

**IN THE COURT OF THE PRL. CIVIL JUDGE & JMFC
AT MADHUGIRI**

Dated this the 03rd day of February 2022

:PRESENT:

SMT. H. SOWMYASHRI

B.A. LL.M

**Prl. Civil Judge & JMFC,
Madhugiri.**

O.S.No.308/2013

PLAINTIFFS : 1) Lakshmana,
S/o late Thimmaiah,
aged about 63 years,

2) Narasamma,
D/o late Thimmaiah,
W/o late Hanumantharayappa,
aged about 60 years,

Both are R/o Guruvaderahalli
Village, Kasaba Hobli,
Madhugiri Taluk.

(By Sri. SRR., Advocate)

Vs/-

DEFENDANT : Dr. Bheemaraju
S/o Hanumaiah
aged about 59 years
Working at Manjunatha Clinic
Near M.N.K. Kalyanamantapa
GBN Road, Madhugiri Town,
Madhugiri.

(By Sri. LBR., Advocate)



I.A.No.VII TO XV

Applicants :

- 1) H.R.Sreekantha
- 2) Smt. Shanthamma
- 3) H.R.Kavitha
- 4) Y.Parvathamma
- 5) R.P.Ramaiah
- 6) H.Swarup raj
- 7) K.A.Annapurna
- 8) Pavithra Prakash
- 9) H.G. Basavaraju

.... Impleading defendants

Vs/-

Opponents : Lakshmana & another

.... Plaintiffs

* * *

ORDERS ON I.A. VII TO XV FILED BY APPLICANTS
UNDER ORDER 1 RULE 10(2) OF C.P.C

These nine applications are filed by nine applicants praying this court to implead them as defendants in this case.

2. In the affidavit annexed to the I.A.No.VII, the applicant by name H.R.Sreekantha has stated that the plaintiffs have filed this suit for Declaration and Permanent Injunction in respect of the suit schedule Sy.No.5/2 measuring 2 acre 15 guntas situated at Guruvaderahalli. He has purchased site bearing No.47 measuring 30 x 80 feet having katha No.1225 formed



in the said Sy.No.5/2 which was converted vide Order No.ALNCR66/93-94, under Registered Sale Deed dated dated 26-11-1999 from the defendant in this case. On the basis of said Registered Sale Deed, katha was mutated in his name and he is in exclusive possession and enjoyment of the site No.47 formed in Sy.No.5/2. The plaintiffs have suppressed this fact and made false averments that Sy.No.5/2 is still agricultural land and they are cultivating said land are in exclusive possession and enjoyment.

3. The applicant by name Smt. Shantamma in I.A.No.VIII in her affidavit has stated that she is the purchaser of site bearing No.1 having katha No.1179 measuring 56x60 feet formed in Sy.No.5/2, under Registered Sale Deed dated 26-01-1999. Since the date of sale, she is in possession and enjoyment of the site No.1 formed in said Sy.No. and katha was also made out in her name by the TMC.

4. The applicant by name Smt. H.R.Kavitha in I.A.No.IX in her affidavit has stated that she is the purchaser of site bearing No.35 to 46, having katha No.1213 to 1224 formed in Sy.No.5/2 under Registered Sale Deed dated 26-11-1999. Since the



date of sale, she is in possession and enjoyment of the site No.35 to 46 formed in said Sy.No. and katha were also made out in her name by the TMC.

5. The applicant by name Smt. Y. Parvathamma in I.A.No.X in her affidavit has stated that she is the purchaser of site bearing No.47 having katha No.1225 measuring 90x195 feet formed in Sy.No.5/2 under Registered Sale Deed dated 26-11-1999. Since the date of sale, she is in exclusive possession and enjoyment of the site No.47 formed in said Sy.No. and katha was also made out in her name by the TMC.

6. The applicant by name Sri. R.P. Ramaiah in I.A.No.XI in his affidavit has stated that his daughter H.R.Anitha is the purchaser of site bearing No.23 to 34 having katha No.1201 to 1212 formed in Sy.No.5/2 under Registered Sale Deed dated 26-11-1999. Since the date of sale, she was in exclusive possession and enjoyment of the site No.23 to 34 formed in said Sy.No. and katha was also made out in her name by the TMC. After her death, he was forced to file O.S.No.184/2014 on the file IIIrd Addl. Sr. Civil Judge, Tumakuru which was decreed holding that he is the owner of those sites. Since then he is in exclusive



possession and enjoyment of those sites and katha was also made out in his name.

7. The applicant by name H.Swarupraj in I.A.No.XII in his affidavit has stated that he is the purchaser of site bearing No.6 having katha No.1184 measuring 40x60 feet formed in Sy.No.5/2 under Registered Sale Deed dated 26-11-1999. Since the date of sale, he is in exclusive possession and enjoyment of the site No.6 formed in said Sy.No. and katha was also made out in his name by the TMC.

8. The applicant by name Smt. K.A.Annapurna in I.A.No.XIII in her affidavit has stated that she is the purchaser of site bearing No.3 having katha No.1181 measuring 40x60 feet formed in Sy.No.5/2 under Registered Sale Deed dated 26-11-1999. Since the date of sale, she is in exclusive possession and enjoyment of the site No.3 formed in said Sy.No. and katha was also made out in her name by the TMC.

9. The applicant by name Smt. Pavithra Prakash in I.A.No.XIV in her affidavit has stated that she is the purchaser of site bearing No.5 having katha No.1183 measuring 40x60 feet formed in Sy.No.5/2 under



Registered Sale Deed dated 26-11-1999. Since the date of sale, she is in exclusive possession and enjoyment of the site No.5 formed in said Sy.No. and katha was also made out in her name by the TMC.

10. The applicant by name H.G.Basavaraju in I.A.No.XV in his affidavit has stated that he is the purchaser of site bearing No.9 having katha No.1187 formed in Sy.No.5/2 under Registered Sale Deed dated 26-11-1999. Since the date of sale, he is in exclusive possession and enjoyment of the site No.9 formed in said Sy.No. and katha was also made out in his name by the TMC.

11. It is further stated by the applicants that the plaintiffs have suppressed these facts and made false averments that Sy.No.5/2 is still agricultural land and they are cultivating said land and are in exclusive possession and enjoyment of the same. Since the applicants are absolute owners in possession and enjoyment of their respective sites formed in the suit Sy.No.5/2, are necessary parties as the plaintiffs have filed suit for Declaration of Title and Permanent Injunction with respect to the entire Sy.No.5/2.



Amongst these grounds, prayed to allow the applications.

12. In-spite of providing sufficient opportunities, plaintiffs have not filed any objection to any of the applications.

13. Heard, perused the records.

14. The points that arise for my consideration is as under :

1. Whether applicants in I.A.No.VII to XV have made out sufficient grounds to allow the applications ?

2. What order ?

15. My findings to the above points is as under:

Point No.1.... In the Affirmative

Point No.2.... As per final order

for the following :

REASONS

16. **POINT No.1** : Admittedly present suit came to be filed by plaintiffs against defendant for the relief of Declaration and Permanent Injunction in respect of the suit schedule property bearing Sy.No.5/2 measuring 2 acre 15 guntas including 2 guntas of



kharab land situated at Guruvaderahalli, Kasaba Hobli, Madhugiri Taluk. It is the contention of all the applicants that the suit schedule Sy.No.5/2 lost the character of agricultural land and before filing of the suit, the suit schedule Survey number was converted into non-agricultural purpose vide Order ALNCR.No.66/1993-94 dated 13-04-1994. The defendant formed a lay-out in the said Survey number and formed sites. The applicants are the purchasers of different sites formed in the said lay-out and they purchased the same under Registered Sale Deed dated 26-11-1999 and since the date of purchase they are the absolute owners in possession and enjoyment of their respective sites and katha were also made out in their respective names.

17. Perusal of plaint averments show that the plaintiffs have pleaded that the defendant had obtained a fraudulent document in the name and style registered power of attorney dated 23-12-1993 from their mother Smt. Ramakka and thereafter on the basis of said document, he applied for conversion of the suit land, obtained conversion order dated 13-04-1994 preferred lay-out plain to form sites in the suit schedule property. But it is their case that said



conversion order was obtained on the strength of fraud registered general power of attorney. The defendant in his written statement filed on 19-11-2013 has stated about the sites formed in the suit land and sale of those sites and he has given list of purchasers of the sites formed in the said layout. Perusal of record would shows that even after filing the written statement alongwith list of purchasers who purchased the sites in the suit schedule Survey Number, the plaintiffs have not chosen to implead them as parties. Also they have not chosen to file any objection to any of the above applications.

18. Since this is suit for Declaration and Permanent Injunction, applicants being the purchasers of sites formed in suit schedule survey number having interest over the same, made out sufficient grounds to allow the applications. The presence of applicants in this suit is necessary to adjudicate the matter in issue effectively and conclusively and in their absence effective adjudication is not possible. Hence, for the above said reasons, I answer point No.1 in the Affirmative.



19. **POINT No.2** : For the reasonings given above to point No.1, I proceed to pass the following:

ORDER

I.A. No.VII to XV filed by applicants under Order 1 Rule 10(2) of C.P.C are hereby allowed and are permitted to come on record as additional defendants. plaintiff is hereby directed to implead the applicants in I.A.No.VII to XV as defendants.

The plaintiff is hereby further directed to amend the plaint within 14 days from the date of this order and call for furnishing amended plaint and for written statement of applicants / additional defendants by 14-03-2022.

(Dictated to the stenographer directly on computer, corrected by me and then pronounced in open court on this **03rd day of February 2022**)

Sd/-
(Havalada Sowmyashri)
Prl. Civil Judge & JMFC,
Madhugiri.