



TITLE SHEET FOR JUDGMENTS IN SUITS

IN THE COURT OF THE ADDITIOAL CIVIL JUDGE AND
J.M.F.C., AT KOLLEGAL.

DATED THIS THE 14TH DAY OF JULY 2017

: P R E S E N T :

SRI . T.SRIKANTH, B.A.L., LL.B.,
ADDL. CIVIL JUDGE & J.M.F.C., KOLLEGAL.

O.S.NO.101/2016

BETWEEN :

SMT RAMAMMA,
W/O LATE TIRUKEGOWDA
AGED ABOUT 82 YEARS,
RESIDING AT HANUR TOWN,
KOLLEGALA TALUK,
CHAMARAJANAGAR DISTRICT.

PLAINTIFF

(BY SRI S.RUDRARADHYA., ADVOCATE)

AND :

1. SRI T.GOVINDARAJU,
SON OF LATE TIRUKEGOWDA
AGED ABOUT 55 YEARS,

2. SMT M.RATHNAMMA,
WIFE OF T.GOVINDARAJU
AGED ABOUT 51 YEARS,

BOTH ARE RESIDING AT
OLD KURUBARA STREET,
HANUR TOWN,
KOLLEGALA TALUK,
CHAMARAJANAGAR DISTRICT.

4. SMT BHAGYAMMA,
WIFE OF M.MAHADEVAPPA,
AGED ABOUT 55 YEARS,

RESIDING AT R.S.VILLAGE,
KOLLEGALA TALUK,
CHAMARAJANAGAR DISTRICT.

DEFENDANTS

(D-1 & 2 EX-PARTE)
(D-3 BY SRI C.KANTHARAJU., ADVOCATE)

Date of Institution	15/06/2016
Nature of the Suit	DECLARATION AND PERMANENT INJUNCTION
Date of Commencement of recording of Evidence	11/11/2016
Date of Pronouncement of Judgment	14/07/2017
Total Duration	Year/s Month/s Day/s 01 00 30

(T.SRIKANTH)

Addl. Civil Judge & J.M.F.C.,
Kollegal

: J U D G M E N T :

The plaintiff has filed this suit against defendants, seeking for the relief of cancellation of registered documents, for permanent injunction and other allied reliefs, in respect of 2 acre 72 cents of agricultural land, bearing Sy.No.249/A1 of Hanuru Village, Hanur Hobli, Kollegal Taluk, with specific boundaries, (hereinafter called 'suit schedule property' for short).

2. According to plaintiff suit schedule property originally belonged to her parents and after their death she inherited to the same as their only daughter. The khata of the same is mutated in her name and she is in possession and enjoyment of the same as owner thereof. The defendant No.1, who is her son, in order to grab suit schedule property illegally got mutated the khata of suit schedule property in his name and on its basis executed nominal sale deed dated 18/07/2005 in favour of defendant-3. Thereafter on 12/05/2008 the defendant-3 executed a registered document styled as cancellation of sale deed in favour of defendant-1. Later on 21/05/2012 the defendant-1 executed registered

release deed infavour of his wife i.e., defendant-2 and on its basis are trying to interference with peaceful possession and enjoyment of plaintiff over suit schedule property. Hence, plaintiff filed this suit.

3. On being served with suit summons defendant-3 appeared before this court by engaging the services of an advocate. However she failed to contest the suit by filing her written statement. Defendants 1 and 2 did not contest the suit inspite of due service of suit summons, hence suit proceeded exparte against them.

4. For determination of this suit, following points are formulated.

1. Whether the plaintiff proves that she is owner of suit schedule property ?
2. Whether the plaintiff proves that, she is in possession of suit schedule property as on the date of the suit ?
3. Whether the plaintiff proves that registered sale deed 18/07/2005 executed by defendant-1 in favour of defendant-3 in respect of suit schedule property is null and void ?
4. Whether the plaintiff proves that registered cancellation of sale deed dated 12/05/2008 executed by defendant-3 in favour of defendant-1 in respect of suit schedule property is null and void ?

5. Whether the plaintiff proves that registered release deed dated 21/05/2012 executed by defendant-1 infavour of defendant-2 in respect of suit schedule property is null and void ?
6. Whether the plaintiff proves the alleged interference ?
7. Whether the plaintiff is entitled to the relief as sought in the plaint ?
8. What order and decree?

5. In order to prove her case, the plaintiff examined herself before this court as PW1 and got marked documents Ex.P1 to Ex.P13 and closed her side.

6. I have heard oral arguments of learned counsel for plaintiff, gone through the case record and the documents. My findings on the above points are as follows ;

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|------------|---|---------------------------------------|
| Point No.1 | : | In The Affirmative. |
| Point No.2 | : | In The Affirmative. |
| Point No.3 | : | In The Affirmative. |
| Point No.4 | : | In The Affirmative. |
| Point No.5 | : | In The Affirmative. |
| Point No.6 | : | In The Affirmative. |
| Point No.7 | : | In The Affirmative. |
| Point No.8 | : | As per final order for the following; |

: R E A S O N S :

7. Point No.1 to 5 : In order to prove her case the plaintiff examined herself before this court on oath as PW1 by filing her evidence affidavit, in lieu of her examination in chief, by reiterating the averments of the plaint and got marked documents Ex.P1-Certified copy of Adangal Register Extract, Ex.P2-RSR Register Extract, Ex.P3-RTC Extract, Ex.P4-Certified copy of registered sale deed dated 18/07/2005, Ex.P5-Certified copy of registered cancellation of sale deed dated 13/05/2008, Ex.P6-Certified copy of registered release deed dated 21/05/2012, Ex.P7-Endorsement issued by Tahsildar Kollegal, Ex.P8-Genealogical Tree, Ex.P9-Certified copy of Mutation Register Extract, Ex.P10-Certified copy of Encumbrance Certificate, Ex.P11-Certified copy of Order dated 3/02/2015 passed by Assistant Commissioner, Kollegal Sub-Division in R.A.No.82/2013-14, Ex.P12 and Ex.P13-RTC Extracts, and closed her side. The evidence of PW1 remained unchallenged and unrebutted due to absence of defendants during trial.

8. According to plaintiff she inherited suit schedule property from her parents and the same is her absolute

property. The recitals in Ex.P1 disclose that suit schedule survey number was originally belonged to the father of plaintiff. Further, according to plaintiff she is the only daughter to their parents. On considering the oral and documentary evidence on record it appears that plaintiff is the absolute owner of suit schedule property. As the defendants remained absent during trial, the oral and documentary evidence placed on record by the plaintiff, in this regard, stands un rebutted and there are no reasons to disbelieve the same.

9. However, according to plaintiff the defendants have created nominal deeds amongst themselves to deprive the plaintiff of her right over suit schedule property. Ex.P4 to Ex.P6 are the certified copies of said deeds. The recitals in Ex.P4 disclose that defendant-1 acquired suit schedule property under release deed dated 15/03/2005 and on its basis he is said to have sold said property to defendant-3. However, in Ex.P10-Encumbrance Certificate there is no mention of said release deed. Thus the existence of said release deed dated 15/03/2005 is doubtful. As such, it is

clear that defendant-1 had no right to sell suit schedule property infavour of defendant-3 as per Ex.P4 and the same is a void document. As such when defendant-1 himself had no right over suit schedule property the subsequent documents as per Ex.P5 and Ex.P6 are also void documents. On careful scrutiny of the oral and documentary evidence on record, it appears that, the plaintiff is the owner in possession and enjoyment of suit schedule property and her title to suit schedule property remained intact and same cannot be taken away by Ex.P4 to Ex.P6. Hence, point No.1 and 2 are answered in the **AFFIRMATIVE**.

10. Further, Ex.P4 to Ex.P6 registered deeds are executed by persons having no right, title, interest or possession over suit schedule property, as such the same are illegal, void and not binding on plaintiff. Hence, point No.3 to 5 are answered in the **AFFIRMATIVE**.

11. Point No.6: According to plaintiff, defendants are trying to interfere with her peaceful possession and enjoyment of suit schedule property. From the very conduct of defendants in executing Ex.P4 to Ex.P6, it is clear that they

had made claim over the property of the plaintiff, which attitude of the defendants is sufficient to hold that they threatened to invade the right of the plaintiff over the suit schedule property. Hence, this point is answered in the **AFFIRMATIVE.**

12. Point No.7 : The plaintiff has proved before this court that she is owner in possession and enjoyment of suit schedule property and that Registered Sale Deed dated 18/07/2005, Registered Cancellation of Sale Deed dated 12/05/2008 and Registered Release Deed dated 21/05/2012, are illegal and void and if the same are left outstanding the same may cause her serious injury. Further the damages for invasion of a precious legal right cannot be ascertained in terms of money. Therefore, the ingredients of Sec.31 and Sec.38 (3) of the Specific Relief Act, 1963 is proved by the plaintiff. Hence, the plaintiff is entitled for the reliefs sought for by her in her plaint. Hence, this point is answered in the **AFFIRMATIVE.**

13. Point No.8 : In view of the findings given on above points, this court proceeds to pass the following;

: O R D E R :

The plaintiff's suit is hereby decreed, as prayed for, with costs.

The registered sale deed dated 18/07/2005 executed by defendant-1 infavour of defendant-3; The registered cancellation of sale deed dated 13/05/2008 executed by defendant-3 infavour of defendant-1; and the registered release deed dated 21/05/2012 executed by defendant-1 infavour of defendant-2; with respect to suit schedule property, are hereby declared as null and void.

By way of permanent injunction, the defendants, their agents, servants or any persons claiming through them, are restrained from interfering with the plaintiff's peaceful possession and enjoyment of the suit schedule property, in any manner.

Draw decree accordingly.

Further, after the appeal period is over, the office is directed to send a copy of this decree to the officer in whose office the instruments have been registered and such officer shall note on the copy of the instrument contained in his books, the fact of the cancellation as per Section 132 of Karnataka Land Revenue Act and Section 31 of the

Specific Relief Act. Unless the
operation of this order is stayed in
accordance with law.

(Computerized, corrected, revised and then signed by me in the open court
on this the 14th day of July 2017.)

(T.SRIKANTH)
Addl. Civil Judge & J.M.F.C.,
Kollegal

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: A N N E X U R E :**Number of Witnesses examined on behalf of Plaintiff:**

PW1	Smt Ramamma	11/11/2016
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List of Documents marked on behalf of the Plaintiff:

Ex.P1	Certified copy of Adangal Register Extract.
Ex.P2	Certified copy of RSR Register Extract.
Ex.P3	Certified copy of RTC Extract.
Ex.P4	Certified copy of Registered sale deed dated 18/07/2005.
Ex.P5	Certified copy of Registered cancellation of sale deed dated 13/05/2008.
Ex.P6	Certified copy of Registered release deed dated 21/05/2012.
Ex.P7	Endorsement issued by Tahsildar Kollegal.
Ex.P8	Genealogical Tree.
Ex.P9	Certified copy of Mutation Register Extract.
Ex.P10	Certified copy of Encumbrance Certificate.
Ex.P11	Certified copy of order dated 3/02/2015 passed by Assistant Commissioner, Kollegal Sub-Division in R.A.No.82/2013-14.
Ex.P12 & 13	RTC Extracts.

Number of Witnesses Examined for the Defendants:

-: Nil :-

List of the Documents Marked for the Defendants:

-: Nil :-

(T.SRIKANTH)
Addl. Civil Judge & J.M.F.C.,
Kollegal

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(Judgment pronounced in open court, vide separate order)

O R D E R

The plaintiff's suit is hereby decreed, as prayed for, with costs.

The registered sale deed dated 18/07/2005 executed by defendant-1 infavour of defendant-3; The registered cancellation of sale deed dated 13/05/2008 executed by defendant-3 infavour of defendant-1; and the registered release deed dated 21/05/2012 executed by defendant-1 infavour of defendant-2; with respect to suit schedule property, are hereby declared as null and void.

By way of permanent injunction, the defendants, their agents, servants or any persons claiming through them, are restrained from interfering with the plaintiff's peaceful possession and enjoyment of the suit schedule property, in any manner.

Draw decree accordingly.

Further, after the appeal period is over, the office is directed to send a copy of this decree to the officer in whose office the instruments have been registered and such officer shall note on the copy of the instrument contained in his books, the fact of the cancellation as per Section 132 of Karnataka Land Revenue Act and Section 31 of the Specific Relief Act. Unless the operation of this order is stayed in accordance with law.

(Computerized, corrected, revised and signed by me and then pronounced in the open court on this the 14th day of July 2017.)

(T. SRIKANTH)
ADDL. CIVIL JUDGE & J.M.F.C.,
KOLLEGAL.

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