

-: ORDERS ON ADMISSIBILITY OF DOCUMENTS:-

1. The plaintiff No.1 and 2 have filed suit against defendant for relief of declaration of their title over suit property and consequential relief of permanent injunction.

The factual matrix of the case :

2. The father of the plaintiffs by name Siddappa Madar purchased the suit property under unregistered sale deed dated 8.8.1953 from one Ningappa Somanna Anivar. The defendant No.8 to 14 are legal heirs of Ningappa Anivar. The present revenue records of suit stands in the name of defendant No.1 to 7. due to mistake revenue records are not mutated in the name of father of plaintiffs. On 2.3.1964 L.Rs. Of Ningappa Anivar sold 26A land in favour of smt. Neelawwa w/o Leshappa Natikar. The defendant colluding with revenue authority got mutated their name in revenue records of suit property. Further, they have got compromised in respect of suit property in O.S.No.345/2019. At that time plaintiffs aware that their right was infringed. Hence, plaintiffs have filed suit with aforesaid relief.

3. The defendants have failed to file their written statement within stipulated time. Accordingly

their written statement taken as nil as per the order dated 2.2.2024. Then posted for evidence.

4. The GPA holder of plaintiffs entered into witness box and examined as PW.1. In support of plaintiffs claim, he has produced 16 documents along with unregistered sale deed. Therefore, case is posted for admissibility of unregistered sale deed in evidence.

5. Heard arguments.

6. The learned counsel for plaintiff urged that plaintiffs are ready to pay the duty and penalty. Hence prays for pass appropriate order.

7. I have carefully gone through recitals of sale deed dated 8.8.1953. The father of plaintiff purchased the suit property from one Ningappa Anivar for Rs.100/-. The recitals discloses that Ningappa received entire sale consideration of Rs.100/- and he has transfer the ownership in favour of Siddappa S/o Irappa Madar. At this stage, this Court has relied on Sec.54 of Transfer of Property Act and Sec.17 of Registration Act is as under:

54. "Sale" defined.—

"Sale" is a transfer of ownership in exchange for a price paid or promised or part-paid and part-promised. Sale how made.—

Such transfer, in the case of tangible immoveable property of the value of one hundred rupees and upwards, or in the case of a reversion or other intangible thing, can be made only by a registered instrument.

In the case of tangible immoveable property of a value less than one hundred rupees, such transfer may be made either by a registered instrument or by delivery of the property.

Delivery of tangible immoveable property takes place when the seller places the buyer, or such person as he directs, in possession of the property.

Contract for sale.—A contract for the sale of immoveable property is a contract that a sale of such property shall take place on terms settled between the parties.

It does not, of itself, create any interest in or charge on such property.

Sec.17 of Registration Act

Documents of which registration is compulsory.

(1) The following documents shall be registered, if the property to which they relate is situate in a district in which, and if they have been executed on or after the date on which, Act XVI of 1864, or the Indian Registration Act, 1866, or the Indian Registration Act, 1871, or the Indian Registration Act, 1877, or this Act came or comes into force, namely,

(a) instruments of gift of immovable property;

(b) other non-testamentary instruments which purport or operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of the value of one hundred rupees and upwards, to or in immovable property;

(c) non-testamentary instruments which acknowledge the receipt or payment of any consideration on account of the creation, declaration, assignment, limitation or extinction of any such right, title or interest; and

(d) leases of immovable property from year to year, or for any term exceeding one year, or reserving a yearly rent;

(e) non-testamentary instruments transferring or assigning any decree or order of a Court or any award when such decree or order or award purports or operates to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of the value of one hundred rupees and upwards, to or in immovable property.

8. The document relief by the plaintiffs is non-testamentary documents. The valuation of property is Rs.100/- and recitals discloses that rights or title of Siddappa Madar crated under this documents. In view of these sections it requires registration cumpulsory.

(2008) 8 SCC 564
M/S K.B.Saha And Sons Pvt. Ltd vs M/S
Development Consultant Ltd

34. From the principles laid down in the various decisions of this Court and the High Courts, as referred to herein above, it is evident that :-

1. A document required to be registered is not admissible into evidence under Section 49 of the Registration Act.

2. Such unregistered document can however be used as an evidence of collateral purpose as provided in the Proviso to Section 49 of the Registration Act.

3. A collateral transaction must be independent of, or divisible from, the transaction to effect which the law required registration.

4. A collateral transaction must be a transaction not itself required to be effected by a registered document, that is, a transaction creating, etc. any right, title or interest in immoveable property of the value of one hundred rupees and upwards.

5. If a document is inadmissible in evidence for want of registration, none of its terms can be admitted in evidence and that to use a document for the purpose of proving an important clause would not be using it as a collateral purpose.

9. By following the above guidelines, I am of the opinion that unregistered sale deed dated 8.8.1953 is inadmissible in evidence accordingly, I proceed to pass the following :

ORDER

It is held that unregistered sale deed dated 8.8.1953 is inadmissible and rejected. Accordingly endorsed on said document as contemplated U/Or.13 R-3 of CPC.

**Sr. Civil Judge & JMFC.,
Sindagi**