

Witness recalled and duly sworn on : 12-03-2020

Cross examination by MSH counsel for plaintiff :

Since 12 years I am doing advocate profession. I done my junior ship under Sri.G.R.Andanimath Advocate. Till today I am practising under above said advocate. It is true Sri.G.R.Andanimath counsel represents my father in this case. It is true plaintiff and defendants No.2 and 3 originally residing at Belagalpeth village. It is true plaintiff No.2 and defendant No.2 are settled at Aladakatti village since 1990. It is not true to suggest that, my father defendant No.2 is working as Honorary President of Veerabhadreshwar temple committee of Belagalpeth since 21 years continuously. It is not true to suggest that, for this year also he is working as a honorary President of above said committee. I do not know whether defendant No.2 has offered Pooja in the fare festival held in this year at Veerabhadreshwar Temple at Belagalpeth. It is not true to suggest that, till today defendant No.2 my father is hale and healthy with sound health he is attending other social programmes

actively and purposely he gave G.P.A document in my favour to represent in this case. It is not true to suggest that, we got created Ex.D.3 in order to accept the G.P.A document of the defendant No.2 in this case. It is not true to suggest that, we have falsely contended the grounds of ill health of the defendant No.2 in GPA document i.e., Ex.D.2. It is not true to suggest that, if defendant No.2 himself entered into witness box and tendered his evidence then true facts will be disclosed before this Court, hence in order to avoid that circumstances we kept him behind by filing of GPA document.

2. It is true my father is having two wives. Witness volunteers that, after death of first wife he got married with my mother. It is true his first wife name is Nagamma and through this lady my father begotten 4 children by name Shantavva, Ishwar, Sarvamangala and Shivanand. It is true my father's second wife Shakuntala who is my mother through her my father begotten 3 sons by name Basavaraj, Shantaveera, and myself i.e.,

defendant No.1, 4 and 5. I do not know whether my father got elected gram panchayat election for the year 1974. It is not true to suggest that, my father defendant No.2 is only person who has all information and knowledge regarding his joint family affairs and relation. It is true to suggest that he has personal knowledge regarding his joint family. It is true ii know the above said all information through my father. It is true my father has worked as gram panchayat President in the year 1974, Witness volunteers that, I do not know year particularly. I do not know whether he has elected twicely as gram panchayat Adhyaksha. I do not know whether he has worked as a Director of APMC committee. It is true he has worked as Vice-President of KCC Bank Dharwad. It is not true to suggest that, my father has developed his leadership politically in our area. It is not true to suggest that, as my father has well developed personality in political field by virtue of it he has elected as Vice President of KCC Bank Dharwad and worked as Director in APMC committee and President of

Gram Panchayat authority of our village. It is not true to suggest that, my father has contested Z.P election in the year 1986. It is not true to suggest that, in that election one Pathan of Bammanahalli has defeated to my father. It is not true to suggest that, though knowing this fact I am deposing falsely as I was not known. I have born in the year 1983. It is not true to suggest that, as I born in later stage, therefore without knowing of above said facts, I have denied all above said suggestions.

3. It is true my grand father's name is Basavanneppa. It is true his wife's name is Deveeramma. Witness volunteers that, he had two wives, the name of another wife I do not remember, but I have pleaded this fact in my W.S. It is not true to suggest that, the above said Deveeramma got children i.e., plaintiffs and defendant No.2 and 3. Witness volunteers that, apart from above said children other four daughters were there. It is true that, to prove the existence of above said four daughters I have not produced any reliable documents. At this stage witness

has asked that, whether plaintiffs and defendant No.2 and 3 have given any properties to those daughters through partition, Witness volunteers that, if they approached us and demand partition then we are ready to give. They do not know about the pendent suit for partition and there was no situation to intimate them about present suit.

4. It is true my grand father Basavanneppa had not inherited any ancestral properties. It is true suit schedule 2(D) property R.S.No.83/2B measuring about 6 Acre 10 guntas was purchased by my grand father in the year 1941. It is not true to suggest that, with the help of the income of the above said purchased land my grand father has further developed by purchasing of rest of the properties. It is true in the year 1964 my grand father has purchased R.S.No.83/2A measuring about 20 guntas. It is true the above said both purchased lands have been purchased with an object of agricultural land. My grand father was doing only agricultural work and none other business.

5. My father defendant No.2 born on 14-08-1929, he educated up to PUC. It is not true to suggest that, among four sons my father got well education. Witness volunteers that, plaintiff No.2 got well education than my father, who has worked as a school teacher, but I do not know his education. I do not know whether plaintiff No.2 got appointed on 7th mulki examination. It is not true to suggest that, my father has done agricultural work purely. It is true plaintiffs and defendant No.3 are doing pure agricultural work. My father used to do private contract work for the tenure of 5 years, but I do not know the period exactly, but prove this fact I have not produced any relevant documents. It is not true to suggest that, my father has not done any contract work, even though I am deposing false evidence.

6. My grand father has purchased other properties in the name of plaintiffs and defendant No.2 but I do not remember survey numbers exactly. I have collected information regarding above said purchase of land in the names of plaintiffs and defendant No.2, but at this

moment I do not remember exactly. It is not true to suggest that, if I disclose that fact properly then it will become fatal for my defense, therefore I am deposing false evidence. It is true my grand father has purchased R.S.No.212/2 situated at Belagalpeth village in the year 1965. Apart from above said land no land was purchased in the name of my father. Witness volunteers that, above said land was purchased through my grand father in the name of my father. It is suggested that in general who purchases the land in his name holds original sale deeds with him. Witness volunteers that, in joint family such sale deeds are lies with the joint family manager or karta. It is not true to suggest that, since lifetime of my grand father till 1974 among plaintiffs and defendants No.2 and 3, defendant No.2 acted as a karta of our joint family as my father was having worldly knowledge to manage family affairs and manage the joint family properties. It is not true to suggest that, because of above said worldly knowledge and higher education the rest of the brothers have supported my father to contest

the above said all election. I do not know in the year 1959 one land bearing R.S.No.38 of Belagalpeth village was purchased in the name of my father. Witness volunteers that, property mentioned in Ex.D.1 with respect to the R.S.No.153/1, 211 and 38/1 are of joint family properties, but I do not know in whose names those properties have been purchased. Witness has suggested that after filing of the suit and before entering of witness box whether he has made enquiry regarding properties mentioned in above said Ex.D.1. Witness volunteers that, there is no necessity. It is not true to suggest that, R.S.No.42 of Aladakatti village i.e., suit schedule 2(A) property was purchased by the plaintiffs and defendants No.2 and 3 in the name of defendant No.2. It is not true to suggest that, the above said suit schedule 2(A)property was purchased out of plaintiff No.2 salary income and the income drawn from the joint family landed properties. It is not true to suggest that, previous to purchase of above said property there were other two landed properties have been purchased in the

name of defendant No.2 out of income of joint family properties and the salary of the plaintiff No.2. It is true in Ex.P.15 i.e., sale deed of suit schedule 2(A) property in which my father's occupation has been mentioned as agriculture. It is true in that sale deed there is no specific mention as that property has been purchased by my father out of his own personal income. It is not true to suggest that, any property purchased in the name of defendant No.2 are all purchased from the income of joint family properties. Witness volunteers that, after 21-05-1966 whatever properties purchased by the defendant No.2 are his self acquired properties. It is not true to suggest that, I am deposing false evidence as the properties purchased after 21-05-1966 are all self acquired properties of my father. It is true on 22-09-1966 there were some properties have been purchased in the name of my father through partnership firm. It is true on above said date R.S.No.42 has been purchased in the name of my father through partnership firm as my father was acting as Managing partner of

partnership firm which is measuring about 1 Acre 38 guntas 8 annas. I do not remember which sale deed was executed earlier and which one was later. It is true above said land was purchased to install the Rice mill in that land through partnership firm. It is true since then plaintiffs and defendants No.2 and 3 have installed the Rice mill and successfully run it since 22-09-1966 till 2013-2014. It is not true to suggest that, as my father was acted as a karta hence, he has made to act as manager partner of our partnership firm and purchased the above said land in his name.

7. It is true through compromise process the above said partnership properties have been partitioned in between plaintiffs, defendants No.2, 3 and 4 brothers of Bapugouda Patil's family in the year 2013. It is not true to suggest that, as my father and his brothers have not allotted legitimate share to the Bapugouda Patil's family and they filed case against these four persons. It is true the above said Bapugouda Patil's family has filed O.S.No.320/2013 with respect to the above said

partnership firm and against the present plaintiffs and defendants No.2, 3 and that has been settled through compromise process. It is true as per that settlement Bapugouda Patil's family got half share in the properties of partnership firm and rest of half share lies with other partners. The 50% share which was allotted in favour of plaintiffs and defendants No.2 and 3 is kept in joint till today. I do not know for what reason and object the above said property has been kept in joint. It is not true to suggest that, in order to make proper adjustment while effecting equitable partition among plaintiffs and defendants No.2, 3 the above said property of partnership firm has been kept in joint. It is true my father got good name and fame in our village as he done social work for public.

8. It is true my father has filed criminal case under N.I.Act one Prakash Korishettar 15 years back. It is not true to suggest that, as my father was doing money lending business. It is not true to suggest that, till today he is doing his money lending business in his area.

Witness has asked that, whether at the instance of my father villagers of our village put their signature on any registered document as an attesting witness. Witness volunteers that, its depends upon facts and circumstances and the attachment of those persons. It is not true to suggest that, the persons to whom my father has helped and made some favour are ready to become witness in any registered instrument.

8. It is not true to suggest that, I am deposing false evidence as my father has executed gift deed in favour of defendant No.1 with respect to the suit schedule 2(A) property as very gift deed is sham document. It is not true to suggest that, to above said gift deed no person of our village has put signatures as an attesting witness. Witness volunteers that, whoever present at the time of execution of gift deed before Sub-Registrar office have put their signatures. I do not remember names of those witnesses. It is not true to suggest that, I am deposing false evidence purposely as I do not remember those persons.

9. It is not true to suggest that, as every person of Belagalpeth and Aladakatti villages known about the shares of plaintiffs and defendants No.2, 3 in schedule 2(A) property, therefore we have purposely not taken signatures of our villagers as an attesting witnesses on above said gift deed.

(At this point of juncture further cross-examination is deferred at the request of the counsel for plaintiff)

(Typed to my dictation in the open court as per deposition of the witness)

R O I & A.C.

Sr.Civil Judge & JMFC.,
Hangal.

Signature of witness.