

ORDER ON COMPROMISE PETITION

The plaintiffs have filed this suit for Declaration that they have acquired title over the suit schedule property by adverse possession and also declare that the Sale Deed dated 18.10.1945 is only with respect to Sy.No.511/2A measuring 1 Acre 4 Guntas and not for Sy.No.511/1 measuring 1 Acre 7 Guntas and such other reliefs court may deem fit.

2. During the pendency of this suit, the plaintiffs and 1st defendant have filed compromise petition U/O.XXIII Rule 3 of C.P.C.

3. The contesting defendant No.3 has filed objection to Compromise Petition by contending that the Compromise Petition is not maintainable either under law or on facts. He further contended that the 1st defendant already filed his written statement and he has admitted the plaint averments. The plaintiffs and 1st defendant are colluded each other. The plaintiffs cannot compromise with 1st defendant only and said compromise is not valid in the eye of law. Hence, he sought for rejection of Compromise Petition.

4. Heard arguments from both sides.

5. The following points would arise for Court consideration:-

(1) Whether the compromise petition is maintainable filed by plaintiffs and 1st defendant?

(2) What Order?

6. Findings to the above points are as follows:-

Point No.1 : In the Affirmative

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

REASONS

7. **Point No.1:-** In order to invoke the provisions of Order XXIII Rule 3 of C.P.C., the following conditions to be satisfied. They are as follows:-

(a) There should be a lawful agreement or compromise,

(b) Said compromise has to be in writing and signed by the parties.

(c) The compromise must be recorded by the Court.

(d) The defendant should satisfy the plaintiff in respect of the whole or any part of the subject matter, in which event no writing signed by the parties is required.

(e) A decree on such agreement, compromise or satisfaction can be passed so far as it relates to the parties to the suit, but may extend to a special matter, which is not the subject matter of the suit.

The Hon'ble High Court of Karnataka in **M/s.Renaissance Holdings and Developers Pvt. Ltd. Vs. Smt.C.R.Rajamma & Others**, (Writ Petition No.13101/2020 and Writ Petition No.13024/2020), wherein the Hon'ble High Court of Karnataka held as under:-

“(a) In a suit for decree of partition ordinarily it is opened to some of the parties to enter to a

compromise in respect of all or any of the properties, of course, subject to the rider that the same shall not prejudice the interest of other stakeholders who are not parties to such compromise; the person(s) upon whom the interest in the subject property devolves by virtue of compromise would only stand in the shoes of parties to be compromise and that who are not signatories or not affected by the same, even remotely; that being the position, the impugned order refusing to record partial compromise in terms of parties and property is unsustainable.”

The Hon'ble High Court of Karnataka in the above said Judgment further held as under:-

“(f) Finally, one more thing needs to be stated; in all civilized jurisdictions there is a moment for favouring amicable settlements of disputes; even there are such legislative measures for giving effect to the same; the impugned order abhors the same; if some of the parties want to amicably settle the dispute inter se, Courts ordinarily should not come in the way unless such a settlement causes prejudice to others, which is not the argued case here; after all, the settlement intended to be brought by the compromise in question, not only will not affect the interest of respondent No.6, but shall be subject to final outcome of the suit, where parties may invoke the doctrine of equity; viewed from any angle Court below is not justified in refusing to recognize and record the compromise in question.”

8. In the present case, on reading of entire terms and conditions of compromise petition, it will

not affect the rights and interest of defendant No.3 and no prejudice will be caused to the defendant No.3. The compromise took place between the plaintiffs and defendant No.1 appears to be voluntary and lawful and said compromise petition is maintainable in respect of their rights over the suit schedule property if they have any existing right. Accordingly, Point No.1 is answered in the Affirmative.

9. **Point No.2** :- In view of the above discussion, this Court proceed to pass the following:-

ORDER

The compromise petition filed U/O.XXIII Rule 3 of C.P.C., is hereby **allowed/accepted** subject to out come of the suit.

Prl. Civil Judge & JMFC.,
Nanjanagudu.

ORDER ON IA.NO.3

The Defendant No.3 has filed application U/o 6 Rule 17 of C.P.C., seeking permit him to amend the written statement and sought for counter claim that he is the owner of 'A' schedule property and also sought for consequential relief of Permanent Injunction.

2. In the affidavit filed in support of IA.No.3 the Defendant No.3 has stated that

the plaintiffs have filed this suit for Declaration and Permanent Injunction. He has already filed his written statement. While filing written statement some relevant facts has not been stated and recently he came to know the said facts. Hence, he sought for allow the application. He further stated that if the application is allowed nature of the suit will not be changed. Accordingly, he sought for allow the application.

3. After receipt of application the plaintiffs have filed objection by contending that application is not maintainable either under law and on facts. The defendant No.3 has filed written statement on 27.06.2024 and before delivering his defence he should file counter claim and after filing written statement he cannot incorporated the relief of counter claim and he has no cause of action to file the said relief. On all these grounds and other grounds he sought for rejection of application.

4. Heard both sides on application.

5. The learned counsel for plaintiffs has relied one decision i.e., **Indira Bhai Vs. Madhusoodanan dated 20.10.2010** by the Hon'ble Kerala High Court.

6. The following points would arise for consideration;

1) Whether the Defendant No.3 has made out grounds to allow the application?

2) What Order?

7. 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

8. **Point No.1:-** Admittedly, the plaintiffs have filed this suit for Declaration and consequential relief of Permanent Injunction. After service of summons the Defendant No.3 has filed written statement on 27.06.2024. After filing written statement the Defendant No.3 has filed application seeking permission to incorporate the relief of Declaration by way of counter claim in the written statement.

9. The Hon'ble Kerala High Court relied upon by the learned counsel for plaintiffs clearly held that "the cause of action had accrued to the defendant before the defendant had delivered his defence or before the time limited for delivering his defence has expired." In

the present case after filing written statement that too after delivering his defence the Defendant No.3 has sought for counter claim stating that he is the owner of property mentioned in the application. As stated above the Defendant No.3 has not seek counter claim before delivering his first defence. Moreover the plaintiffs have already sought for Declaration in respect of very same property and if they failed to prove their ownership the plaintiffs have not entitled any relief. Hence, the grounds urged in the application are not satisfied and the Defendant No.3 has not made out any grounds to allow the application. Accordingly, Point No.1 is answered in the Negative.

10. **Point No.2** :- In view of above said discussion, this court proceed to pass the following;

ORDER

IA.No.3 filed by the Defendant No.3 is hereby rejected.

No order as to cost.

For Issues. Call on: 20.02.2026.

Prl. Civil Judge & JMFC.,
Nanjanagudu.