

TSMM130100542022



Presented on : 03-09-2022
Registered on : 26-09-2022
Decided on : 31-07-2024
Duration : 1 years, 10 months, 28 days

**IN THE COURT OF THE I ADDITIONAL JUNIOR CIVIL JUDGE-CUM-
V-ADDITIONAL METROPOLITAN MAGISTRATE, MEDCHAL
MALKAJGIRI DISTRICT UPPAL AT L.B.NAGAR**

PRESENT: Ms Sireesha Jaddidi
I Additional Junior Civil Judge-cum-
V Additional Metropolitan Magistrate

DATED: ON THIS THE 31st DAY OF JULY, 2024

Original Suit No. 1649 OF 2022

(Old O.S. No. 845 of 2019)

BETWEEN:

1. Somani Survarna, W/o. Late Eshwaraiah,
Aged about 48 years, Occ: House wife
 2. Somani Naresh, S/o. Late Eshwaraiah,
Aged about 30 years, Occ: Pvt. Employee,
Both R/o. H.No. 1-56, Yamnampet village,
Ghatkesar mandal, Medchal Malkajgiri district
-Plaintiffs**

And

1. Ejamalla Naganmani, W/o. Dasu,
D/o. Late Eshwaraiah,
Aged about 32 years, Occ: House wife,
R/o. Nandiwanaparthi village, Yacharam mandal,
Ranga Reddy district
 2. Bandari Swapna, W/o. Mahender,
D/o. Late Eshwaraiah,
Aged about 28 years, Occ: House wife,
R/o. Kothaguda village, Kandukur mandal,
Ranga Reddy district
 3. All concerned
-Defendants**

This suit coming before me 15.12.2023 for final hearing in the presence of M/s. Muddam Venkatesham, Advocate Office Counsel for Plaintiffs and defendants having remained exparte, upon hearing the counsel for Plaintiff, on perusal of the material on record and the matter having stood over for consideration till this day, the Court delivered the following:

:: J U D G M E N T ::

1. This is a suit filed by the plaintiffs seeking declaration to declare the plaintiffs and defendant no.1 and 2 as legal heirs of Late. Somani Eshwaraiah(hereinafter referred as deceased).

2. The plaint pleadings in brief are as follows:

[I] It is submitted that the plaintiff no. 1 is the mother of plaintiff no.2 and defendant no.1 and 2. It is submitted that the husband of plaintiff no.1 and father of the plaintiff no. 2 and defendant no.1 and 2 and deceased died on 28.05.1999. It is submitted that he is owner and possessor of the house bearing No. 1-56 (Old H.No. 1-22), admeasuring 180 Sq. yads. situated at Yanampet village, Ghatkesar Mandal, Medchal-Malkajgiri District (hereinafter referred as suit schedule property) which is allotted Government Gramakantam.

[II] It is submitted that after the death of deceased the plaintiffs and defendant no. 1 and 2 are being his legal heirs have succeeded the suit schedule property and enjoying the same as absolute owner and there no other legal heirs of the deceased except the plaintiffs and defendant no. 1 and 2. It is submitted that after the death of the deceased the plaintiffs in order to know the requirement for mutation etc. approached Municipal Commissioner, Pocharam and expressed their intention and request for mutation in respect of suit schedule property then it was informed by the authorities that as the schedule property is in the name of deceased therefore it is necessary that legal heirs should obtain decree from civil

court to the effect that they are legal heirs of deceased with respect to suit schedule property . Hence this suit.

3. The summons were served on defendant No.1 and 2, but they failed to appear before this court. Hence, D1 and D2 were set *ex parte*. The plaintiffs made paper publication to defendant No.3 with respect to “All concerned” but none of the persons appeared before the court to claim against the rights of the plaintiffs. Accordingly, D3 was set *ex parte*.

4. During the *ex parte* proceeding on behalf of the plaintiff's, plaintiff no.1 examined herself as PW1 and got documents marked as exhibits Exs.A1 to A10 and closed further evidence.

5. Heard the learned counsel for the plaintiff's and perused the material available on record.

6. Now the point for consideration is : -

- 1) Whether the plaintiff is entitled for the relief as prayed for?*
- 2) To what relief?*

7. **POINT(1):**

This court appreciated the evidence oral and documentary evidence of Plaintiff no.1/ Somani Suvarna who examined herself as PW1. PW1 filed her chief affidavit by reiterating the plaint pleadings which are not reproduced to avoid repetition. PW1 relied on documentary evidence marked as Ex.A1 to A10. Ex.A1 is Original Grampanchayat Permission issued by Grampanchayat, Yamnampet, Ghatkesar mandal, Ex.A2 is House tax receipt issued by Grampanchayat, Yamnampet, Ghatkesar mandal, dated 02.03.1996, Ex.A3 is House tax receipt issued by municipal corporation, Pocharam, dated 04.04.2019, Ex.A4 is Property tax receipt issued by Municipality Medchal Malkajgiri district,

dated 04.04.2019, Ex.A5 is Certified copy of FIR No.187/1999 issued from police station, Vanasthalipuram, dated 28.05.1999, Ex.A6 is Non availability of certificate of death of S. Eshwaraiah, S/o. Kistaiah, dated 28.06.2019, Ex.A7 is Aadhar card of plaintiff no.1 vide 775531221240, Ex.A8 is Aadhar card of plaintiff no.2 vide 810204442605, Ex.A9 is Certified copy of encumbrance certificate issued from Sub-registrar, Ghatkesar for the period from 01.05.1995 to 16.09.2019 as no record out of 65 is considered as relevant, dated 17.09.2019, Ex.A10 is Certified copy of market value certificate issued from Sub-Registrar, Ghatkesar, dated 17.09.2019.

8. The PW1 relied on Ex.A6 i.e., Non availability of certificate of death of S. Eshwaraiah, S/o. Kistaiah, dated 28.06.2019 to show that the death certificate of the deceased is unavailable. The PW1 relied on Ex.A5 to show that a case was filed in FIR No. 187/1999 issued from police station, Vanasthalipuram, dated 28.05.1999 for the death of the deceased along with charge sheet. It can be observed from Ex.A5 that it is FIR along with final report with inquest panchanama. The inquest panchanama is a mere fact finding report about the cause of death during course of investigation. The inquest panchanama is meant only to identify the cause of death. The document cannot be considered as a relevant document to establish the date of death of deceased. Further the suit is filed by plaintiffs to declare them and defendant no.1 and 2 as legal heirs of deceased. However, there are no relevant documents filed by the plaintiffs to establish their and defendant's no.1 and 2 relationship with the deceased. It was imperative upon the plaintiff, to place necessary documents in support of their contention.

9. From the above observations, this court is of considered opinion, the plaintiff has failed to file sufficient documentary evidence in support of their contentions as such they are not entitled for the relief sought as prayed. Hence, this point is answered against the plaintiff.

10. **POINT(2):**

In the result, the suit is dismissed. In view of facts and circumstances of case there are no order as to cost.

Typed directly on my dictation by stenographer, corrected and pronounced by me in the open Court on this the 31st day of July, 2024.

**I Addl. Junior Civil Judge – cum-
V Addl. Metropolitan Magistrate
at Uppal Medchal-Malkajgiri District**

APPENDIX OF EVIDENCE

WITNESS EXAMINED

For Plaintiff:

PW1 : Somani Suvarna

For Defendants:

-Set Exparte-

EXHIBITS MARKED

For the Plaintiff:

Ex.A1 is Original Grampanchayat Permission issued by Grampanchayat, Yamnampet, Ghatkesar mandal

Ex.A2 is House tax receipt issued by Grampanchayat, Yamnampet, Ghatkesar mandal, dated 02.03.1996

Ex.A3 is House tax receipt issued by municipal corporation, Pocharam, dated 04.04.2019

Ex.A4 is Property tax receipt issued by Municipality Medchal Malkajgiri district, dated 04.04.2019

Ex.A5 is Certified copy of FIR No.187/1999 issued from police station, Vanasthalipuram, dated 28.05.1999

Ex.A6 is Non availability of certificate of death of S. Eshwaraiah, S/o. Kistaiah, dated 28.06.2019

Ex.A7 is Aadhar card of plaintiff no.1

Ex.A8 is Aadhar card of plaintiff no.2

Ex.A9 is Certified copy of encumbrance certificate issued from Sub-registrar, Ghatkesar for the period from 01.05.1995 to 16.09.2019 as no record out of 65 is considered as relevant, dated 17.09.2019

Ex.A10 is Certified copy of market value certificate issued from Sub-Registrar, Ghatkesar, dated 17.09.2019

For the Defendants:

- Set Exparte –

**I Addl. Junior Civil Judge – cum-
V Addl. Metropolitan Magistrate
at Uppal Medchal-Malkajgiri District**

SUIT SCHEDULE PROPERTY

House bearing no. 1-56 (Old H.No. 1-22), admeasuring 180 sq.yars, situated at Yanampet village, Ghatkesar mandal, Medchal Malkajgiri district bounded by:-

NORTH : House of Ch. Bal Reddy

SOUTH : Grampanchayath road

EAST : House of Sathi Reddy

WEST : House of Uppalaiah and Mallaiah

**I Addl. Junior Civil Judge – cum-
V Addl. Metropolitan Magistrate
at Uppal Medchal-Malkajgiri District**