

KARC310098782021



Presented on : 23-10-2021
Registered on : 23-10-2021
Decided on : 13-10-2022
Duration : 0 years, 11 months, 21 days

IN THE COURT OF THE PRL CIVIL JUDGE AND J.M.F.C.,
LINGSUGUR

Present: Sri. Vinayak Mayannavar,
B.A.,LL.B.
Prl Civil Judge & J.M.F.C., Lingsugur.

Dated this the 13th day of October 2022

Original Suit No.151/2021

Plaintiff: Gaddemma W/o Sabanna Balaganti,
Age: 44 years, Occ: Household work,
R/o: Kuppigudda Village.
Tq: Lingasugur.Dist: Raichur.

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

V/s

Defendant: Gaddemma W/o Devappa Dharooji,
Age: 56 years, Occ: Household work,
R/o:Kuppigudda village ,
Tq: Lingasugur. Dist: Raichur.

(By Sri.N.L.H., Advocate)

J U D G M E N T

The Plaintiff has filed the present suit for the relief of declaration that she is the absolute owner of the suit property. The plaintiff has also prayed for the relief of permanent injunction against the defendant.

2. The brief facts of the plaintiff's case are as under:

It is case of the plaintiff that the plaintiff is the owner and in possession of the suit properties bearing Sy.No.64/2B measuring 1 acre of land out of total 5 acre of land and Sy.No.64/2A measuring 1 acre of land. The plaintiff has further contended that her father by name Timmappa was having 9 acre of land in Sy.No.64/2. On the death of the said Timmappa the said land was mutated in the name of mother of the plaintiff by name Duragamma. The mother of the plaintiff i.e. Duragamma has sold 4 acre of land out of 9 acre of land on 15-05-1974 in favour of the husband of the defendant i.e. Devappa. The said Devappa by colluding with the revenue authorities has mutated his name for 6 acre of land as per the mutation dated 14-04-1991.

3. It is further case of the plaintiff that the defendant and her husband Devappa are not related to the plaintiff's family. The said Devappa stating that he is the son of brother of the Timmappa has mutated his name to the 6 acre of land.

4. It is further case of the plaintiff that the husband of the defendant i.e. Devappa has also mutated his name to the 1 acre of suit land on 23-07-1998 by colluding with the revenue authorities. On 15-03-2021 the defendant has obstructed the plaintiff's possession over the suit properties. On the said material grounds the plaintiff has prayed for a decree in her favour.

5. In pursuance of the suit summons the defendant even though appeared through her counsel she has not filed any written statement denying the case of the plaintiff.

6. On the basis of materials available on record the following points arise for my consideration.

POINTS

1] Whether plaintiff is entitled for the reliefs as claimed by her in the pliant?

2] What order or decree?

7. The plaintiff in order to prove her case got examined herself as PW-1. She got marked in all 39 documents as per Ex.P-1 to 39. The plaintiff has also got examined one witness by name Chandappa as PW-2.

8. On the other hand the defendant remained without any contest.

9. Heard, the arguments.

10. On considering the materials placed on record, my findings on the above points are as under:-

Point No.1 :- In the Affirmative.

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

REASONS

11. Point No. 1:- The PW-1 and 2 have reiterated the plaint averments in their evidence. The evidence of the PW-1 and 2 remained without any challenge. In the documentary evidence produced by the plaintiff Ex.P-1 to Ex.P-6 are the RTCs of suit item No.2 property bearing Sy.No.64/2A measuring 1 acre of land standing in the name of husband of the defendant i.e., Devappa S/o Kuppayya for the year 2011 to 2017. Ex.P-7 to Ex.P-9 are the RTCs of suit item No.2 property bearing Sy.No.64/2A measuring 1 acre of land standing in the name of the defendant for the year 2017 to 2020.

12. Ex.P-10 to Ex.P-18 are the RTCs of suit item No.2 property bearing Sy.No.64/2A measuring 3 acre of land

standing in the name of the plaintiff i.e., Gaddemma W/o Sabanna for the year 2011 to 2020.

13. Ex.P-20 to Ex.P-24 are the RTCs of Sy.No.64/2B measuring 5 acre of land standing in the name of husband of the defendant for the year 2011 to 2016. Ex.P-25 to Ex.P-28 are the RTCs of Sy.No.64/2B standing in the name of defendant for a land measuring 5 acre for the year 2016 to 2020.

14. Ex.P-19 is the RTC of Sy.No.64/2 measuring 9 acre of land standing in the name of plaintiff for 2 acre 35 gunta, in the name of defendant for an area measuring 38 gunta and 4 acre 33 gunta of the year 2021-2022.

15. Ex.P-29 is the certified copy of sale deed dated 15-05-1974. From the said document it appears that one Duragamma W/o Timmappa i.e., mother of the plaintiff has sold 4 acre of land out of 9 acre of land in Sy.No.64/2 in favour of one Devappa S/o Kuppayya i.e., husband of the defendant.

16. Ex.P-30 is the certified copy mutation extract where from it appears that the Duragamma has released her rights in favor of the plaintiff for an area measuring 3 acre and for the husband of the defendant for 1 acre of land in Sy.No.64/2A totally measuring 4 acre of land. Ex.P-31 is the

encumbrance certificate where from it appears that on 15-05-1974 the Duragavva W/o Timmappa has sold 4 acre of land out of her 9 acre of land in Sy.No.64/2 in favour of one Devappa S/o Kuppayya.

17. Ex.P-32 is the certified copy of RTC of the year 1988 of Sy.No.64/2. From the said document it appears that out of 9 acre of land 4 acre land was standing in the name of Duragavva W/o Timmappa and 5 acre land was standing in the name of Timmappa S/o Kuppayya. Ex.P-33 is the certified copy of RTC of Sy.No.64/2A of the year 1993 standing in the name of Duragavva W/o Timmappa for 4 acres after that in the name of Gaddemma W/o Sabanna i.e., plaintiff for 3 acre of land and in the name of Devappa for 1 acre land. Ex.P-34 is the Genealogy tree of the plaintiff.

18. Ex.P-35 is the certified copy of RTC of the year 1973-1974 for Sy.No.64/2 measuring 9 acre of land standing in the name of Timmappa S/o Kuppayya Telagar. Ex.P-36 is the certified copy of RTC of Sy.No.64/2A measuring 3 acre of land standing in the name of plaintiff for the year 1998 to 2000. Ex.P-37 is the mutation extract. From the said document it appears that the name of defendant is appeared after the name of her husband. Ex.P-38 is the certified copy mutation extract. From the said document it appears that as per the partition took place about 15 to 20 years back the land measuring 9 acre out of Sy.No.64/2A standing in the name of

Duragavva W/o Timmappa was mutated as per the application in the name of Devappa S/o Kuppayya for 6 acres of land and in the name of Duragavva W/o Timmappa for 3 acres of land. Ex.P-39 is the RTC of Sy.No.64/2 land measuring 9 acres standing in the name of plaintiff for 2 acre 35 gunta and in the name of defendant for an area measuring 38 gunta and 4 acre 33 gunta for the year 2021 to 2022.

19. On perusal of the records it appears that the Duragavva W/o Timmappa was having 9 acre of land in Sy.No.64/2. She appears to be sold only 4 acre of land in favour of the husband of defendant through a sale deed dated 15-05-1974. The remaining 5 acre of land was remained with the said Duragavva i.e., mother of the plaintiff. On the base of the mutation dated 14-04-1991 marked as per ex P-38 the name of the mother of the plaintiff was mutated for 3 acre of land and name of the husband of the plaintiff was mutated for the land measuring 6 acres in survey number 64/2. The said mutation appears to be against the registered sale deed document. Another mutation dated 23/07/1998 marked as per Ex P-30 shows that name of the plaintiff was mutated to the 3 acre of land and name of the husband of the defendant was mutated for 1 acre of land from the name of mother of the plaintiff to the land bearing survey number 64/2 A. The said mutations appear to be against the registered sale deed document.

20. It is the case of the plaintiff that her mother was having 9 acre of land out of that she has sold only 4 acre of land in favour of the husband of the defendant. The remaining 5 acre of land was left with the plaintiff. The husband of the defendant has illegally mutated his name to the 6 acre of land in survey number 64/2.

21. Considering the records the mutation produced by the plaintiff as per ex p-30 and 38 appears to be not based on any acceptable materials. The said mutations appear to be against the registered sale deed of the husband of the defendant. The defendant has not come forward to show the legality of the said mutation entries. Hence under the circumstances the case of the plaintiff appears to be more probable one. The suit properties appears to be given survey number 64/2 by joining its sub numbers. In the RTC of the suit properties after joining the survey number 64/2A and 64/2B it appears that the survey number 64/2 measures totally 9 acre of land. In the said land 2-35 gunta of land is only shown in the name of the plaintiff. The name of the defendant is shown for 38 gunta and 4 acre 33 gunta. Out of 9 acre 14 gunta shown as Karab as per the RTC of the year 2021-22 marked as per Ex P-39.

22. Hence in view of my above discussions and considering the materials on record I am of the opinion that the plaintiff has made out a case in her favour. The plaintiff after sale of the 4 acre of land by her mother is entitled for the remaining

5 acre of land. But the revenue records are showing only 2 acre 35 gunta of land in the name of the plaintiff. The defendant has not appeared and denied the case of the plaintiff. The materials on record shows that the name of the defendant is mutated for more than 4 acre of land i.e. 5 acre 31 gunta of land. The same appears to be without any base. Hence subject to phot karab and subject to deducting the land sold by the mother of the plaintiff, the plaintiff is entitled for the remaining land in the suit survey number 64/2. Hence in that view of the matter I am of the opinion that the plaintiff has proved her ownership to the suit properties. Considering the case of the plaintiff I am of the opinion that the plaintiff has made out a case of interference also. Hence in that view of the matter I answered point no-1 in the Affirmative.

23. POINT No.2:- In view of my findings to the above point no-1, I proceed to pass the following:

ORDER

Suit of the plaintiff is decreed with cost.

The plaintiff is declared as owner of the suit properties.

The plaintiff is entitled for remaining 5 acre of land after deducting the 4 acre of land sold in

favour of the husband of the defendant in survey number 64/2 out of 9 acre of land.

The defendant or any body claiming through her are hereby restrained by an order of permanent injunction from interfering with the possession of the plaintiff over the suit properties.

Office is hereby directed to draw decree accordingly.

Sd/-

Prl Civil Judge and JMFC.,
Lingsugur.

ANNEXURE

LIST OF WITNESSES EXAMINED ON BEHALF OF PLAINTIFF

PW.1	:	Gaddemma W/o Sabanna
PW.2	:	Chandappa S/o Amarappa

LIST OF DOCUMENTS EXHIBITED FOR PLAINTIFF

Ex.P-1 to 28	:	RTCs.
Ex.P-29	:	C/C of sale deed dated 15-05-1974
Ex.P-30	:	Mutation extract

Ex.P-31	:	Encumbrance certificate
Ex.P-32 & 33	:	C/C of RTCs
Ex.P-34	:	Genealogical tree
Ex.P-35 & 36	:	C/C of RTCs
Ex.P-37 & 38	:	Mutation extracts
Ex.P-39	:	RTC

LIST OF WITNESSES EXAMINED ON BEHALF OF DEFENDANT

Nil

LIST OF DOCUMENTS EXHIBITED FOR DEFENDANT

Nil

Sd/-

Prl. Civil Judge and JMFC.,
Lingsugur.

(Judgment pronounced in the open court vide separate sheet)

ORDER

Suit of the plaintiff is decreed with cost.

The plaintiff is declared as owner of the suit properties.

The plaintiff is entitled for remaining 5 acre of land after deducting the 4 acre of land sold in favour of the husband of the defendant in survey number 64/2 out of 9 acre of land.

The defendant or any body claiming through her are hereby restrained by an order of permanent injunction from interfering with the possession of the plaintiff over the suit properties.

Office is hereby directed to draw decree accordingly.

Prl. Civil Judge and JMFC.,
Lingsugur.