



TITLE SHEET FOR JUDGMENTS IN SUITS

IN THE COURT OF THE ADDITIONAL CIVIL JUDGE AND
J.M.F.C., AT KOLLEGALA

DATED THIS THE 18TH DAY OF AUGUST 2018

: P R E S E N T :

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

O.S.NO.127/2016

BETWEEN :

SMT LOORDHA MARY
W/O KOLANDAISWAMY,
D/O ANDONAPPA,
AGED ABOUT 70 YEARS,
R/AT MEGALA DODDI VILLAGE,
PALYA HOBLI, KOLLEGALA TALUK,

PRESENTLY R/AT SILUVEPURA,
JAGERI, SATHEGALA POST,
KOLLEGAL TALUK.

PLAINTIFF

(BY SRI S.SHASHIBIMBA., ADVOCATE)

AND :

1. SMT S.GOWRAMMA RAMCHANDRA,
W/O M.RAMACHANDRA,
AGED ABOUT 30 YEARS,
GARDEN HOUSE,
IN S.F.NO.129/3 OF
KAMAGERE VILLAGE,
KOLLEGALA TALUK.

2. SMT LOORDHA MARY,
W/O J.KANTHARAJU,
AGED ABOUT 60 YEARS,

3. SMT SAVITHA,
D/O J.KANTHARAJU,
AGED ABOUT 35 YEARS
DEFENDANTS 2 AND 3

DEFENDANTS

(D-1 BY SMT J.SARASWATHI., ADVOCATE)
(D-2 AND 3 BY SRI M.MAHADEVA PRASAD., ADVOCATE)

Date of Institution	25/07/2016
Nature of the Suit	Declaration & Injunction
Date of Commencement of recording of Evidence	21/09/2017
Date of Pronouncement of Judgment	18/08/2018
Total Duration	Year/s Month/s Day/s 02 00 24

(T.SRIKANTH)
C/C Prl. Civil Judge & J.M.F.C.,
Kollegala.

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: J U D G M E N T :

The plaintiff has filed this suit against defendants, seeking for the relief of declaration, cancellation of sale deed, permanent injunction and other allied reliefs in respect of 3.48 acres of agricultural land, bearing Sy.No.1132/1 of Chikkalluru Village, Palya Hobli, Kollegala Taluk, with specific boundaries (hereinafter called 'suit schedule property' for short).

2. According to plaintiff, suit schedule property is granted to her by the government as per order dated 26/11/1977 passed in LND(K)-RUO-481/1977-78 and accordingly she is in possession and enjoyment of the same by mutating the khata of the same in her name and is paying taxes to the authorities concerned. However the defendants 2 and 3 have fraudulently sold suit schedule property to defendant-1 under registered sale deed dated 12/03/2010. It is contended that defendants 2 and 3 had no any right over suit schedule property to sell the same to defendant-1. The said sale deed is executed by impersonating the plaintiff.

However, even today plaintiff continued to be in possession of suit schedule property. Hence, this suit.

3. On being served with suit summons, defendants though appeared before this court by engaging the services of advocates, did not contest the suit, by filing their written statement.

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

1. *Whether the plaintiff is entitled to the reliefs of declaration and permanent injunction as prayed ?*

2. *What order and decree?*

5. In order to prove her case, the plaintiff examined himself before this court as PW1 and got marked documents Ex.P1 and Ex.P20 and also examined one witness as PW2 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 ;

Point No.1 : In The Affirmative.

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

: R E A S O N S :

7. Point No.1 : 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 Grant Certificate, Ex.P2-Certified copy of report of Tahsildar, Ex.P3-Certified copy of Check List, Ex.P4-Certified copy of Survey Sketch, Ex.P5-Certified copy of Darkasth Application, Ex.P6-Certified copy of Registered sale deed dated 12/03/2010, Ex.P7-Genealogical Tree, Ex.P8 to Ex.P11-Mutation Register Extracts, Ex.P12 to Ex.P17-RTC Extracts, Ex.P18 and Ex.P19-Record of Rights, Ex.P20-Saguvali Chit Distribution Register Extract and also examined one witness as PW2 and closed her side. The evidence of PW1 and PW2 remained unchallenged and unrebutted due to absence of defendants during trial.

8. The plaintiff's suit is based on Ex.P1, which clearly disclose that suit schedule property is granted to her by the government. Now it is the case of plaintiff that, the

defendant-2 impersonating herself as plaintiff, has fraudulently sold suit schedule property to defendant-1 along with defendant-3 under registered sale deed dated 12/03/2010, though they had no any right over suit schedule property. According to plaintiff the photographs engrossed on Ex.P6 in the name of plaintiff does not pertain to her.

9. 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 that defendants-2 and 3 fraudulently executed Ex.P6 infavour of defendant-1 without having any right over 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 unrebutted and there are no reasons to disbelieve the same. Hence, I answer this point in the **AFFIRMATIVE**.

10. Point No.2 : In view of the above discussions on point No.1, I proceed to pass the following:-

: O R D E R :

The suit of the plaintiff is decreed as prayed for, with costs.

The plaintiff is declared as the owner in possession of suit schedule property.

The Ex.P6-Registered Sale Deed dated 12/03/2010 is 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 hereby directed to send a copy of decree, to the office of Sub-Registrar, Kollegala, for entering the cancellation of aforesaid sale deed, in its books concerned. 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 18th day of August 2018.)

(T. SRIKANTH)

C/C Prl. Civil Judge

& JMFC.,

Kollegala

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

PW1	Sri Loordha Mary	21/09/2017
PW2	Sri Kolandaiswamy	05/12/2017

List of Documents marked on behalf of the Plaintiff:

Ex.P1	Certified copy of Grant Certificate.
Ex.P2	Certified copy of Order of Assistant Commissioner.
Ex.P3	Check List.
Ex.P4	Survey Sketch.
Ex.P5	Darkasth Application
Ex.P6	Certified copy of Sale Deed dated 12/03/2010.
Ex.P7	Geological Tree.
Ex.P8 to 11	Certified copy of Mutation Register Extracts.
Ex.P12 to 17	RTC Extracts.
Ex.P18 &19	Record of Rights.
Ex.P20	Certified copy of Saguvali Chit Distribution Register Extract.

Number of Witnesses Examined for the Defendants:

-: Nil :-

List of the Documents Marked for the Defendants:

-: Nil :-

JMFC.,

(T. SRIKANTH)
C/C Prl. Civil Judge &
Kollegala.

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(Judgment pronounced in open court, vide
separate order)

O R D E R

The suit of the plaintiff is
decreed as prayed for, with costs.

The plaintiff is declared as
the owner in possession of suit
schedule property.

The Ex.P6-Registered Sale
Deed dated 12/03/2010 is 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.

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hereby directed to send a copy of decree, to the office of Sub-
Registrar, Kollegala, for entering the cancellation of aforesaid
sale deed, in its books concerned. 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 18th day of July 2018.)

(T. SRIKANTH)
C/C PRL. CIVIL JUDGE & J.M.F.C.,
KOLLEGALA.

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