

IN THE COURT OF THE II ADDL. JUNIOR CIVIL JUDGE-CUM-VI ADDL.
METROPOLITAN MAGISTRATE, UPPAL, AT L.B. NAGAR
MEDCHAL-MALKAJGIRI DISTRICT.

PRESENT: SRI. G. SAI SHARATH

II ADDL. JUNIOR CIVIL JUDGE-CUM-
VI ADDL. METROPOLITAN MAGISTRATE
UPPAL AT L.B. NAGAR.

DATED THIS THE 01st DAY OF MARCH, 2023

OS No.972 of 2022

Between:

Gopu Anand, S/o G. Komuraiah,
Aged 42 years, Occ: Business,
R/o 2-15-66, Beerappa Gadda,
Uppal RR District. TS-500039

...Plaintiff

AND

1. Maadhishetti Sathyanrayana,
S/o. Uppalaiah, Aged 52 years,
Occ: Pvt Employee, R/o 2-15-78,
Beerappa Gadda, Uppal,
RR District. TS 500039

2. The Tahsildar,
Ghatkesar Mandal Office
Ranga Reddy District

3. All Concerned

...Defendants

This suit is coming for a final hearing before me in the presence of Sri. P. Kusheel Kumar Advocate for the plaintiffs, and the defendants No.1 and 2 were set ex-parte, and defendant No.3 was set ex-parte by way of paper publication and the matter having been heard and stood over for consideration till this date, this court delivered the following:

J U D G M E N T

FACTUAL MATRIX:

1. This is a suit filed under section 26, Order VII Rule 1&2 of the Code of Civil Procedure by the plaintiff herein praying this Hon'ble Court to declare him as the legal heir of the deceased late G. Hymavathy as the legal heir to succeed her estate i.e., the suit schedule property which stands in the name of late G. Hymavathy (herein referred to as deceased), in the interest of justice.

2. In gist, the plaintiff is the husband of the deceased who expired on 22-08-2008, leaving behind the plaintiff as her legal heir and successor of her entire estate.

2.2. The plaintiff further submitted that the deceased during her lifetime purchased plot No 219 Parts and 220, in Survey No 44 Admeasuring area 247 Sq yards or its equivalent to 206.5 Sq Meters, Situated at Annojiguda village, Pocharam Gram Panchayath, Ghatkesar Revenue Mandal, Ranga Reddy under registration SRO Ghatkesar, through a Registered Sale Deed bearing Document No.3604/2006Dt:-06-03 2006 registered in the office of SRO Ghatkesar R.R.District, hereinafter referred to a Suit Schedule Property which is more fully described in the Suit Schedule annexure herewith. It is further submitted that the suit schedule Properties were acquired by the deceased from her earnings and during her lifetime she was the absolute owner and possessor of the suit schedule property and after her demise, the plaintiff as her legal heir succeed to the schedule property.

2.3. It is further submitted that the plaintiff due to his financial needs has offered to sell the scheduled property to Defendant No 1, and also Defendant No 1 also agreed to purchase the same, but on 18-01-2022 Defendant No 1 denied the legal status of the plaintiff saying that there are no legal heirs to the deceased. The plaintiff approached the Tahsildar, Ghatkesar Mandal, Ranga Reddy District for obtaining Legal Heir Certificate on 21-02-2022, but Tahsildar orally refused to grant the Legal Heir Certificate and advised him to approach a competent civil Court. As such having no other option, the plaintiff was constrained to file the present suit for Seeking Declaration that the plaintiff is the legal heir of the deceased. having succeeded in the scheduled property. Hence, this suit.

3. Defendants No.1 and 2 were served with the summons and remained absent and failed to file a written statement, for which defendants No.1 and 2 were set ex-parte. Defendant No.3 was set ex-parte by way of paper publication and none appeared to contest the claim of the plaintiff. Hence, the suit was posted for the Plaintiff's evidence.

4. To prove his claim, plaintiff No.1 was examined as PW.1 and got marked

Ex. A1 to A10 documents.

5. Heard the learned counsel for the plaintiff and perused the documents.

Now the points for determination are: -

1. Whether the plaintiff is entitled to be declared as the legal heir of the Late G. Hymavathi who died on 20.08.2009 as prayed for?

2. Whether the plaintiff as the legal heir is liable to be declared as the successor of her estate i.e., the suit schedule property?

3. To What relief?

6. **POINT Nos. 1 and 2: -**

The plaintiff filed this suit seeking a declaration that he is the legal heir of the deceased. So, for a relief of declaration as to any legal character or as to any right to any property, the plaintiff has to prove his entitlement, at the time of suit, to such legal character or right to such property which the defendant denied or interested to deny said legal character or right of the plaintiffs. Legal status or legal character means a position recognized by the law. The other requirement for relief of declaration is that the plaintiffs, who seek the remedy of declaration, were not in a position to claim a further relief than a bare declaration of her title/right, which was denied by the defendants. If the above ingredients are satisfied from the evidence adduced by the plaintiff, he is entitled to relief of declaration.

7. To substantiate his case, the plaintiff got examined himself as PW1 and got marked Exs.A1 to A7 documents. PW.1 filed his affidavit-in-chief which is nothing but reiterating the averments of the plaint.

8. To prove the death of the deceased Late G. Hymavathy, the Pw1 produced Ex. A1 documents. Ex.A1 is the Death certificate of the deceased Late G. Hymavathy, which discloses that the deceased died on 22.08.2008.

9. To prove his relationship with the deceased, the plaintiff got a marked Ex.A2 Aadhar card of the plaintiff. Ex. A1 and Ex. A3 reveals that the plaintiff is the husband of the deceased. Thus, the documentary evidence establishes the death of the deceased and the relationship of the plaintiff with the deceased.

10. Further case of the plaintiff is that his wife G.Hymavathi died intestate on 20.08.2008 leaving behind his husband as his surviving legal heir to succeed her estate. As such in view of becoming the legal heir and succeeding the property, to enable him to prevail his rights, plaintiff No.1 has approached Defendant No.1 to issue a legal heir certificate in his favour as the legal heir of the deceased. Defendant No.1 has remained exparte. Despite the issuance of paper publication, none came forward claiming the legal heir-ship of the deceased or denying the relationship between the deceased and the plaintiff. Hence, this court is of the considered opinion that the unchallenged evidence of PW1 coupled with documentary evidence adduced by the plaintiff establish the plea of the plaintiff that his entitlement to the legal status as legal heir of the deceased. Hence, this point is answered accordingly, declaring the plaintiff as the legal heir of the deceased. Hence, this point is answered accordingly.

11. There is a proviso to section 34 of the Specific Relief Act that no court shall make any such declaration where the plaintiff, being able to seek further relief than a mere declaration of title, omits to do so. The object of the said proviso is to avoid a multiplicity of suits. Hence, the plaintiffs, apart from the declaration of their status asked for a declaration that declared the plaintiffs as the legal heirs of the deceased to succeed his estate i.e., the suit schedule property. The plaintiff, being the legal heir of the deceased, is entitled to inherit the estate left by the deceased. To prove the ownership of the deceased in respect of the suit scheduled property, he filed Ex.A3 which is a certified copy of the sale deed vide doc No. 3604/2006 dated 06.03.2006 in respect of the suit scheduled property, and Ex.A5 is the Encumbrance Certificate of the suit property. The said documents show that the deceased is the owner of the suit schedule property by way of purchase. There is no pleading that the suit schedule property is free from registered/unregistered acts and encumbrances. Further, there is no document to prove that the plaintiff succeeded in the suit schedule property from the deceased and he is the owner of the suit schedule property. Hence, the plaintiff is not entitled to said relief. Hence, the second point is answered accordingly.

12. **POINT No.3: -**

IN THE RESULT, the suit is partly decreed declaring the plaintiff as the

legal heir of the deceased late G.Hymavathi who died on 20.08.2008. In the circumstances of the case, there are no orders as to costs.

Typed by me, corrected, and pronounced by me in the open court on this the 01st day of March 2023.

**VI ADDL METROPOLITAN MAGISTRATE-
- CUM- II ADDL. JUNIOR CIVIL JUDGE
UPPAL AT L B NAGAR
MEDCHAL-MALKAJGIRI DISTRICT**

APPENDIX OF EVIDENCE

WITNESS EXAMINED

For Plaintiff:

PW1 : Goppu Anand

For Defendant:

-Set Exparte-

Exhibits marked

FOR PLAINTIFF:

Ex. A1 Original copy of Death certificate of G.Hymavathi Dt: 20.08.2009

Ex. A2 Original Aadhar card of plaintiff

Ex. A3 Certified Copy of Sale deed vide Document No 3604/2006, dated:06.03.2006

Ex. A4 original market value certificate dated 01.04.2022

Ex. A5 CC of Copy of EC, dated 16.04.2022 for the period from 01.05.1995 to 13.04.2022

FOR DEFENDANTS: NIL

**VI ADDL METROPLOTAN MAGISTRATE-
- CUM- II ADDL. JUNIOR CIVIL JUDGE
UPPAL AT L B NAGAR
MEDCHAL-MALKAJGIRI DISTRICT**

DECREE IN O.S.No.972 of 2023

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...Plaintiffs

AND

1. Maadhishetti Sathyanrayana S/o Uppalaiah,
Aged 52 years, occ: Pvt Employee,
R/o 2-15-78, Beerappa Gadda,
Uppal RR District. TS 500039

2. The Tahsildhar,
Ghatkesar Mandal Office
R.R. District

3. All Concerned

...Defendants

CLAIM: This is a suit filed for the relief of declaration to declare the plaintiffs as the legal heirs of the deceased Late G Hymavathy.

VALUATION OF THE SUIT AND COURT FEE:

The suit is filed for declaration that the scheduled property is valued at Rs.10000/- and its half of the value of Rs.5,18,700/- and paid court fee of Rs.7,626/- is paid U/Sec.24(b) of A.P.C.F and S.V Act.

CAUSE OF ACTION: It is submitted that the cause of action arose on 22-08-2008 when Late G Hymavathy. was died, and on 20-08-2009 when the Plaintiff obtained Death Certificate from Greater Hyderabad Municipal Corporation, Circle-9, Abids, Central zone Hyderabad, Telangana, on 18-01-2022 the Defendant No 1 denying the legal status of the plaintiff, and on 21-02-2022 when

the Plaintiff approached Thasildar to grant the Legal Heir Certificate but the Thasildar orally refused to grant the same and further advised the Plaintiffs to approach competent civil Court seeking legal Heirs Certificate, hence the cause of action is still subsisting.

COURT FEE AND SUIT VALUATION: The suit is valued at Rs.10,37,400/- which is market value and the plaintiffs paid the court fee of Rs.7,626/- under section 24(b) of A.P.C.F & S.V. Act.

SUIT PRESENTED ON: 19.04.2022

SUIT NUMBERED ON: 19.04.2022

This suit is coming on 12.07.2022 for a final hearing before me in the presence of **Sri. P.Kusheel Kumar** Advocate for the plaintiffs, and the defendants No.1 and 2 were set ex-parte, and defendant No.3 was set ex-parte by way of paper publication and the matter having been heard and stood over for consideration till this date, this court doth order and decree as follows:-

1. That the suit of the plaintiffs be and the same is hereby decreed without costs
2. That the plaintiff be and are hereby declared as legal heirs of the deceased of G.Hymavathy who died on 20.08.2008.

MEMO OF COSTS

	For Plaintiffs	For Defendants
Stamp on Plaint	7626-00	
Stamp on Vakalath	102-00	
Stamp on process fee	70-00	
Stamp on Documents	--	
Pleaders Fee	--	
TOTAL	7798-00	

Given under my hand and the seal of the court, on this the 01st day of March 2023.

**VI ADDL METROPLOTAN MAGISTRATE-
- CUM- II ADDL. JUNIOR CIVIL JUDGE
UPPAL AT L B NAGAR
MEDCHAL-MALKAJGIRI DISTRICT**