

KAKL200002572009



**IN THE COURT OF THE PRL. CIVIL JUDGE & JMFC,
BANGARPET**

Present:- AJIT DEVARAMANI., B.SC, L.L.B.,
Prl. Civil Judge & JMFC, Bangarpet.

Dated this the 13th day of September 2021

O.S. 101/2009

Plaintiff :- Smt.Muniyamma @ Bodemma
(Reptd. by Sri. K.R.S.H.- Adv.)

V/s

Defendants :- Smt.Rukmaniyamma & others

Applicant :- Smt.Muniyamma @ Bodemma
Reptd.by Gowramm as a PGA Holder
(Reptd. by Sri. K.R.S.H.- Adv.)

V/s

Opponent :- Smt.Rukmaniyamma & others

ORDERS ON IA -XXII

The plaintiff has filed this application U/o 1 Rule 10(2) R/w Sec. 151 of CPC to implead proposed defendant No.5 to 9 as defendant No.5 to 9.

2) In the affidavit annexed to the application it is stated that, the mother of G.P.A. holder has purchased the suit schedule property under registered sale deed dated 03.07.21974 for valuable consideration from one B.N.Ramaiah S/o Narayanappa. Since from the date of purchase his mother is in peaceful possession and enjoyment of the suit schedule property. At the time of drafting of above said sale deed the dated 3.7.1974 by mistake and oversight Sy.Number was wrongly mentioned in the sale deed as Sy.No.44 instead of Sy.No.2 of Arimanahali Village. But in the said sale deed the boundaries are specifically clearly mentioned to identify the property and the said boundaries referred in schedule property i.e. portion of Sy.No.2 and the same is tallied to the said Sy.number. The defendants have denied the title and possession of the plaintiff. Hence, she has filed the suit

against the defendants without impleading her vendor or Lrs. The plaintiff's vendor B.N.Ramaiah is no more and his wife is also no more. He is having 4 children namely Lakshminarayana, Srinivas, Suganamma and Sunandamma. Therefore, Lrs of said B.N.Ramaiah are very much necessary to the suit for adjudication. Hence, prays to allow the application.

3) The proposes defendant No. 5, 6 and 8 have filed objection contending that, the plaintiff has filed the suit for declaration and injunction. From the plaint averments it reveals that, B.N.Ramaiah has sold the property on 3.7.1974, hence these proposed defendants are not necessary parties to the suit and they cannot be identify the property to the suit. Therefore, prays to reject the application.

4) On the basis of the above contentions the points that would arise for my consideration are as under:

1. Whether the proposed defendant No.5 to 9 are proper and necessary parties to the suit for compete adjudication of the matter?

2. What order?

5) Heard arguments and perused the materials available on record. My findings to the above points are as follows:

Point No.1 : In the **Negative**

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

REASONS

6) **Point No.1:** The plaintiff has filed this suit for declaration and injunction to declare her as a absolute owner and in possession of the suit schedule property and further seeking to declare that the sale deed executed by the first defendant in favour of 2nd defendant on 04.02.2008 is null and void and same is not binding on the plaintiff and for consequential relief of permanent injunction.

7) The G.P.A. holder of the plaintiff has filed interim application seeking to implead the proposed defendant No.5 to 9 contending that, the mother of G.P.A. holder has purchased the suit schedule property under registered sale deed dated 03.07.21974 for valuable consideration from one B.N.Ramaiah S/o Narayanappa. Since from the date of

purchase his mother is in peaceful possession and enjoyment of the suit schedule property. At the time of drafting of above said sale deed the dated 3.7.1974 by mistake and oversight Sy.Number was wrongly mentioned in the sale deed as Sy.No.44 instead of Sy.No.2 of Arimanahali Village. But in the said sale deed the boundaries are specifically clearly mentioned to identify the property and the said boundaries referred in schedule property i.e. portion of Sy.No.2 and the same is tallied to the said Sy.number. The defendants have denied the title and possession of the plaintiff. Hence, she has filed the suit against the defendants without impleading her vendor or Lrs. The plaintiff's vendor B.N.Ramaiah is no more and his wife is also no more. He is having 4 children namely Lakshminarayana, Srinivas, Suganamma and Sunandamma. Therefore, Lrs of said B.N.Ramaiah are very much necessary to the suit for adjudication.

8) The learned counsel for the plaitniff argued that one B.N.Ramaiah S/o Narayanappa has sold the suit property to the plaintiff under registered sale deed dated 03.07.1974. By mistake Survey number is mentioned in the sale deed

as 44 instead of Sy.No.2. wrongly mentioned in the sale deed and the suit schedule property are one and same. Hence, to prove the ownership and possession, the Lrs of B.N.Ramaiah is required to be made a parties.

9) On the other hand, the learned counsel for the proposed defendants has argued that, no relief claimed against the proposed defendants and suit is for declaration and injunction. Only the defendants have challenged the owner of the plaintiff. The Lrs of B.N.Ramaiah are not at all necessary parties to the suit, because B.N.Ramaiah has sold the land to the plaintiff. Hence, prays to reject the application.

10) **Order 1 Rule 10(2) reads as under:-**

(2) Court may strike out or add parties:-

The Court may at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the Court to be just, order that the name of any party improperly joined, whether as plaintiff or defendants, be struck out, and that the name of any person who ought to have been joined, whether as plaintiff or defendant, or whose presence before the Court may be necessary in order to enable

the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit, be added.”

11) Admittedly in this case B.N.Ramaiah has sold the suit property to the plaintiff and no relief is claimed against the vendor of the plaintiff. In this case the defendants have denied the ownership and possession of the plaintiff, but the vendor of the plaintiff is not at all challenged the ownership of the plaintiff. There is no dispute between the Lrs of the B.N.Ramaiah and plaintiff. If at all the plaintiff wants to prove her ownership, she may make proposed defendants as a witnesses to this case. Therefore, this court is of the opinion that the proposed defendants are not at all proper and necessary parties to adjudicate and settle all the question involved in the suit. Therefore, I answered **POINT NO.1 in the NEGATIVE.**

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

ORDER

I.A.No.22 filed by the plaintiff U/o 1 Rule

10(2) R/w Sec. 151 of CPC is hereby
dismissed with cost.

(Dictated to the steno, transcribed on computer, typed by her corrected and then pronounced by me in open court on this 12th day of September 2021).

(AJIT DEVARAMANI)
Prl. CJ and JMFC, Bangarpet.

