

KAMS710015022018



**IN THE COURT OF CIVIL JUDGE AND JMFC,**  
**AT T.NARASIPURA, MYSURU**

**PRESENT**

**SRI. CHETHAN ANNADANI MANJUNATHA, B.A., LL.M.,**  
**Civil Judge & J.M.F.C.,**  
**T.Narasipura**

**DATED THIS THE 30<sup>th</sup> DAY OF MAY 2023**

**O.S./263/2018**

**PLAINTIFFS** :: Venkatesha and others  
[By : Sri.S.R., Advocate]

**V/s**

**DEFENDANTS** :: Rangaswamy and others  
[By : Sri.H.N.B.N., Advocate]

**PARTIES TO I.A.No.6**

**APPLICANT/3<sup>RD</sup> PLAINTIFF** :: Rangaiah

**V/s**

**OPPONENT/DEFENDANTS** :: Rangaswamy and others

**: ORDERS ON I.A.No.6 :**

During the stage of plaintiff evidence, the plaintiff No.3 has filed IA.No.6 under Order 6 Rule 17 R/W Section

151 of C.P.C seeking to incorporate the proposed amendment.

2. In the affidavit accompanying the said application sworn in by the plaintiff No.3, it is submitted that, the father of the plaintiffs is the absolute owner of the suit schedule property by virtue of the land granted by the Land Tribunal in LRF Case No.407/1975-76. Thereafter, he was issued Form No.10 on 28.04.1981. Since then the father of plaintiffs was in possession as occupant of the said property. However, on 09.06.1975, the opponents in the proceedings before the Land Tribunal sold the land measuring 1 acre 10 guntas by virtue of the sale deed. As such, it is necessary to cancel the said sale deed as null, void and not binding upon the plaintiffs, as the sale deed was executed during the pendency of the said proceedings before the Land Tribunal was pending for adjudication. If the said application is allowed, no prejudice would be caused to the defendants. Hence, prayed to allow the application.

3. Per contra, the defendant No.2 has filed objection to the said contending that the very proposed amendment sought by the plaintiff will change the nature of the suit, as the present suit is for Permanent Injunction and proposed amendment is for declaratory relief. Further contended that, the earlier suit filed by the plaintiff for the

relief of permanent injunction was dismissed by this Court, against which, the plaintiff preferred an appeal which was decreed in favor of the plaintiff. Thereafter, the defendants filed second appeal before the Hon'ble High Court of Karnataka which is pending for adjudication. As such, the present application cannot be sustained. Hence, prayed to dismiss the application.

4. Heard both counsels on IA.No.6. I have perused the records of the case on hand, carefully and meticulously.

5. The points that arise for my consideration are as under:-

- 1. Whether the plaintiff No.3 has made out sufficient grounds to allow the IA.No.6 ?**
- 2. What order ?**

6. My findings on 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:** It is the case of the plaintiffs that, the suit schedule property is the absolute property of their father by virtue of land granted by the Land Tribunal in LRF No.407/1975-76, when the case was pending before the Land Tribunal, the opponents in the proceedings before the Land Tribunal by name Narayana Dixit and his LRs i.e., Rangaiah have sold 1 acre 10 guntas of land by virtue of sale deed. As such, the said sale deed has to be held null and void. Hence, he intends to amend the plaint by incorporating the declaratory relief.

8. On careful perusal of the objection filed by the defendants, at no point of time, the defendants have denied the execution of alleged sale deed dated 09.06.1975 in respect of land measuring 1 acre 10 guntas. Since the Land Tribunal has passed an order in favor of the plaintiffs and in the said proceedings granted land to the father of the plaintiffs by name Gode Venkataiah, S/o. Chikkadasaiah on 19.07.1976 and also granted Form No.10 on 28.04.1981, it is necessary to seek the relief of declaration to set-aside the sale deed dated 09.06.1975 executed by Narayana Dixit and others. In the absence of specific declaratory relief of canceling the sale deed, the Order passed by this Court is not fruitful. The proposed amendment will not change the nature of the suit, rather it will help this court in determining the real dispute in controversy between the parties to the suit. Considering

the facts and circumstances of the case together with the proposed amendment sought in the present suit, this court is of the view to allow the proposed amendment. As such, I have answered, this point in the **Affirmative.**

9. **POINT NO.2** : For the aforesaid reasons, I proceed to pass the following;

**:: ORDER ::**

**The IA.No.6 filed by the plaintiff No.3 under Order 6 Rule 17 R/W Section 151 of C.P.C is hereby allowed.**

(Dictated to stenographer directly on computer and computerized by her, corrected, signed and then pronounced by me in the open Court on this the **30<sup>th</sup> day of May, 2023**).

**(SRI.CHETHAN ANNADANI MANJUNATHA)  
CIVIL JUDGE & JMFC.,  
T.NARASIPURA.**