

IN THE COURT OF SENIOR CIVIL JUDGE & JMFC,

KUDLIGI

PRESENT : NITIN YESHWANTH RAO, B.Com., LL.B., (Spl),

SENIOR CIVIL JUDGE AND JMFC.,

KUDLIGI

DATED THIS 24TH DAY OF SEPTEMBER 2018

ORIGINAL SUIT No. 6 OF 2015

PLAINTIFFS : -

1. Smt.Eramma w/o. Late. Revanagouda, aged about 60 years, agriculturist. ,
2. Goudra Rudragouda @ Rudreshgouda S/o. Late G.revanagouea, aged about 38 years, agriculturist.
3. Goudra Sureshgouda S/o.Late G.revanagouda, aged about 33 years, agriculturist,

all are residents of Ward No.12. Goudara Oni, Kudligi town ,
Kudligi Taluk, Ballari District.

(By Sri. G.Basavaraj, Advocate)

// V E R S U S //

DEFENDANT : -

G.Veeranagouda sonof Dodda basavanagouda, aged about 68 years, agriculturist ,R/o./ward No.11. Goudara Oni, Kudligi Ballari District

(By Sri. A.V.K. Advocate for defendant)

Date of Institution of suit	24-12-2014
Nature of the suit	For Declaration & injunciton
Date of commencement of recording evidence	17-07-2018
Date of pronouncing judgment	24-09-2018
Duration of suit	Years Months Days
	04 09 01

J U D G M E N T

- 1) This is a suit filed by the plaintiffs seeking declaration that they are the absolute owners of the suit schedule property and for the consequential relief of permanent injunction for restraining the defendant his men, agents, servants and all persons claiming through him from interfering with their possession and enjoyment of the suit schedule property.
- 2) Case of the plaintiffs in brief is as under :

One Sri. Halegoudara Gurusiddanagouda, the plaintiffs ancestor had two sons viz, Veerabasavanagouda and Chikkanagouda. The first son Veerabasavanagouda died unmarried. The second son Chikkanagouda had two

daughters and a son. Anasuyamma and Gangamma are the daughters while Revanagouda is the son. The said Revanagouda is none other than the husband of the first plaintiff and father of plaintiff No2 and 3.

Suit schedule property bearing Sy. No. 717A/1 measuring 1-50 acres situated at Kudligi village originally belonged to Halegoudara Gurusiddanagouda . The said Halegoudara Gurusiddnagouda @ Gurusiddappa was one of the joint pattandars and possessor of the land measuring 1-50 acres in Sy. No. 717/A totally measuring 5-43 acres. As the first son of Halegoudara Gurusiddanagouda died unmarried, the suit schedule property and the other properties of the said Halegoudara Gurusiddanagouda became absolute properties of Chikkanagouda. After his death, his two daughter's and his only son's names were entered in the R.O.R as joint owners and possessors. After the death of Chikkanagouda, the properties owned by

Revanagouda which were acquired from his ancestors were mutated in the names of plaintiff No.2 and 3 who were then minors by making their mother Smt. Eramma the first plaintiff herein as their guardian.

Plaintiffs further submitted that, one Chennabasavanaouda son of Veeranagouda who is the Junior paternal uncle of the defendant herein purchased 2.50 acres of land in Sy.No. 717 A/1 from Smt. Kogali Mallamma W/o. Kogali Nagaiah. Defendant's father Dodda Basavanagouda had two sons and two daughters. The first son is Veeranagouda the defendant herein and the 2nd son is Kotresh Gouda. Defendant and his elder brother partitioned their family properties under a registered partition deed dated 16-11-1974. However in the partition deed they falsely mentioned that the entire extent measuring 4.33 acres in Sy.No. 717A/1 was allotted to the share of the defendant.

The Revenue Inspector Kudligi without verifying the sale deed and only on the basis of the registered partition deed,

effected mutation in respect of the entire 4.33 acres land in favour of the defendant. The Revenue Inspector passed the said order behind the back of the plaintiffs. Plaintiffs on coming to know about the same, preferred Revenue Appeal before the Assistant Commissioner Hosapete. The A.C. however without looking into the documents produced by the first plaintiff and without taking into consideration the sale deeds through which plaintiff's father and uncle purchased only 2.50 acres in Sy.No. 717/A/1, dismissed the said Appeal on 21-1-2013 and directed the first plaintiff to approach Civil Court.

Defendant taking undue advantage of the orders passed by the A.C. Hosapete and so also of his name being reflected in the R.O.Rs tried to dispossess the plaintiffs from the suit land in the month of December 2014. Though, the plaintiffs resisted the illegal acts of the defendant, the defendant threatened to dispossess them at any costs. Constrained by the same and as the jurisdictional police did not initiate any action against the

defendant, plaintiffs instituted the instant suit seeking declaration and permanent injunction.

3) In response to the service of suit summons defendant appeared through his Counsel and filed his written statement wherein he denied the plaint averments and contended that the land bearing Sy. No. 717A/1 totally measuring 4.33 acres situated at Kudligi village is his ancestral property as his paternal Uncle viz, Sanna Basavanagouda purchased the same from its lawful owner Smt. Kogali Mallamma through a registered sale deed dated 1.12-1934. Eversince, the said Sanna Basvanagouda was in peaceful possession and enjoyment of the said land. In the family partition, the said land was allotted to the defendant's share and he has been in peaceful possession and enjoyment of the said land since the date of partition. Mutation has also been effected in his name.

4) On the basis of the title documents and revenue records, State Bank of Mysore, Kudligi has granted loan to the defendant

for the development of the said land. Plaintiff's appeal filed before the A.C. Hospet was dismissed on merits and the plaintiffs have not preferred any appeal before the Deputy commissioner Ballari. As the plaintiffs have no manner of any right, title and interest over the suit schedule property, the defendant prayed for dismissal of the plaintiff's suit.

5) On the basis of the above pleadings, following issues are framed:

ISSUES

1. Whether the plaintiffs prove that, they are the absolute owners in possession of the suit schedule property having inherited the same from their ancestor late Sri. Halegoudara Gurusiddanagouda @ Gurusiddappa to whom it was originally granted?
2. Whether the plaintiffs prove the alleged interference?
3. Whether the defendant proves that the suit Sy. No.717A/1 measuring 4.33 acres is his ancestral property and that the same has been allotted to his share in the family partition effected on 06.11.1974?
4. Whether the plaintiffs are entitled to the relief sought?
- 5.** What Order or Decree?

6) My findings on the above issues are as under :-

Issue No.1	: In the Negative
Issue No.2	: In the Negative
Issue No.3	: In the Negative
Issue No.4	: In the Negative.
Issue No.5	: As per final order for the following;

REASONS

7) **ISSUES No.1 :-** Plaintiffs to prove their case got the second plaintiff examined as PW-1 and got marked 9 documents as Ex.P-1 to Ex.P-9. Plaintiff No.2 Sri. Goudara Rudragouda who is examined as PW-1 reiterated the plaint averments in his affidavit filed in lieu of chief-examination. The certified copy of the registered sale deed dated 16-7-1934 and the translated version of same are marked as Ex.P-1 and P1(a) respectively. The mutation entry bearing MR No. 47/2002-2003 wherein the land measuring 4.33 acres is mutated in the name of the defendant is marked as Ex.P2. Encumbrance certificate pertaining to Sy.No. 717A/1 is

marked as Ex.P-3, the certified copy of the partition deed dated 11-11-1974 is marked as Ex.P4, certified copy of the R.O.Rs pertaining to the suit schedule property are marked as Ex.P-5, certified copies of the mutation entry bearing No:98/1982-83 is marked as Ex.P6, the certified copy of the Karnataka Revision Settlement Akarband pertaining to Sy.No. 717A/1 is marked as Ex.P7, the certified copies of the resettlement register & Survey sketch are marked as Ex.P8 and P9 respectively.

8) Defendant on the other hand neither cross-examined PW.1 nor did he adduce any evidence despite being given sufficient opportunity.

9) As already stated it is the case of the plaintiffs that the suit schedule property measuring. 1.50 acres was originally allotted to their ancestor Late Sri Halegoudara Gurusiddanagodua. After his death, the 2nd son and the two daughters of the said Halegoudara Gurusiddanagouda succeeded to the same. After the death of Chikkanagouda,

his son Revanagouda who is none other than the husband of the first plaintiff and father of plaintiff No.2 and 3 succeeded to the suit schedule property and ever since these plaintiffs have been in possession of the suit schedule property . However, what is pertinent to note here is that plaintiffs have not produced a single document to show that, they are the legal heirs of Halegoudara Gurusiddanagouda. The plaintiffs have neither produced the family Pedigree or any other relevant documents nor have they examined any witness to show that, they are indeed the legal heirs of Halegoudara Gurusiddanagouda.

10) It is also pertinent to note here that, the documents placed on record by the plaintiffs reflect the name of the defendant and they are in no way helpful to their case. The plaintiffs having failed to prove their relationship with Halegoudara Gurusiddanagouda, have miserably failed to prove that, they are the absolute owners of the suit schedule property. As far as possession is concerned,

plaintiffs have also not placed on record any evidence either oral or documentary to show that they are in possession of the suit schedule property. Considering all the aforementioned circumstances, issue No.1 is answered in the Negative.

11) Issue No. 2 :- In view of the plaintiffs miserably failing to prove that they are the owners in possession of the suit schedule property, the question of proving the alleged interference does not arise. Therefore, issueNo.2 is answered in the Negative.

11) **Issue No.3:** Though the defendant contended in the written statement that, the land measuring 4.33 acres bearing Sy. No. 717A/1 is his ancestral property and that the same was allotted to his share in the family partition effected on 6-11-1974, he did not adduce any evidence so as to prove his contention. As such issue No.3 is answered in the Negative.

12. **Issue No.4** :- In view of the plaintiffs failing to prove the above discussed issue No.1 and 2, they are not entitled to the relief of declaration of title and also for the consequential relief of permanent injunction as sought in the plaint. Accordingly issue No.4 is answered in the Negative.

13. ISSUE No.5 : For the foregoing reasons I proceed to pass the following :

ORDER

Suit filed by the plaintiffs is hereby dismissed.

No order as to costs.

Draw decree accordingly.

(Dictated to the Stenographer directly on computer, computerized by him, corrected and signed by me and then pronounced in the open Court on this 24th day of September 2018)

(Nitin Yeshwanth Rao)
Senior Civil Judge & JMFC,
Kudligi.

ANNEXURE

LIST OF WITNESSES EXAMINED FOR PLAINTIFFS :-

P.W.1 .. Goudara Rudra gouda.

LIST OF DOCUMENTS MARKED ON BEHALF OF PLAINTIFFS:-

- Ex.P-1 : Registered Sale deed dt. 15-12-1934.
Ex.P1(a): Kannada Translation copy of sale deed
Ex.P-2 : Mutation copy
Ex.P-3 : Encumbrance certificate
Ex.P-4 : Deed of partition dt. 11-11-1974.
Ex.P-5 : True copy of RIRs 1968 to 2010
Ex.P-6 : Mutation change extract copy.
Ex.P7 : Akarband ckopy.
Ex.P8 : Resettlement Register extract.

LIST OF WITNESSES EXAMINED ON BEHALF OF DEFENDANTS**LIST OF DOCUMENTS MARKED ON BEHALF OF DEFENDANTS ;**

- Ex.D-1 : Sale deed dated 30.09.2010
Ex.D-2 to 5 : Record of rights
Ex.D-6 : Order of Assistant Commissioner Hosapete

**Senior Civil Judge & JMFC,
Kudligi.**

