reddy,
S/o Late Thimma Reddy,
Aged about 53 years,

6. Sri Muni Reddy,
S/o Late Thimma Reddy,
Aged about 50 years,
Nos. 2 to 6 are residing at Hulimangala
Village, Jigani Hobli, Anekal Taluk,
Bangalore District.

7. Smt. Manjula,
D/o Late Papamma,
Aged about 40 years,

8. Sri Janardhan,
S/o Late Papamma,
Aged about 38 years,



Nos.7 and 8 are residing at No.109,
5th Cross, Krishna Reddy Lay-out,
Konnappa Agrahara, Electronic City
Post, Bangalore -100.

9. Smt.Savitha,
D/o Late Papamma,
Aged about 36 years,
Residing at No.14/62,
2nd Cross, 2nd Main Road,
Nanjappa Layout, Audugodi,
Bangalore - 560 030.

10. Sri Bhaskara Reddy,
S/o Veerappa Reddy,
Aged about 20 years, residing at
Hulimangala Village, Jigani Hobli,
Anekal Taluk, Bangalore District.

11. Sri Mukunda,
S/o H.K.Ramaiah,
Aged about 32 years,
Residing at No.1/8, 3rd cross,
1st Main, S.R.Nagar,
Bangalore -27.

12. Sri H.K.Ramaiah,
S/o Kunteppa,
Aged about 60 years,
Residing at Opp. Sri Clinic,
Hulimavu, Banneraghatta Road,

Bangalore.

Defendant nos.1,2,3 to 6,10 placed
ex parte.

(Sri R.L. Advocate for defendant
nos.7 to 9)

(Sri M.A. Advocate for defendant no.11)

Date of Institution of the Suit : 30-08-2007

Nature of Suit : partition and separate
possession

Date of Commencement of

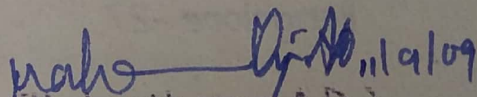
Recording evidence : 24-04-2009

Date on which Judgment was

Pronounced : 11-09-2009

Total Duration : Year/s Month/s Day/s

02 - 12


(Mahanthappa, A.D.)

CIVIL JUDGE (SR.DN.) & JMFC, ANEKAL

JUDGMENT

The plaintiffs have filed this suit against the defendants for partition and separate possession of their legitimate 1/10th share in respect of the suit schedule properties, and to declare the registered sale deed dated 10/09/2005 executed by the defendant nos.5 and 10 in respect of the suit schedule item No.9 of the suit schedule property in favour of the defendant Nos 11 and 12 is not binding on the plaintiffs and for other reliefs.

2. The brief facts of the case of the plaintiffs are as under:-

That the plaintiffs and the mother of the defendant nos.7 to 9 are the daughters of Late Thimma Reddy. The defendant No.1 is the father of the defendant no.2 and defendant no.3 to 6 are the sons of late Thimma Reddy. That the plaintiffs and defendants are members of Hindu undivided family governed by the Mithakshara School of law. The father of the plaintiffs and defendant nos.1, 3 to 6 and grand father of defendant Nos.2 and 7 to 9 namely Thimma Reddy had acquired some of the properties in a



partition which took place on 10.11.1962 between his brother Ramaswamy Reddy and his cousin brother Muniswamyreddy. The properties acquired by Thimma Reddy in partition which took place on 10.11.1962 are morefully described in item Nos,1 to 5 in the suit schedule and herein after called as the suit schedule property. That after acquiring the item nos,1 to 5 of the suit schedule properties, Thimma Reddy and his children were in joint possession and enjoyment of the suit schedule properties. Smt,Chikkathayamma i.e. the mother of the plaintiffs pre-deceased Thimmareddy. The 2nd son of Thimmareddy also pre-deceased his father and he died on 31.12.1969 leaving behind his wife and 2nd defendant herein. The wife of Obala Reddy also died on 8.6.2005 leaving behind the 2nd defendant herein is as the legal heir. During the life time of Thimmareddy he was in possession and enjoyment of item Nos,1 to 5 of the suit schedule properties,he was managing the affairs of the said properties as kartha of the family. During the life time of Thimmareddy no partition has taken place among the members of the family. That during the life time of Thimma Reddy, land bearing SY.No,159/2 measuring 02

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acres 20 guntas was purchased out of the joint family funds and the same was registered in the name of the 4th defendant herein namely Nanjunda Reddy, as per the registered sale deed dated 8.1.1971. That land bearing Sy.No.104/1 measuring 29 guntas of Hulimangala Village was in occupation of Thimmareddy a tenant. After the demise the defendant herein had filed an application for grant of occupancy right on behalf of the joint family. The Land Tribunal, Anekal was pleased to grant the occupancy right in respect of the same in the name of defendant no.3 as per the order dated 3.10.1981 passed in proceedings in LRF No.2155/75-76. That out of the joint family funds land bearing Sy.No.20/1 measuring 01 acre 39 guntas of Nanjapura Village was acquired as per the registered sale deed dated 19.9.1972 by Thimmareddy, and the same was registered in the name of H.T.Nagappa Reddy i.e. the defendant no.3. That after the demise of Thimmareddy out of joint family funds, his children had purchased the land bearing Sy.No.133, measuring 30 guntas of Bingipura Village in the name of the defendant No.5 namely Veerappareddy as per the registered sale deed dated 7.5.1975. That in the



partition dated 10.11.1962 took place in between the father of the plaintiffs namely Thimmareddy is based through the Jubane partition and valid document. The original of the said document is retained by cousin brother Muniswamyreddy. However, acquiring of item Nos.1 to 5 of the suit schedule properties are not in dispute. Some of the defendants here³ in without knowledge of the plaintiffs have made some arrangements among themselves and a mutation entry is made in pursuance of a arrangement made among themselves. That even after the demise of Thimmareddy no partition has taken place between the plaintiffs and defendants. All the suit schedule properties were joint family properties which are in joint possession and enjoyment of a plaintiffs and defendants. The plaintiffs and defendants are the class-I legal heirs of Late Thimmareddy who are entitled for their legitimate share over the suit schedule properties. Even after the demise of Thimmareddy no partition has taken place between the plaintiffs and defendants. Though the plaintiffs are residing separately after the marriage, they are in joint possession and enjoyment of the suit schedule properties



as co-parceners of Hindu undivided joint family and all are in joint possession and enjoyment of the suit schedule properties. Hence, this suit.

3. After institution of the suit, summons were issued to all the defendants. Defendant Nos. 7 to 9 and 11 have appeared through their counsel, but they have not chosen to file their written statement. Defendant nos. 12 was reported to be dead. Plaintiffs counsel filed a memo stating that defendant no. 11 is the only legal heir to defendant no. 12. The defendant nos. 1, 3 to 6 and 10 have been placed ex parte. The case was posted for plaintiffs' evidence. Accordingly, the 2nd plaintiff herself examined as P.W. 1 and also got marked Ex.P. 1 to P. 14 documents and closed their side evidence.

4. Heard arguments.

5. The following points that arise for my consideration are as under:-



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O.S. No. 905
(1) Whether the plaintiffs prove that the suit schedule properties are the ancestral and joint family properties of plaintiffs and defendant nos. 1 to 10?

(2) Whether the plaintiffs are entitled to 1/10th share in the suit schedule properties?

(3) What order or decree?

6. My answer to the above points are as under:-

Point no. 1 - In the affirmative.

Point no. 2 - In the affirmative.

Point No. 3 - As per final order for the following: -

REASONS

7. Point Nos. 1 and 2 :- In order to avoid repetition of facts and reasonings, these two points are taken together for consideration.



8. It is the specific case of the plaintiffs that the plaintiffs and mother of the defendant nos. 7 to 9 are the daughters of Late Thimmareddy. The defendant no. 1 is the father of the defendant no. 2 and defendant nos. 3 to 6 are the sons of Late Thimmareddy. According to the plaintiffs, themselves and the defendants are the members of the Hindu undivided family governed by the Mithakshara School of law. The father of the plaintiffs and defendant nos. 1, 3 to 6 and grand-father of defendant nos. 2 and 7 to 9 namely Thimmareddy, had acquired some of the properties in a partition which took place on 10.11.1962 between his brother Ramaswamy Reddy and his cousin brother Muniswamyreddy. The properties acquired by Thimma Reddy in partition which took place on 10.11.1962 are the item Nos. 1 to 5 in the suit schedule.

9. P.W. 1 in order to prove the plaint averments has filed her affidavit by way of examination-in-chief by reiterating the plaint averments. She has stated that after acquiring the item Nos. 1 to 5 of the suit schedule properties, Thimmareddy and his children were in joint possession and

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enjoyment of the suit schedule properties
Smt. Chikkathayamma mother of the pre-deceased
Thimmarreddy. The 2nd son of Thimmarreddy also pre-
deceased his father and he died on 31/12/1969 leaving
behind his wife and 2nd defendant herein. The wife of
Obalarreddy also died on 8/6/2005 leaving the 2nd defendant
herein as his legal heir. During the life time of
Thimmarreddy he was in possession and enjoyment of item
Nos. 1 to 5 of the suit schedule properties. He was managing
the affairs of the said properties as kartha of the family.
During the life time of Thimmarreddy no partition have taken
place between the members of the family. It is also in the
evidence of P.W.1 that during the life time of
Thimmarreddy land bearing Sy.No.159/2 measuring 02 acres
20 guntas was purchased out of the joint family funds and
the same was registered in the name of 4th defendant viz.,
H.T. Nagappa Reddy as per the sale deed dated 8/1/1971.
Sy.No.104/1 measuring 29 guntas of Hulimangala Village was
in occupation of Thimmarreddy as a tenant. After the
demise of defendant herein had filed an application for
grant of occupancy rights on behalf of the joint family. The

Land Tribunal, Ankal
in respect of the
No. 215

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Land Tribunal, Anekal was pleased to grant occupancy rights in respect of the same in the name of defendant no.3 as per the order dated 3/10/81 passed in proceedings in LRF No.2155/75-76. Out of the joint family funds land bearing SY.No.20/1 measuring 01 acre 39 guntas of Nanjapura Village was acquired as per the registered sale deed dated 19/9/72 by Thimmareddy and the same was registered in the name of H.T.Nanjunda Reddy i.e. defendant no.3. After the demise of Thimmareddy, out of joint family funds his children had purchased the land bearing Sy.No.133 measuring 30 guntas of Bingipura Village in the name of defendant no.5 viz., Veerappa Reddy as per the registered sale deed dated 7/5/1975.

10. In support of his oral evidence, the P.W.1 has produced the genealogical tree issued by the Village Accountant of Hulimangala Revenue Circle. It clearly discloses the relationship of the plaintiffs and defendants. P.W.1 has produced certified copy of the sale deed and it is marked as Ex.P.2. Ex.P.3 is the RTC standing in the name of H.T.Nanjundareddy. Ex.P.4 is the proceedings of Land



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Tribunal, Anekal. It goes to show that the land to the extent of 29 guntas in Sy.No.104/1 of Hulimangala village was granted as stated in the evidence of P.W.1. Ex.P.5 is the RTC of Sy.No.104/1. Ex.P.6 is the registered sale deed executed in favour of Nagappa Reddy by one H.C.Ramachandra Reddy. Ex.P.7 is the RTC extract. Ex.P.8 is the certified copy of the sale deed. Ex.P.9 to 13 are the RTC extracts. Ex.P.14 the certified copy of the sale deed dated 10/9/2005. A close reading of the deposition of P.W.1 along with the documents produced by her clearly discloses that the suit schedule properties are the joint family properties of the plaintiffs and defendants. Absolutely there is no iota of evidence from the defendants to disprove the case of the plaintiffs. It is pertinent to note that the oral and documentary evidence of the plaintiffs remained unchallenged. Therefore, I answered the Point Nos.1 and 2 in the affirmative.

11. Point No. 3:- In view of my answers to Point Nos.1 and 2 in the affirmative, I proceed to pass the following:-



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ORDER

The suit of the plaintiffs is hereby decreed.
It is declared that the plaintiffs share in and own the suit schedule properties and boundaries.

ORDER

The suit of the plaintiffs is hereby decreed.

It is declared that the plaintiffs are entitled to 1/10th share in and over the suit schedule properties by metes and bounds.

It is further declared that the Sale Deed dated 10/09/2005 executed by the defendant nos.5 and 10 in respect of the schedule item No.9 in favour of defendant nos.11 and 12 is not binding on the plaintiffs.

Further the defendants or anybody on their behalf are restrained from alienating the suit schedule properties in favour of any 3rd person.

Under the circumstances of the case, the parties are directed to bear their own costs.



Since the suit schedule properties are agricultural revenue lands, the partition of the same shall be made as per the provisions of Section-54 of CPC.

Draw preliminary decree accordingly.

(Dictated to the Stenographer, transcribed and typed by him, corrected and initialled by me and then pronounced in the Open Court on this the 11th Day of September, 2009).

Nalini
(Mahanthappa, A.D.)
Civil Judge (Sr.Dn.) & JMFC., Anekal.

ANNEXURE

WITNESSES EXAMINED FOR THE PLAINTIFFS:-

1. P.W-1 Nalini.

DOCUMENTS EXHIBITED FOR THE PLAINTIFFS:-

1. Ex.P.1. Genealogical tree.
2. Ex.P.2. Certified copy of the Sale Deed.
3. Ex.P.3. Pahani Patrike.
4. Ex.P.4. Copy of orders passed by the Land Tribunal, Anekal.
5. Ex.P.6. Original sale deed dated 19/9/1972.
6. Ex.P.7. RTC.
7. Ex.P.8. Certified copy of the Sale Deed.

Nalini

Ex.P.9 to 13. Five RTC Extracts.
Ex.P.14. Certified copy of the Sale Deed.
WITNESSES EXAMINED FOR
DOCUMENTS EXHIBITED

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8. Ex.P.9 to 13. Five RTC Extracts.
9. Ex.P.14. Certified copy of the Sale Deed.

WITNESSES EXAMINED FOR THE DEFENDANTS:- Nil.

DOCUMENTS EXHIBITED FOR THE DEFENDANTS:- Nil.

nahe 11/9/09
CIVIL JUDGE (SR.DN.) & J.M.F.C., Anekal.