



**IN THE COURT OF THE ADDL. CIVIL JUDGE AND JMFC.,
MUDIGERE.**

DATED: THIS THE 18th DAY OF MARCH 2023

Present: Sri. Vishwanath A., B.B.A., L.L.B.
C/c Prl. Civil Judge & JMFC.,
Mudigere.

ORIGINAL SUIT No:19/2019

BETWEEN :

Felix Serrao
S/o Aplu Serrao,
Aged about 71 years,
R/o Kottigerehara, Banakal Hobli,
Mudigere Taluk,
Represented here-in-by SPA holder
Mithesh Ronald Serrao,
S/o Felix Serrao,
Aged about 29 years,
R/o Kottigehara, Bankal Hobli,
Mudigere Taluk

... Plaintiff

(By Sri. K.M.Prashanth, Adv.,)

AND :

1. K.I.Abdul Ajeed
Aged about 45 years,
2. Maimuna @ Mahima
Aged about 42 years,



3. Rukiya

Aged about 40 years,

4. K.I.Iliyas @ Badru

Aged about 38 years,

No.1 to 4 are the sons and
No.2 and 3 are the daughters of
late Mohammed Ibrahim,
Hotel Bharath, Kottigehara,
Banakal Hobli, Mudigere Taluk.

...Defendants

(By Sri K.S.Adithya, Adv..)

ORDERS ON PRELIMINARY ISSUE

The plaintiff has filed the present suit for the decree of declaration of title with respect to suit 'A' schedule property, for possession of suit 'B' schedule property, mesne profit and consequential injunction. Whereas, the defendant has filed his written statement wherein specifically contended that the value of suit properties are more than Rs.10,00,000/- as on the date of suit and this Court has got no pecuniary jurisdiction to try the suit.

2. On basis of the above averments, this Court had framed the additional issue on 04.08.2021 and the same is treated as preliminary issue which reads as follows:



Whether defendants prove that suit 'A' schedule property consist a building and values more than Rs.10,00,000/- or more than the value of the pecuniary jurisdiction of this Court?

3. To discharge the burden on their part, the defendants got examined defendant No.1 as Dw-1 and produced 3 documents as Ex.D1 to D3. On the other side the learned counsel for plaintiff has submitted that he has got no evidence on preliminary issue.

4. Heard both side and perused the entire materials on record. Now the answer of this Court on the above preliminary issue is in **Negative** for the following:

REASONS

5. It is the specific contention of the defendants that suit property consists a building and values more than Rs.10,00,000/- as on the date of suit. On perusal of the plaint and valuation slip, the plaintiff has valued the suit at Rs.40,000/- for the purpose of jurisdiction. The present suit is filed for the relief of declaration of title, possession, mesne profit and permanent injunction. The suit 'A' schedule property is Kanamane Land (land abutting to agricultural



land) to an extent of 0.05 guntas in Sy. No. 214 (Old Sy. No. 129/P) of Athigere Village, Banakal Hobli, Mudigere Taluk.

6. To prove that there exists building on suit schedule property, Dw-1 has submitted Ex.D3 which is certified copy of assessment register issued by the Taruve Grama Panchayath wherein it discloses that there exists RCC structure measuring 38 X 33 in the name of Plaintiff. But the said document is silent as to on which land the said structure is built. During the course of arguments, the learned counsel for plaintiff has stated that the suit property is Kanamane Land i.e., the land abutting to the agriculture land and the same cannot be considered as converted land. In these regard he has placed his reliance on the decision of Hon'ble Apex Court in the case of **State of Karnataka and Ors Vs. Shankara Textiles Mills Ltd** reported in **AIR 1995 SC 234** wherein it has been held that though the agricultural land if not used for agricultural purpose that does not convert the land into non-agricultural land. Keeping in view the above decision held by Hon'ble Apex Court, if the RTC of the suit property is looked into, the same does not depict regarding conversion of the same. Thus, it can be held that though the suit property may consist of building it cannot be considered as converted land.



7. Now the question arises as to whether the value of suit property is more than the pecuniary jurisdiction of this Court. The plaintiff has valued the same at Rs.40,000/- for the purpose of jurisdiction. On the other hand the Dw-1 has submitted Ex.D1 letter made by him addressed to the Sub-registrar, Mudigere seeking for details regarding value of Kanamane land adjacent to Kalasa-Kottigehara road for the year 2019-20. Ex.D2 is the list of market value of lands of Attigere Village and adjacent to National Highways. Dw-1 while on cross examination admits that the said list does not contains the Sy. No. of suit property. But on careful perusal of said list, it can be seen that the agricultural properties measuring upto 5 guntas and situated adjacent to state highway shall be valued at 35% of the value fixed for the said area. The value fixed for dry lands situated at Attigere is fixed at Rs.17,500/- per acre and for wet land, the value is fixed at Rs. 19,000/- per acre. Though the suit property is a Kanamane land which is a form of Karab land, if the said property which is situated next to the state highway is considered as either dry or wet land even otherwise the plantation, its value will not cross Rs. 10,000/- and the same does not exceed the pecuniary limits of this Court.



8. Learned Counsel for plaintiff has further relied on another decision of Apex Court in the case of **Smt. Tara Devi Vs. Sri. Thakur Radha Krishna Mahraj** reported in **AIR 1987 SC 2085** wherein it is held that the plaintiff is free to make his own estimation of the reliefs sought in the plaint and such valuation both for the purpose of Court fee and jurisdiction can ordinarily be accepted and only if such valuation is arbitrary or unreasonable the Court can examine regarding valuation. It is relevant here to refer Section 50(2) of the Karnataka Court-fee and suit valuation Act, which reads as under:

“ Section 50 (2) In a suit where fee is payable under this Act at a fixed rate, the value for the purpose of determining the jurisdiction of courts shall be the market value or where it is not possible to estimate it at a money value such amount as the plaintiff shall state in the plaint.”

Thus, on careful reading of the above provision of law, the suit has to be valued on marked vale for the purpose of jurisdiction or the plaintiff can state the value in terms of money if it is not possible to ascertain the market value of the subject matter of the suit. In the case on hand, the plaintiff has valued the suit at Rs.40,000/- for the purpose of jurisdiction whereas though the defendants have



contended that the value of suit property is more than Rs.10,00,000/- they have not placed any materials proving the value of suit property is more than pecuniary jurisdiction of this Court. Though Dw-1 has submitted the list of market value as per Ex.D2. The same does not aid in holding that the value of suit property is more than the value assessed in the valuation slip. Thus, this Court considers to accept the suit value as assessed by the plaintiff for the purpose of jurisdiction. Accordingly preliminary issue is answered in '**Negative**'.

9. For the forgoing reasons, this Court is of view that it has got pecuniary jurisdiction to try the above suit. Hence, the following:

ORDER

This Court has got pecuniary
jurisdiction to try the above suit.

For cross examination of PW-1 by:

(Dictated to the Stenographer, directly typed by her on computer, corrected and then pronounced by me in the open court on this the 18th day of March 2023, at Mudigere.)

Sd/-

(Vishwanath A.)

C/c Prl. Civil Judge & JMFC.,
Mudigere.