

**IN THE COURT OF THE PRL. CIVIL JUDGE & J.M.F.C., AT
KANAKAPURA**

**PRESENT : Smt.Rashmi.M. L.L.B., L.LM.,
Prl. Civil Judge and JMFC, Kanakapura.**

Dated: 20th day of June 2015

O.S.No.236/2014

Plaintiff:

Smt. Doddamma
W/o Doddaiah
Aged about 55 years
R/at Kelagala Beedhi
Harohalli
Harohalli hobli
Kanakapura Taluk
Ramanagara District.

(Rep. by Sri. R.C., Advocate)

-V/s-

Defendants:

1. Smt. Chikkamasanamma
D/o Late Doddauragaiah
Aged about 85 years
2. Smt. Chowdamma
D/o Chikkamasanamma
Aged about 65 years

3. Smt. Munilakshamma
D/o Chikkamasanamma
Aged about 63 years
4. Smt. Venkatalakshamma
D/o Chikkamasanamma
Aged about 60 years
5. Sri. Muniraju
S/o Chikkamasanamma
Aged about 58 years
6. Smt. Devamma
W/o Muniraju
Aged about 43 years
7. Kum. Pallavi
D/o Muniraju
Aged about 23 years
8. Sri. Kantharaju
S/o Muniraju
Aged about 20 years
9. Kum. Latha
D/o Muniraju
Aged about 17 years
10. Kum. Ranjitha
D/o Muniraju
Aged about 15 years

Defendants No.9 and 10 since minors represented by their mother and natural guardian defendant No.6 Smt.Devamma.

11. Smt. Lakshamma
D/o Late Smt.Sakamma
Aged about 58 years
12. Sri. Krishna
S/o Lakshamma
Aged about 28 years
13. Smt. Mariyamma
D/o late Puttamma
Aged about 60 years
14. Sri. C.M. Revanna
S/o Mariyamma
Aged about 39 years
15. Smt. Yashoda
W/o C.M.Revanna
Aged about 35 years
16. Master Tejas
S/o C.M. Revanna
Aged about 7 years
17. Master Poornachandra
S/o C.M. Revanna
Aged about 6 years

Defendants No.6 and 17 since minors represented by their mother and natural guardian Smt.Yashoda.

Defendants 1 to 17 are R/at Harohalli Village
Harohalli Hobli
Kanakapura Taluk
Ramanagara District.

18. Sri. L.Gopal Gowda
S/o L.H.Lingegowda
Aged about 38 years
R/at Lakshmipura
Ramanagara
Ramanagara District.

**(Defendant No.1 to 10 Rep.by
Sri. V.S.R., Advocate)
(Defendant No.11 to 17 Rep by
Sri. A.M.K., Advocate)
(Defendant No.18 Exparte)**

Nature of the suit : Declaration & Perment
Injunction Suit

Date of institution of the suit : 07-06-20014

Date of the commencement of
recording of the evidence : 10-11-2014

Date on which the Judgment
was pronounced : 20-06-2015

Total duration : Years Months Days
01 00 13

JUDGMENT

The plaintiff has filed this suit for judgment and decree for declaration, declaring that she is the absolute owner in lawful possession and enjoyment of the suit schedule properties and to declare that the alleged sale agreement dated:08-05-2014 is not binding upon her to restrain the defendants or anybody on their behalf from interfering with the plaintiff's possession over the suit schedule properties, to award costs and such other reliefs.

2. The plaint averments are as follows:

It is the case of the plaintiff that the plaintiff is the absolute owner in lawful possession and enjoyment of the land in Sy.No.305/2 measuring 2 acres 14 guntas including karab and the land in Sy.No.301/2 measuring 1 acre 2 guntas including karab, situated at Harohalli Village, Harohalli Hobli,

Kanakapura Taluk, Ramanagara District. The suit schedule properties originally belonged to one Puttaiah @ Mashanaiah and he had four children namely, 1.Doddaiah, the husband of the plaintiff, 2.Puttaswamy, 3.Gowramma and 4.Raju. After the death of Puttaiah @ Mashanaiah, his 3 sons have partitioned their ancestral and joint family properties. Subsequently, the husband of the plaintiff namely Doddaiah due to his old age, executed settlement deed by including the suit schedule properties. The said Puttaswamy (the brother of the husband of plaintiff had executed registered sale deed in favour of the plaintiff in the year 1977 with respect to the land in Sy.No.305/2 measuring 1 acre 29 guntas. Further, on 23-7-1993 the said Raju (plaintiff's husband brother) had sold his share of land in Sy.No.305/2 measuring 26 guntas and in Sy.No.301/2 measuring 1 acre 1 gunta, totally 1 acre 27 guntas in favour of the plaintiff under a registered sale deed. Thus she had acquired the lands through settlement deed the land in Sy.No.305/2 measuring 26 guntas and in Sy.No.301/2 measuring 1 acre 02 guntas. Subsequently, the khatha and pahani for the said lands effected in her name. Thus, the suit schedule properties are the self-acquired properties having acquired through settlement deed and through registered sale

deeds. The 1st defendant has filed an appeal against the plaintiff in RA(LKP):684/2006 before the Assistant Commissioner, Ramanagara against the katha made out in her name and in the said proceedings by creating and concocting false documents and by colluding with the revenue officials, the 1st defendant got cancelled the katha made in the name of the plaintiff. Subsequently, the first defendant has filed a Civil suit in O.S.No.31/2005-2006 against the plaintiff before this Court, and it is pending for consideration. After knowing the said fact, the defendants No. 11 and 13 herein have filed a Civil suit in O.S.No.438/2010 against the first defendant and the plaintiff herein seeking for partition for their illegal gains. Against the said orders of the Assistant Commissioner, Ramanagara in RA (LKP) 684/2006, the plaintiff herein has preferred a Revision Petition before the Deputy Commissioner, Ramanagara in R.P.No.127/2007-08 and the said appeal has been disposed off on 27-6-2010 in favour of the plaintiff. The defendants have no manner of any right, title or interest nor possession whatsoever over the said properties. But the defendants have colluded together and by creating and concocting false documents and by taking advantage of the alleged khatha standing in the name of 1st

defendant made earlier, the defendants 1 to 17 have illegally sold away the suit schedule properties in favour of the defendant No.18 through registered sale agreement dated:08-05-2014. The said sale agreement is null, void and ab-initio under law and is not binding on the right and title of the plaintiff over the suit schedule properties. On the basis of the alleged sale agreement, the defendant No.17 is making efforts to alienate the suit schedule properties to others. Hence, the present suit.

3. The court summons have been served on the defendants, the defendant No.18 has not put up his appearance. Hence, defendant No.18 has been placed exparte. Further defendants No.1 to 17 eventhough have put their appearance they have not filed their written statement. Hence, written statement of the aforesaid defendants No.1 to 17 has taken as not filed.

4. Heard.

5. The following points arise for my consideration:

1. Whether the plaintiff has made out a ground for the relief prayed by her?

2. What order or decree?

6. The aforesaid points are answered as follows:

POINT NO.1: In Affirmative

POINT NO.2: As per the final order for the following;

REASONS

7. POINT NO.1: It is the specific case of the plaintiff that she is the absolute owner in lawful possession enjoyment of the suit schedule properties Sy.No.305/2, measuring 2 acres 14 guntas and land bearing Sy.No.301/2 measuring 1 acres 2 guntas including karab which is morefully described in schedule. The suit schedule properties originally belonged to one Puttain @ Mashanaiah. After his death his 3 sons partitioned the suit schedule properties. Subsequently, her husband Doddaih due to his old age executed a settlement deed including suit schedule property, wherein 25 guntas in Sy.No.305/2 came in possession of the plaintiff. Thereafter Puttaswamy executed a registered sale deed in favour of the plaintiff in the year 1977 with respect to land Sy.No.305/2 measuring 29 guntas. On 23-07-1993 Raju had sold his share in Sy.No.305/2 measuring 26 guntas and 1 acre 2

guntas in Sy.No.301/2. Totally 1 acre 27 guntas was sold the plaintiff under a registered sale deed. She acquired 25 guntas in Sy.No.305/2, 1 acre 2 guntas in Sy.No.302/1. The suit schedule properties are her self-acquired properties through settlement deed and sale deeds. The 1st defendant on the basis of concocted documents had filed RA(LKP) 684/2006 before Assistant Commissioner Ramangara against the khatha made out in the name of the plaintiff. In collusion with the revenue authorities he got cancelled the kahta which stood in the name of the plaintiff. Thereafter in O.S.No.1/2005-2006 before this Court pending adjudication. The defendants No.11 and 13 have filed O.S.No.438/10 against the 1st defendant and the plaintiff seeking partition for the illegal gains. The plaintiffs have preferred an appeal before the Deputy Commissioner Ramanagara in RP No.127/2007-2008 which was disposed of in favour the plaintiff on 27-06-2010. The plaintiff is the absolute owner and enjoinder of the suit schedule properties. The defendants No.1 to 17 have no manner of right title over the said properties have sold the suit schedule properties in favour of the defendant No.18 under registered sale deed dated:08-05-2014. The said sale agreement is null and void and ab-initio under law and is not

binding upon the plaintiff over the suit schedule properties. The defendant No18 is making effort to alienate the suit schedule property to other. Hence, this suit seeking declaration and other reliefs.

8. The plaintiff in support of her case has got herself examined as Pw-1 and in lieu of her examination in chief she has filed her affidavit wherein she has reiterated the facts stated in the plaint. She has got marked 10 documents namely registered sale deed dated:02-07-1977, Sale deed dated:23-07-1977 executed by Raju S/o Puttaiah in favour of Doddamma i.e., plaintiff herein with respect to 26 guntas in Sy.No.301/2, mutation register extract regarding the property which stands in the name of the plaintiff herein in Sy.No.305/2 and 301/2, RTC extract pertaining to properties in Sy.No.305/2 and 301/2. Agreement of sale dated:08-05-2014 executed by the defendants herein in favour of the 18th defendant with respect to property bearing Sy.No.301/2 measuring 1 acre 2 i.e., "A" suit schedule property. Here it self it is pertinent for me to note that defendants No.1 to 17 have put up their appearance, but they have not filed their written statement and plaintiff has not been subjected to cross-

examination. As such it is can be safely said that the defendant No.1 to 17 are not disputing the fact they have sold “A” suit schedule property in favour of the 18th defendant under sale agreement dated:08-05-2014 the plaintiff has not furnished the certified copy of RP No. 127/07-08 passed by the Deputy commissioner Ramanagara in favour of the plaintiff. On the other hand the defendants who are fully aware of the allegation made by the plaintiff have chosen not to have cross examine Pw-1. As such, it is pertinent for me to note that the defendants are not disputing the fact that plaintiff is in peaceful possession and enjoyment of the suit schedule properties and they are interfering with the same. In view of the discussion made supra, I proceed **Point No.1 in the Affirmative.**

9. POINT NO.2 : In view of the above discussion, I proceed to pass the following:

ORDER

The suit of the plaintiff is decreed with cost.

The plaintiff is declared as the absolute owner in lawful possession of the suit schedule properties. Further the defendants are anybody

acting on their behalf are restrained from interfering with plaintiffs possession of suit schedule properties.

Draw decree accordingly.

(On-line Dictated given to the Stenographer, typed by him and corrected and pronounced by me in the open court on this **20th day of June 2015**).

**(SMT.RASHMI.M)
Prl.Civil Judge, &.J.M.F.C.
Kanakapura.**

ANNEXURE

1. List of witnesses examined by the plaintiff:

Pw-1 : Smt.Doddamma

2. List of documents produced by the plaintiff:

Exp-1 & 2 : Registered Sale Deeds

Exp-3 to 5 : Mutation Register Extracts

Exp-6, 7 to 9 : RTCs

Exp-10 : Certified Copy of Registered Sale
Deed

3. List of witnesses examined by the defendant:

-Nil-

4. List of documents produced by the defendant:

-Nil-

**Prl.Civil Judge, &.J.M.F.C.
Kanakapura.**