

KAKL300004642019



IN THE COURT OF THE SENIOR CIVIL JUDGE & J.M.F.C.,
AT MALUR

: **PRESENT** :

Smt. **Lathadevi, G.A.**, B.A.L., LL.B., LL.M.,
Senior Civil Judge & JMFC., Malur.

Dated this 8th day of February, 2024.

:: **O.S. No.250/2019** ::

Plaintiff/s

:

1. Smt. Padmamma,
W/o late Chandrappa,
D/o late Krishnappa/Ramakka,
Aged about 73 years.

2. Smt. Saraswathamma,
W/o Seenappa,
D/o late Krishnappa/Ramakka,
Aged about 68 years.

3. Smt. Pushpamma,
W/o Nagaraja,
D/o late Krishnappa/Ramakka,
Aged about 63 years.

All are residing at;
Gangasandra village,
Masthi hobli, Malur taluk,
Kolar district.

(Reptd., by Sri.G.R.R, Advocate)

- V/s.-

Defendant/s : **Venugopal,**
S/o late Krishnappa/
Ramakka,
Aged about 71 years,
R/a M. Upparahalli village,
Masthi hobli, Malur taluk,
Kolar district.

(Reptd., by Sri.R.V.N, Advocate)

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ORDERS ON I.A.No.1 FILED BY THE DEFENDANT
U/o 7 Rule 11(a) & (d) r/w Sec.151 of CPC.,
dated 09.01.2020

The advocate for defendant has filed the above I.A., U/o 7 Rule 11(a) & (d) r/w Sec.151 of CPC., along with supporting affidavit, seeking to reject the plaint.

2. In the supporting affidavit, the defendant has deposed that; the plaintiffs being the sisters of defendant have filed the suit for the relief of partition, that the suit

schedule properties are the self-acquired properties of defendant, that out of his earnings, suit schedule property has been acquired and has denied the case and the plaintiffs contending that, they do not have right over the suit schedule properties. In view of above contentions, **the defendant prays to allow the above IA.**

3. **The plaintiffs have filed the objections to the above IA.**, contending that, in order to know whether the suit schedule properties are the self-acquired acquired properties or not it requires a trial. In view of above contentions, above IA is not maintainable. Hence, **prays to reject the above IA.**

4. Heard the arguments on both sides.

5. The points would arise for my consideration are;

1. **Whether the defendant has made out sufficient grounds to allow the IA No.1?**

2. **What order?**

6. My findings to the above points are as under;

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

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

REASONS

7. **Point No.1:** It is the case of the plaintiffs that, the suit is filed for the relief of partition and separate possession with respect to suit schedule properties.

8. That one Chowdadenahalli Narayanappa was the grandfather of plaintiffs and defendant, he has acquired the suit item No.3 property under a registered sale deed. He had five sons and one daughter, out of them Govindappa had died issueless. The father of plaintiffs and defendant namely Krishnappa is the second son, Shivappa, Srinivasa, Chandrappa @ Ramachandrappa and Papamma are the brothers and sister of said Krishnappa, all the children constituted Hindu joint family.

9. That after the death of Krishnappa in the year 1986-87, the defendant being his only one male issue became the manager of the family. The brothers and sisters of Krishnappa have executed a release deed relinquishing all their rights in favour of defendant on 4.11.2000 and it is acted upon with respect to suit item No.3 and severed their joint family status. The defendant along with plaintiffs continued the joint family.

Smt. Ramakka the mother of plaintiffs and defendant had sold her properties in the year 1969 in Sy.No.5 and 9 of Kadagudi village and out of the said sale proceedings, the suit item No.1 and 2 properties were purchased in the name of defendant for and on behalf of the joint family.

10. That all the suit properties were being enjoyed by plaintiffs and defendant as ancestral Hindu joint family properties. There is no division of properties among plaintiffs and defendant by meets and bounds. The execution of release deed as stated above is admitted by the defendant in the written statement at para No.2. That the other properties are stated to be acquired by defendant, whether they are self acquired or joint family property is to be decided at the time of trial, till then, the property needs to be protected by way of an ad-interim order of temporary injunction.

11. In the present case, the defendant has denied the case of plaintiffs and contends that, the suit schedule properties are the self-acquired properties of defendant, hence prays to allow the above IA., but the aspect whether suit schedule property is ancestral or self-acquired property requires trial. Hence, I answer point No.1 in the **Negative**.

12. **Point No.2:** In view of above reasons, I proceed to pass the following;

ORDER

IA No.1 filed by the defendant U/o 7 Rule 11(a) & (d) r/w Sec.151 of CPC., is hereby ***rejected.***

Consequently, the ***suit is maintainable.***

(Dictated to the **Stenographer Grade-III**, transcribed and typed by him, corrected, signed by me and then pronounced in the Open Court this the **8th day of February, 2024**)

(LATHADEVI G.A.,)
Senior Civil Judge & JMFC.,
Malur.