

IN THE COURT OF THE CIVIL JUDGE & JMFC, ALUR.

Present

Asha K.S, B.A.L., L.L.B.,
Civil Judge,
Alur.

Dated this the 29th day of September 2018

O.S.No. 130/2016

Plaintiff / s : Sunilkumar B.C,
S/o Late Chandrashekhara @
Chandrashekharaiah,
Aged about 38 years,
R/o Bijjanahalli Village,
Kasaba Hobli, Alur Taluk,
Hassan District.

(Represented by Sri.B.D.S., Advocate.)

V/s.

Defendant / s : 1. Yashodamma,
W/o Late Shivamurthy,
Aged about 54 years,

2. Loksha, S/o Late Shivamurthy,
Aged about 32 years,

Both are R/o Bijjanahalli Village,
Kasaba Hobli, Alur Taluk,
Hassan District.

(Represented by Sri.M.S., Advocate.)

Date of Institution of the suit : 04.06.2016

Nature of the Suit : Injunction

Date of the commencement of evidence : 08.08.2016

Date on which Judgment pronounced : 29.09.2018

Total duration	Year /s	Month /s	Day /s
	02	03	25

Civil Judge & JMFC.,
Alur.

J U D G M E N T

This is the suit filed by the plaintiff against the defendant for the relief of injunction in respect of suit schedule property.

2. The brief facts of the plaintiff's case is as under:

The schedule property bearing Sy.No.69 measuring 6 acres 21 gunats situated at Bijjanahalli Village, Kasaba Hobli, Alur Taluk, is ancestral property of plaintiff. The plaintiff's father Chandrashekhariah acquired the suit

property from his mother Shanthamma as per inheritance in M.R.3/86-87. After the death of Chandrashekaraiyah it was changed in the name of plaintiff's mother as minor guardian in M.R.No.4/87-88. After attaining majority khatha was changed in the name of plaintiff in M.R. 4/2002-2003.

3. The plaintiff is the possession of the suit property by growing maize and other crops. Eight month Prior to filing of this suit, at the time of obtaining loan from bank on suit property, plaintiff has noticed the change of khata in the name of B.S.Shivamurthy.

4. The plaintiff approached the Shivamurthy, he said that by mistake it was changed in his name, he will rectify the same. Unfortunately he died on 21/11/2015 due to his illness. Thereafter defendants refused to correct the mistake and denied the plaintiffs right. And taking advantage of document in their father name, they tried to interfere with the possession of plaintiff. Hence, the plaintiff filed this suit for Injunction.

5. After registering the suit, the suit summons has been issued to the defendants. They have appeared through their Advocate and filed written statement. They denied the case of plaintiff and possession. It is contended that the defendant's property is situated towards northern side of schedule property. The plaintiff tried to interfere with the defendants' property.

6. It is further contended that, the plaintiff has filed false suit against the defendant only for knock off the defendant's property. There are no merits in this case. Only to harass the defendants, plaintiff has filed this frivolous suit. Hence, prays to dismissal of suit.

7. On the basis of the pleadings and documents the following issues arised:

ISSUES

- 1) Whether the plaintiff proves that he is in possession of the suit schedule property as on the date of the suit?

- 2) Whether the plaintiff proves the alleged interference by the defendant?
- 3) Whether the plaintiff is entitled for the relief as prayed?
- 4) What order or decree?

8. In order to prove his case of the plaintiff and he has stepped into witness box and examined as P.W.1 and got marked documents Ex.P.1 to Ex.P.8. On the other hand defendant have not cross-examine the PW.1 and not lead any evidence on behalf of him.

9. Heard the arguments.

10. The above mentioned issues are answered for the reasons findings given in the forgoing discussions as follows:

Issue No.1 to 3 : In the Affirmative.

Issue No.4 : As per final order for the following...

REASONS

11. **Issue No.1 to 3:** Since these issues inter linked with each other hence, in order to avoid the repetition of facts

all these issues have been taken up together for common discussion.

12. The Plaintiff filed this suit for the relief of injunction against the defendants in respect of suit schedule property. It is the case of the plaintiff is that, his father had acquired the schedule property from his mother Shanthamma. The plaintiff's father was in possession of the schedule property, after his death plaintiff continued the same.

13. The defendants have no right over the suit property. By over site khata was changed in the name of Shivamurthy. The plaintiff has approached the Shivamurthy for correction of khata, he also promised to rectify the mistake. Unfortunately Shivamurthy was died due to his ill-health. Taking advantage of the documents defendants tried to interfere with the plaintiff's possession.

14. In support of his case plaintiff has produced Ex.P.1 is the RTC extract, Ex.P.2 to 4 are M.R.Extracts, Ex.P.5 is the certificate issued by the Gram Panchayath, Ex.P.6 is the

schedule certificate, Ex.P.7 is the possession certificate, Ex.P.8 is the notice issued by the plaintiff.

15. In this case even though defendants have not filed written statement, the burden is on the plaintiff to prove his possession over the schedule property as on the date of suit. The khata of the schedule property was changed in the name of Plaintiff's father in M.R.No.3/86-87. After the death of plaintiff's father, it was changed in the name of plaintiff's mother as a minor guardian of plaintiff in M.R.No.4/87-88. Thereafter, the khatha of schedule property changed in the name of plaintiff in M.R.No.4/2002-03.

16. Ex.P.1 to 7 shows that plaintiff is in possession of the schedule property. Other documents show that schedule property belongs to plaintiff's family. Ex-p-8 shows that plaintiff has approached the Tahasildar. As stated above, defendants have not challenged the plaintiff's evidence. The documents placed by the plaintiff shows that plaintiff is in possession of the schedule property. Hence, I answer issue No.1 to 3 in the **Affirmative**.

17. **Issue No.4:** In view of my above discussion, I proceed to pass the following:

ORDER

Suit of the plaintiff is decreed with costs.

The defendants or anybody claiming under them are permanently restrained from interfering with the plaintiff's possession over the suit property.

Draw decree accordingly.

(Dictated to the Stenographer, transcribed by him, after corrections, pronounced by me in the open Court on this the 29th day of September 2018)

(Asha K.S)
Civil Judge, Alur.

ANNEXURE

1. Witnesses examined by the plaintiff /s :-

P.W.1 : Sunilkumar

2. Documents marked on behalf of the plaintiff /s :-

Ex.P.1 : RTC extract

Ex.P.2 to 4 : M.R.Extracts

Ex.P.5 : Certificate issued by the Gram Panchayath

Ex.P.6 : Schedule certificate

Ex.P.7 : Possession certificate

Ex.P.8 : Notice issued by the plaintiff.

3. Witnesses examined by the defendant / s : -

- NIL -

4. Documents marked on behalf of the defendant / s:-

- NIL-

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