

**IN THE COURT OF THE ADDL. SENIOR CIVIL JUDGE & J.M.F.C., AT:
MAGADI.**

Present:

Sri. Hanumanth Satwik.,^{LL.M.}
Addl. Sr. Civil Judge & JMFC., Magadi.

DATED: THIS THE 10TH DAY OF JUNE, 2021

O.S.No.976/2014

Plaintiff : Ugraiah S/o late Hanumanarasiah,
Aged about 54 years,
R/at Devamachohalli Village,
Tavarekere Hobli – 562 130,
Bengaluru South Taluk,
Bengaluru District.

(By Sri. **N.S.S.**, Advocate)

--V/s--

Defendants : 1. Sri. Lakshminarasimhaiah,
S/o late Allappa,
Aged about 55 years.

2. Sri. Hanumanthaiah @ Hanumantharaya,
S/o late Allappa,
Aged about 46 years.

3. Sri.Kadrappa,
S/o Kuruda Narasimhaiah,
Aged about 48 years.

4. Sri. Ashwathanarayanappa,
S/o late Alagondappa,
Aged about 68 years.

Defendants No.1 to 4 are R/at
Devamachohalli Village,
Tavarekere Hobli – 562 130
Bengaluru South Taluk,
Bengaluru District.

5. Smt. Lakshamma W/o late Allappa,
Aged about 75 years,
R/at Devamachohalli Village,
Tavarekere Hobli,
Bengaluru South Taluk,
Bengaluru District.

(Defendants no.1, 2, 5 by Sri. **R.S.**, Advocate)
(Defendants no.3, 4 by Sri. **G.P.**, Advocate)

ORDER ON IA NO.VI

The present suit is for declaration of ownership and permanent injunction. The plaintiff further prays to declare the order of Assistant Commissioner, Bengaluru South Sub-Division dated:19-03-2012 as null and void and inoperative with respect to item no.1 to 3 of the suit schedule properties.

2. The present application has been filed by applicant no.1 to 6 praying to implead them as defendants in the present suit. It is the case of the applicants that one Chikkaalappa is the propositus of the family of plaintiff. Narasaiah, Ugraiah, Kadarappa, Hanumanthaiah and Maranna are the children of Chikkaalappa. He, the 2nd applicant and the father of applicant no.3 to 5 by name Veeranasaiiah are the children of Maranna. The said Veeranasaiiah died in the year 2007. The propositus of the family by name Ugraiah has 4 children. The father of plaintiff by name Hanumanarasaiiah is the son of Ugraiah. Plaintiff and defendant no.1 to 3 and 5 are the members of undivided joint family. They are in joint and constructive possession of the suit schedule properties. Taking undue advantage of the khatha which is standing in the name of

Hanumanarasaiah, the plaintiff filed this suit. Defendant no.3 has no independent rights over the suit schedule properties. In this circumstances, they are necessary parties to the present suit. In this regard the applicants pray as above.

3. The SPA holder of plaintiff in his objections contended that the applicants are not necessary parties to the present suit. The applicants have not produced any evidence to demonstrate their claim. The present application is filed to drag the proceedings. The SPA holder of plaintiff denied the application averments and prayed to reject the application.

4. Defendant no.3 and 4 in their objection contended that the applicants are not necessary parties. Oral partition has been effected between the family members and they are separately enjoying their respective shares. The present application is not maintainable. The applicants have not produced any documents to support their claim. In this regard defendant no.3 and 4 pray to reject the application.

5. Heard arguments of the counsel. The learned counsel for the applicants filed written arguments. I have perused the written arguments.

6. Considering the contentions of the parties, following points arise for my consideration.

1. Whether the applicants show that they are necessary parties to be impleaded as defendants in the present suit ?

2. What order?

7. My findings for the above points are as under.

Point No.1 : In the affirmative

Point No.2 : As per final order
For the following,

REASONS

8. **Point No.1:-** The present suit is filed by the plaintiff for the relief of declaration and permanent injunction. The plaintiff in the plaint submits that Ugraiah is the son of Chikkaalappa. The said Ugraiah inherited the suit schedule properties. Having regard to the plaint averments it is prima-facie clear that Ugraiah, the grandfather of plaintiff, is the son of Chikkaalappa. It is further, prima-facie clear that Ugraiah inherited the suit schedule properties.

9. Further having regard to the written statement of defendant no.3 and 4 it is prima-facie clear that suit schedule properties originally belonged to Chikkaalappa. The said Chikkaalappa has four sons by name Ugraiah, Hanumanthaiah, Kadarappa and Maranna. Thus, defendant no.3 and 4 in their respective written statements admitted that the suit schedule properties originally belonged to Chikkaalappa.

10. In the case at hand, the applicants claimed to be the heirs of Maranna, the son of Chikkaalappa. From the written statement of defendant no.3 and 4 it is prima-facie clear that Maranna is the son of Chikkaalappa and the suit schedule properties prima-facie belong to

Chikkaalappa. In the present case the SPA holder of plaintiff in the objections denied the relationship as alleged in the application. Be it stated, whether the relationship as mentioned in the application is true and genuine or not is the subject matter of trial. That apart, from the plaint and written statement of defendant no.3 and 4 it is prima-facie luminescent that the grandfather of plaintiff by name Ugraiah is the son of Chikkaalappa and the suit schedule properties were inherited properties. This being the case considering the issues that are involved in the present suit and having regard to the source through which the plaintiff is claiming title to the suit schedule properties, I am of the view that the presence of applicants is necessary to determine the suit completely and effectively. In this circumstances, the applicants have showed that they are the necessary parties to be impleaded as defendants to the present suit. Accordingly, point no.1 is answered in the affirmative.

11. **Point No.2:-** In view of reasons on point no.1, and in the interest of Justice and equity, I proceed to pass the following,

ORDER

IA No.VI filed U/o. I Rule 10 (2) R/w Sec.151 of CPC filed by the applicants is hereby allowed.

The plaintiffs are hereby directed to carryout amendment to the plaint adding applicant no.1 to 6 in the suit as defendants.

The parties to bear their respective costs.

(Dictated to the Stenographer directly on the computer, typed by him, corrected by me and then pronounced in the open court on this the **10th day of June 2021**)

(Hanumanth Satwik)
Addl. Sr. Civil Judge & JMFC.,
Magadi.