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**IN THE COURT OF SENIOR CIVIL JUDGE & MEMBER
M.A.C.T.;IX , AT BASAVANA BAGEWADI.**

**PRESENT:-SHRI.N.S.KULKARNI,
B.Com,L.L.B (Spl)**

**DATED THIS THE 17th DAY OF JUNE -2014
O.S. No.358/2011**

PLAINTIFFS:-

1. Abdulrehman S/o Asadkhan Dapedar,
Age: 62 years, Occ; Agriculture,
R/o; Kudagi, Tq; Basavana Bagewadi and Another.

Vs./-

DEFENDENTS:-

- 1.Nabeelal S/o Hussainsab Dapedar,
Age; 68 years, Occ; Agriculture,
R/o; Kudagi, Tq; B.Bagewadi and others.

---: ISSUES :---

1. Whether the plaintiffs prove that Khatunabi brought up Yaseenabi as he was orphan?
2. Whether the plaintiffs prove that after the death of Yaseenabi and his wife Ameenabi during the life time Yaseenabi there were entries colluding with Masuti village Accountant of ME No.402, 729, 1477, 1533, 2300, 2654 behind the back of the plaintiff and defendant No.7 to 11 created entries?
3. Whether the plaintiffs prove that Jannatabi is the 1st wife of Babajan and defendant No.7 to 11 are the sons of 2nd wife taking of defendant No.8 in adoption is false and not binding on the plaintiffs?
4. Whether the plaintiffs prove that the plaintiffs and defendant No.1 to 6 are joint possession in Sy.No.292 and 296 are not concerned to the suit property and illegal entries are made by the defendant No.7 to 11?
5. Whether the plaintiffs are entitled to share of 2/6th and defendants are having 2/6th share?
6. Whether the plaintiffs are entitled to 2/6th share and the mutation entries are not binding and the defendants are restrained to take compensation amount or anybody on their behalf for injunction?
7. Whether the defendant No.1 to 6 are entitled their share and have paid the Court Fee?
8. Whether the defendant NO.7 to 9 proves in 1935 Hussainabi has no issues and made registered will to Yaseenkhan both husband and wife made will registered on 30.01.1935 and registered the same before the Sub-Registrar B.Bagewadi dated 05.06.1935 under No.81. Since then the Yaseenkhan is the owner

and in possession, hence the entries No.292,296,674,298 are valid and binding and also ME No.729?

9. Whether the defendant No.7 to 8 proves that Khatunabi wife of Hussainsab sold the lands to Dadibee on 02.01.1959 which is illegal?
10. Whether the defendant No.7 to 9 proves that after the death of Khatunabi Asadkhan given waradi and entry No.1732 and relinquished his right accordingly ME No.1902 is binding?
11. Whether the defendant No.7 to 9 proves that there was Civil suit in O.S.No.35/78 against the Khatunabi and it went in favour of her on 27.02.1971 and in the year 1975 Dadibi filed form No.7 under the Land Tribunal Act for Sy.No.297,298 and the Hon'ble High Court of Karnataka stay in ME No.3035 in the year 1982 and remanded the matter to the Land Tribunal B.Bagewadi?
12. Whether the defendant No.7 to 9 prove that they are in possession and the case is pending before the Hon'ble High Court of Karnataka?
13. Whether the defendant No.7 to 9 proves that the plaintiffs has no right, title or interest over the suit properties?
14. Whether the defendant No.8 proves that he is a Government Servant and not possible to look after the lands, hence his father is enjoying the properties and executed the will to him on 20.01.1994 by receiving amount?
15. Whether the defendant No.7 to 9 proves that after the death of defendant No.8 father the defendant No.8 has given waradi on 16.4.2003 and the authorities have directed him to approach the Civil Court?
16. Whether the defendant NO.7 to 9 proves that the defendant No.8 preferred an appeal before the Assistant Commissioner in the year 1982 which was dismissed and he approached the Court invoking revision?
17. Whether the defendant No. 7 to 9 proves that there is no cause of action?
18. Whether the defendant No.7 to 9 prove that the WP No.80991/11 (KLR-SUR) is pending before the Hon'ble High Court of Gulbarga with respect to the suit properties?
19. What Order or Decree?

Place: Basavana Bagewadi
Date: 17.05.2014

(N.S.KULKARNI)
Senior Civil Judge
Basavana Bagewadi.

17/6/14

ADDITIONAL ISSUES

- 1) Whether the defendant No.16 proves that, present suit is barred under the provisions of Karnataka Land Revenue Act?
- 2) Whether defendant No.16 proves that, defendant No.7 to 16 are the absolute owners of suit lands bearing Sy.No.292 and Sy.No.296?
- 3) Whether Court fee paid by the plaintiffs is proper and correct?

✓ *Added*
(Note: Issue No.1 and 3 shall be treated as preliminary issue)

30.08.2016

[Signature] 30/8/16.
(Renuka D. Raikar)
Senior Civil Judge & J.M.F.C.
Basavana Bagewadi.

RECASTED ISSUES

1. Whether the plaintiffs prove that, Khatunabi brought up Yaseen Khan as he was orphan?
2. Whether plaintiffs prove that, during the life time of Yasinsab Mulla, defendants No.7 to 11 by colluding with

the revenue authorities of Masuti village got created ME No.402, 729, 1477, 1533, 2300 and 2654 without the knowledge of plaintiffs. Hence, the same are not binding on the plaintiffs?

3. Whether defendant No.8 proves that, he is the adopted son of deceased Yasinsab?
4. Whether plaintiffs prove that, themselves and defendant No.1 to 6 are tenants in common of the suit properties?
5. Whether plaintiffs prove that, they are entitled for share in the suit properties? If so, to what extent?
6. Whether defendants 1 to 6 prove that, they are also entitled for share in the suit properties? If so, to what extent?
7. Whether defendant No.8 proves that, Hatunabi W/o.Hussainsab Dafedar sold Sy.No. 297 and 298 to one Dadibi Mainuddin Khazi on 02.01.1959?
8. Whether defendants No.7 to 9 prove that, Yasin-Khan became the absolute owners of the suit property by virtue of registered 'Will' dtd: 05.06.1935?
9. Whether defendant No.8 proves that, deceased Yasinkhan Mulla being the absolute owner of suit properties , bequeathed the same in favour of defendant No.8 by executing the registered Will dtd: 04.10.1957?

12. Whether the defendants No.13 to 16 prove that, they are entitled for 1/10th share in the suit properties?
11. Whether the suit of the plaintiff is barred by limitation?
12. Whether plaintiffs are entitled for relief sought for?
13. What order or decree?

[Signature]
(Renuka D. Raikar)
Senior Civil Judge & J.M.F.C.
Basavana Bagewadi.

ADDITIONAL ISSUES

1. Whether defendant no. 8 proves he is the absolute owner of property bearing Sy.No.292 measuring 17 acres 34 guntas, Sy.No. 396 measuring 16 acres 2 guntas, Sy.No. 298 4 acres 10 guntas and R.S.No.674 measuring 10 guntas of masuti village?
2. Whether the defendant no.8 proves that he is in possession and enjoyment of the counter claim properties?
3. Whether the defendant no.8 further proves the alleged interference caused by the plaintiffs in his peaceful possession and enjoyment?

Place: B.Bagewadi
Date: 29.08.2019.

[Signature]
(Smt.S.L. Ladkhan)
Sr.Civil Judge & JMFC.,
B.Bagewadi.