

IN THE COURT OF PRL. CIVIL JUDGE & JMFC.,
AT SIRA

O.S.NO. 205/2012

Dated this the 22nd day of March 2019

PRESENT : Smt. Dhanalakshmi.R.,
B.Sc., LL.B.,
Prl. Civil Judge & JMFC., Sira

PLAINTIFF : A.V.Sambashivachar

/Vs/

DEFENDANTS: Jayamma & another

Parties to I.A. No.10

APPLICANT : A.V.Sambashivachar

/Vs/

OPPONENT : Jayamma & another

ORDERS ON I.A. NO.8

This is an application filed by plaintiff U/Or. XVI
Rule 6 of CPC to summon the Food Inspector,
Srirangapatna, Tahsildar Office, Mandya district to
produce the documents as stated in the application.

2. In the affidavit annexed to the application, plaintiff has stated that the documents which are mentioned in the application are necessary to prove the contentions raised in the plaint. Without the said documents, the plaintiff is not able to prove his case. Hence it is just and necessary to call for said documents. Hence, the present application.

3. The 1st defendant has filed objection contending that the plaintiff has not explained the reasons to summon the documents. The plaintiff has not filed any application to the concerned authorities and not filed any application under Right to Information Act to the Tahsildar Office, Srirangapatna and not obtained any endorsement that the documents cannot be given to the plaintiff. Hence, prays for dismissal of the application.

4. The following points that arise for consideration:

1. Whether plaintiff has made out sufficient grounds to summon the Food Inspector, Srirangapatna Tahsildar Office, Mandya district to produce the documents as stated in the application?

2. What order ?

5. Heard both sides and perused the records.

6. The above points are answered as under;

Point No.1 : In the Negative,
Point No.2 : As per Final Order
for the following:

REASONS

7. Point No.1: The plaintiff has filed the suit for declaration that he is the absolute owner and in possession of the suit property as he is the only legal heir of deceased Subbannachar and for consequential relief of permanent injunction. The suit property consists of two items. It is the case of the plaintiff that one Subbannachari is the propositor of the family of plaintiff. The said Subbannachari and his wife

Venkatalakshamma has got 2 children namely Yallamma and Subbannachar. The said Yallamma has got 3 children namely Jayamma, Rathnamma and plaintiff. The mother of the plaintiff and maternal uncle of the plaintiff namely Subbannachar expired. The sisters of the plaintiff are married and they are residing along with their husbands. The plaintiff was looking after Subbannachar during his life time. The suit properties are granted in the name of Subbannachar. During the life time of Subbannachar, he was in possession and enjoyment of suit property. Subbannachar was not married and he being the maternal uncle, he was looking after by the plaintiff during his life time. The said Subbannachar expired on 20-1-1997 leaving behind the plaintiff as his sole legal heir. Hence after the death of Subbannachar, the plaintiff when approached the revenue authorities to change the katha and pahani of the suit properties in

his name, he came to know that in the said revenue records, the name of the defendant is forthcoming. The defendant claiming to be the wife of Subbannachar has entered her name in the revenue records pertaining to the suit properties. The said Subbannachar was not married and he had no issues.

8.The defendant denied entire case of the plaintiff and contended that Subbannachar while working as tailor in the village of 1st defendant they fell in love with each other. Since their parents opposed their marriage, they have ran away from their house and got married at Seebi Narasimhaswamy temple of Tumakuru Taluk and they have lived as husband and wife. No issues were born out of their wed-lock. The said Subbannachar has executed Will dated 1-12-1993 in favour of 1st defendant bequeathing the suit property, as she being the wife . Hence as per the said Will, the 1st defendant got mutated her name in the revenue

records pertaining to the suit properties. Furtehr contended that she has sold item No.2 of the suit property by way of registered sale deed dated 28-1-2000 in favour of 2nd defendant.

9. The suit is at the stage of further chief examination of PW-1. On perusal of entire records it is seen that the relationship between the parties is in dispute. According to the plaintiff his maternal uncle Subbannachar has not married anybody and the plaintiff succeeded to the suit property as sole legal heir. According to the defendant No.1, she is the wife of Subbannachar and as per Will executed by him, she is in possession and enjoyment of item No.1 of the suit property. The present application is filed by the plaintiff to summon the Food Inspector, Srirangapatna Tahsildar Office, Mandya district to produce the documents such as old ration card relating to 1st defendant, ration card for the year 2011 to 2015, on

line ration card status of 1st defendant from 2015 till date and other relevant documents pertaining to Jayamma i.e. 1st defendant. As rightly contended by the defendant, the plaintiff has not produced any documents to show that he has approached the concerned authorities for issuance of said documents and same is denied by them. More over the plaintiff except stating that the said documents are necessary to prove his case, has not assigned any cogent reasons to call for the records. The burden is on the plaintiff to prove that he is the sole legal heir of deceased Subbannachar and he succeeded to the suit property. Hence the plaintiff has not made out any sufficient grounds to summon the documents. Hence, for the above said reasons, this point is answered in the **Negative.**

10. **Point No.2:** In view of finding on Point No.1, this court proceed to pass the following;

ORDER

**I.A.No.8 filed by
plaintiff U/Or. XVI Rule 6 of
CPC is dismissed .**

(Dictated to the stenographer, transcribed, computerized and printout taken by him, then corrected, signed and pronounced by me in the open Court on 22.3.2019)

Sd/-

(Smt. Dhanalakshmi R.),
Prl. Civil Judge & JMFC.,
Sira.

