

KAMS410009422020



**IN THE COURT OF PRINCIPAL CIVIL JUDGE & JMFC.,
KRISHNARAJANAGAR**

PRESENT

Sri. Chandan S, B.Com., LL.B

Prl. Civil Judge & JMFC, Krishnarajanagara.

DATED 01ST DAY OF APRIL 2025

O.S. No. 183/2020

Plaintiff :

Smt. Lalithamma W/o N.N.Nehru,
D/o Lakshme Gowda @ Thammaiah,
Aged about 65 years,
R/at No.289, 7th Main Road,
Padmanabha Nagar, B.S.K 2nd Stage,
Bangalore – 560070.

(Rep. By Sri. L.V.R., Advocate)

V/s

Defendant:

1. Smt. Sudha W/o Govindachari,
Aged about 60 years,
2. Ashwini D/o Govindachari
Aged about 40 years,
3. Shwetha D/o Govindachari,
Aged about 35 years,
4. Abhi D/o Govindachari,
Aged about 30 years,

All are R/at Mirle Village & Hobli,
K.R.Nagar Taluk, Mysuru District.

(Rep. By Sri. M.R., Advocate)

ORDERS ON PRELIMINARY ISSUES

This Court has framed additional issues on 23.10.2024 and treated the additional issue No.1 and 2 are Preliminary Issues. Additional issue No.1 and 2 is as under;

1. Whether the suit is barred by law of limitation?

2. Whether the suit is not maintainable for want of pecuniary jurisdiction of this court?

2. According to the plaintiff, as per the pleadings he craves and postulated in the pleadings of the plaint that, as per the partition deed dated 12.04.1972, the plaintiff has been allocated and he has been apportioned with the property as described in the schedule to her share, the same has been described and mentioned as 'G' schedule in the registered partition deed dated 12.04.1972. Thereafter, based upon the said deed of partition, the records of revenue department and the khata were accordingly flowed and transferred to the name of the plaintiff and she has been very regular in bearing the expenses of the Government in the form of tax.

3. Further the pleadings of the plaint would reveals and announces that, the registered partition deed dated 12.04.1972 through which the plaintiff was allotted 'G' schedule, the property of the schedule annexed to the plaint herein, the same has been renumbered as Sy.No. 194/1A1.

Further, it has been excreted and pleaded in the plaint that, the plaintiff who is residing in Bengaluru along with her children and husband after her marriage. Therefore, taking advantage and embezzling of the absence and non appearance and also keeping the plaintiff away from the schedule property, the defendants put up an unlawful, illegal and unauthorized constructions on the schedule property to an extent of 30 feet towards East – West, 30 feet towards North – South and the remaining extent is vacant land.

4. Therefore, when the plaintiff requested the defendants in the 1st weak of January 2020 to demolish and to evacuate the schedule illegally constructed and to return the same towards the possession of the plaintiff again and to settle the possession of the plaintiff over the schedule property, the defendants refused, denied and also declined the very requisite and prayer of the plaintiff for returning the schedule property. Therefore as per the pleadings, the stand of the plaintiff is that, she is the owner of the schedule property in dispute and she is entitled for the possession of the said property. Therefore, prays for decreeing the suit.

5. However, in pursuance of the issuance of suit summons against the defendants, they appeared before this court and filed their written objections. Wherein they denied, defied and also refuted all the pleadings of the plaint. Further the

defendants in their statements, they have specifically urged and stipulated that, the house property i.e., RCC house in the schedule property has been constructed during the lifetime of father-in-law of the 1st defendant. The plaintiff is the very stranger to the schedule property and the properties are belongs to the very defendants. The suit schedule property is worth more than Rs.7,00,000/- and hence the suit is not maintainable and also the suit is hit under the law of limitation. Therefore, sought for dismissal of the suit.

6. Heard both sides, perused the documents available on record.

7. The points that would arise for consideration of the Court is:

1. Whether the suit is barred by law of limitation?

2. Whether the suit is not maintainable for want of pecuniary jurisdiction of this court?

8. Findings to the above points is as under:

Point No. 1 : In the Negative

Point No. 2 : In the Negative for the following:

REASONS

9. **POINT NO.1 AND 2:**

Based upon the material contradictions and contrary pleadings pertaining to the averments of the plaint and

denial of the same in the statement, the present issues have been came to be recorded and framed. Thereafter, the counsel representing the defendants and also the counsel appearing for the plaintiff as canvased their argument. Upon careful and thoughtful appreciation of the pleadings contemplated and stated in the pleadings of the plaint and written statement, the subject matter for discussion is only limited and it is pertaining to the preliminary issues regarding whether the suit is hit and barred under law of limitation and also whether the valuation of the subject matter of the suit is more than Rs.5,00,000/- which is beyond the pecuniary jurisdiction, limit and ambit of this court to entertain the suit.

10. The plaintiff herein in order to show, demonstrate and to establish the property of the schedule furnished along with the plaint is falls, comes under within the purview and ambit of the monetary jurisdiction of this court, he has produced memo along with report of the Sub-registrar pertaining to the schedule property. Wherein as per the report furnished herewith, the dry land bearing Sy.No. 194 new No. 194/1A1 measuring 6 guntas of land is located at Mirle Village & Hobli, K.R.Nagar Taluk. Wherein as per the report, the Government market value of the suit schedule property in that particular zone and area in Rs.4,50,000/- per acre.

11. Admittedly the present case on hand is pertaining to only 6 guntas of land, if the market value of the schedule property within the area of Mirle is Rs.4,50,000/- for 1 acre. For the purpose of 6 guntas, the calculation would be Rs.4,60,000/- that as to be divided by 40 guntas it will be the value of 1 guntas is Rs.11,250/-. Since the present schedule property is for 6 guntas of land if the same is calculated and computed for 6 guntas, the same will be Rs.67,500/- for 6 guntas of land.

12. However, pertaining to house property measuring 30X30 feet within the 6 guntas of land as per the valuation furnished before this court, the market value of the asbestos tiled house is valued accused Rs.350/- per square feet as per the report of the Sub-registrar furnished by the counsel for the plaintiff, if we calculate and compute the same for 900 square feet, it will be Rs. 3,15,000/- if we add and include the market value of the 6 guntas of land as determined and computed earlier i.e., Rs. 67,500/-, the value of the entire schedule property along with the house built and constructed within the said 6 guntas of land, the same will be comes around Rs.3,82,500/-.

13. However as per the report which is furnished by the counsel for the defendant, house property measuring 30X30

feet within the 6 guntas of land as per the valuation furnished before this court, the market value of the asbestos tiled house is valued accused Rs.4,300/- per square meter, if we calculate and compute the same for 900 square feet, the value of 900 Sq. feets if we convert it into the sq meters, it will be around 83 sq meters. Further since the value of one sq meter is Rs.4,300/- within the area, for total extent of 83 sq meters the composite and exhaustive value of such 83 sq meters is Rs. 3,56,900/- (83 X 4,300), and if we add and include the market value of the 6 guntas of land as determined and computed earlier i.e., Rs. 67,500/-, the value of the entire schedule property along with the house built and constructed within the said 6 guntas of land, the same will be comes around Rs.4,24,400/-.

14. Therefore, the said recitals and calculation on the basis of the reports furnished by the plaintiff and defendants, it is very much clear and evident that, this court can entertain suit since the value of the entire schedule property is below Rs.5,00,000/- so as to adjudicate the dispute between the parties and decide the suit on merit. Accordingly as per the valuation, calculation and computations as discussed above, the entire valuation of the property is falls or comes under the limit and ambit of the pecuniary jurisdiction of this court and below Rs.5,00,000/-.

15. Pertaining to the other aspects and preliminary issue of limitation is concern, admittedly, the suit has been registered for the purpose of declaration and possession of the schedule property. According to the plaintiff, embezzling and taking advantage of the absence and non appearance of the plaintiff in the schedule property and using the continuous absence of the plaintiff who is residing in Bengaluru with her husband, the illegal constructions and the structure built in the form of house property unauthorized and unlawfully and when the same was asked for return, it was rejected. Therefore according to the plaintiff, the cause of action to launch the suit is arose of 1st weak of January 2020. Pertaining to the limitation, provision in respect of the declaration and possession, the relevant and authenticated provision is article 65 of Limitation Act. As per the said article 65 is clearly postulates and envisages that, the limitation period to seek the relief of declaration and for possession is 12 years from the date of possession of the defendant becomes adverse to the plaintiff. Therefore, the suit is registered not beyond 12 years of time and the same is very much maintainable. Hence, the additional issues framed by this court is answered in the **Negative** and court proceeds to pass the following:

ORDER

Additional issue No.1 and 2 is answered
in the Negative.

Accordingly, the suit is maintainable and
the case is posted for plaintiff evidence.

Call on: 17.06.2025

(Dictated to the Stenographer transcribed by her, revised, corrected, signed and then pronounced
by me in the open Court on this the 01st day of April 2025)

(Chandan.S)
Prl. Civil Judge and JMFC,
K.R.Nagara.