

Before the Principal Subordinate Court, Hosur.

Present :Thiru.P.Shunmugaraj., M.L.,

Principal Subordinate Judge, Hosur.

Wednesday, the 10th day of September 2025

Thiruvalluvar-Andu-2056-Visuvaavasu-Varusam-25th day of Aavani

O.S.No.160/2015

in

CNR NO.: TNKI05000456-2015

1. N.Narayanappa

2. N.Sujatha

...Plaintiffs

/Vs/

1. K.Thimmarayappa @

Thimmarayan (Died)

2. T.Anusagiri

3. Bettamma

4. Pillappa

5. Rajamma

6. Kamalamma

7. Madesh

8. Rani

...Defendants

(D3 to 8 impleaded and plaint Amended as per orders in IA.No.4/2021, dated 23.03.2022)

This suit is taken to file on 08.07.2015 and coming before me on 19.06.2025 for final hearing in the presence of Thiru.K.Anandakumar, learned counsel for the plaintiff and Advocate Thiru.A.Premkumar appeared for defendants and upon hearing both side arguments and having stood for consideration till this date court delivered the following:-

Judgment

Suit for declaration of title and permanent injunction against the defendants, to declare the gift deed dated 10.11.2014 vide doc No.16583/2014 of SRO Hosur as null and void and cost of the suit and such other reliefs.

1.Case of the Plaintiff in brief is as follows :-

In the plaint it has been stated that the suit schedule property comprised in survey No. 280/2 for the extent of 5.5 cents of Nallur village originally belonged to one Sombappa @ Sombugadu by way of ancestral and oral partition held among the Sombappa @ Sombugadu and his brother Nanjappa @ Nanjudu. The said Sombappa @ Sombugadu during his lifetime executed a registered gift settlement deed in favour of his only daughter namely Kempakka W/o. Yellappa on 30.08.1943 Vide Doc. No. 2957/1943 of SRO, Hosur and delivered the possession on the same day itself. Further the Kempakka also accepted the gift and she taken the possession and she is in enjoyment of the suit schedule property.

The said Kempakka died many years before leaving behind her husband and daughters Goopalliyamma and Chikkamma as legal heirs. The said Goopalliyamma also died long back. Further the Chikkamma also died leaving behind her husband, father Yellappa and children Narayanappa, Rajappa, Shiva, Prabhu and three daughters as her legal heirs. After the death of the Chikkamma oral partition held among the family members of the Kempakka and the suit schedule property was allotted to the share of the Yellappa who is the husband of the Kempakka. Further stated that during the UDR survey between the year 1983 to 1985, the joint patta for the suit schedule property was also issued in the name of the Yellappa in patta No.1220 by confirming his possession in the suit schedule property. Later the said Yellappa executed a registered sale deed in favour of the plaintiff on 08/12/2014 Vide Doc. No. 17890/2014, SRO, Hosur and delivered the possession regarding the suit schedule property.

Later the 2nd defendant started proclaiming in the village that he is the owner of the suit schedule property holding some document executed by the father of the 2nd defendant namely 1st defendant. The 1st defendant who earlier served as village assistant of the village and he stealthily and illegally created some revenue records in his favour. Based upon that revenue record, he

executed a shame and nominal settlement deed in favour of the 2nd defendant. However, the 1st defendant has no right, title and possession over the suit property at any point of time. As such the document executed by the 1st defendant is an incumbent document in nature.

Further the plaintiff also sent a legal notice dated 17.01.2015 through RPAD to the defendants to cancel the foisted document by the 1st defendant in favour of the 2nd defendant. But the defendants not ready to heed the words of the plaintiff and started to trouble the plaintiff and their possession in the suit schedule property. Hence the plaintiff filed the suit for declaration and consequential relief of injunction.

2.The written statement filed by the 2nd defendant adopted by the 1st defendant in brief is as follows:-

The defendants in their written statement stated that the suit is not maintainable either in law or on facts and the same has to be dismissed in limine. Further stated that they denied all the allegations except those are specifically admitted herein. The plaintiff filed the suit with imaginary allegations against the defendants and created a concocted story against the defendants. Further they never in possession in the suit schedule property. In fact, the said Sombappa @ Sombugadu had no right, title or interest over the suit schedule property. Further stated that the alleged gift settlement deed executed by Sombappa @ Sombugadu infavour of Kempakka itself is a created document to get unlawful gains from the defendants.

Originally the suit schedule property is belongs to one Kuchappa who is none other than the father of the 1st defendant. The said Kuchappa died intestate long back leaving behind his four sons 1. Yellappa, 2) Timmarayappa @ Timmarayan, (1st defendant), Venkatappa and Sonnalliappa as his legal heirs to succeed his estate. After the demise of the said Kuchchappa, his all four sons has in joint possession and enjoyment in this suit schedule property. In the year of

1980, the 1st defendant and his brothers orally divided their family properties, inwhich the suit schedule property along with other properties was allotted to the shares of the 1st defendant. From on the date, the 1st defendant is paying the kist to the government for the suit schedule property in his name. Further due to the ill health of the 1st defendant and with love and affection, he executed the registered gift deed in favour of his son 2nd defendant on 10.11.2014 vide Doc.No.16583 /2014 of SRO, Hosur. From the date of that deed, the 2nd defendant is in possession and enjoyment in the suit schedule property. The plaintiffs are started to disturb the defendant's peaceful possession in the suit schedule property. Further, the suit is filed as vexatious suit with ulterior motive to grab the land from the defendants. Hence prayed to dismiss the suit with cost.

3. Based on the pleadings and after hearing both sides, the following issues are framed on 07.06.2018.

1. வாதிகளுக்கு வழக்குரையில் கோரியபடி விளம்புகை பரிகாரம் கிடைக்கத்தக்கதா?
2. வாதிகளுக்கு வழக்குரையில் கோரியபடி நிரந்தர உறுத்துக்கட்டளை பரிகாரம் கிடைக்கத்தக்கதா?
3. 10.11.2014 தேதியிட்ட தானப்பத்திரம் விழுலானது மற்றும் இல்லாநிலையது (Null and Void) என வாதிகள் கோரியுள்ள விளம்புகை பரிகாரம் வாதிகளுக்கு கிடைக்கத்தக்கதா?
4. தாவா சொத்து முதல் பிரதிவாதியின் பூர்வீக சொத்தா?
5. வாதிகளுக்கு வேறு என்ன பரிகாரம் கிடைக்கத்தக்கது?

4. On the side of the plaintiffs, PW1 and PW2 has been examined and Ex.A1 to Ex.A9 were marked and on the defendants side, DW1 to DW3 were examined and Ex.B1 to B6 marked.

5. Issue No.1 & 2:

For the better understanding, Issue 1 and 2 are answered together. The issue number one and two are framed as whether the plaintiff is entitled for the relief of declaration with the consequential relief of permanent injunction. To establish the case of the plaintiff, he has produced the settlement deed executed by the Sombappa @ Sombugadu in favor of his daughter Kempakka on 30.08.1943 as Exp.A1. In that document this survey number has been mentioned clearly and the possession is also handed over. From that document, it is clear that the suit schedule property was originally belongs to the Kempakka by way of a settlement deed. As per the plaint the suit schedule property was later orally partitioned between the legal heirs of the deceased Kempakka in which the suit schedule property was allotted to the shares of her husband namely Yellappa and he was in possession of that property. To prove the possession of the Yellappa in the suit schedule property, they produced one Patta No.1220 as Ex.A4 which stands in the name of Yellappa along with 12 others, including major extent for the suit schedule property. Further, on the side of the plaintiff they have produced Ex.A5 contains 10 original kist receipts from the year of 1987 which paid in the name of Yellappa for the Patta No.1220. From those Kist receipts, it is evident that this suit schedule property was in possession and enjoyment of that Yellappa who is the vendor of the plaintiff.

Further, on the side of plaintiffs to prove the possession and rights over the suit schedule property in the name of Yellappa, they have produced yet another document through the cross examination of DW1 as Ex.A9. Patta which was given by the special Tasildar under the UDR scheme. From this document also, this court came to know that the vendor of the plaintiff is in possession and enjoyment of the suit schedule property. He sold the property in favour of the plaintiff through Ex.A2 in which the suit schedule property was particularly mentioned. While perusing all these documents, it is evident that the suit schedule property was originally belongs to the Kempakka and later it was in

possession of the her husband Yellappa and he sold the same to the plaintiff. On the other hand, the defendant in their written statement stated that originally the suit schedule property was belongs to one Kuchappa who is the none other than the father of the 1st defendant. But neither the title deed nor the revenue records has been produced in the name of the Kuchappa. Which shows that there was no document stands in the name of Kuchappa to say that the title for the suit schedule property is belonged to Kuchappa. But later in the year of 1980 at the time of UDR, the name of the first defendant entered in the revenue records. With the help of that revenue records only, the 1st defendant executed the document in favor of the 2nd defendant. For this concern, at the time of cross examination of the DW1, he clearly stated that his father was worked as village assistant.

Further stated that they only had suit schedule property alone and the same has been allotted to the share of the 1st defendant and he executed the gift deed in favour of the 2nd defendant. Though there are four legal heirs for the Kuchappa, the suit schedule property was specifically allotted to the shares of the first defendant and the remaining heirs are left without any property. Which creates doubt on the title of the 1st defendant. Further, at the time of cross examination of the DW1, he clearly admitted that the plaintiff has the land adjacent to their survey number 287 /2F and the western side, the plaintiff's land is situated. That admission shows that even now the plaintiff is in possession and enjoyment of the suit schedule property. Furthermore, in the cross examination of the DW1, he clearly admitted the possession of the plaintiffs in a four boundary which mentioned in the alleged Ex.A2 sale deed stands in the name of the plaintiffs. From that oral evidence also, this court came to know that the suit schedule property is in possession and enjoyment of the plaintiffs. Hence, this court comes to the conclusions that the suit schedule property is the absolute property of the plaintiffs and they are in possession of that property. Accordingly, issue number 1 and 2 are answered in favour of the plaintiffs.

6. Issue No.3 & 4:

For the better understanding, the issues 3 and 4 are answered together. The issue number three framed as whether the document executed by the 1st defendant in favour of the 2nd defendant dated 10.11.2014, vide Doc.No.16583/2014 to be declared as null and void and the fourth issue framed as whether the suit schedule property is the ancestral property of the 1st defendant. In this regard, the defendant in his written statement only stated that the suit schedule property was originally belongs to his father Kuchappa. But none of the document has been produced to show that the property was belongs to that Kuchappa. Even there was no title deed produced by the defendants to show that the property is belongs to him. However, they only produced the Patta which stands in the name of the 1st defendant along with 12 others.

Further, on the side of the defendant, they also produced yet another document, Adangal as Ex.B4 that is only for the year 2014. As such, the kist receipt for the year of 2015 also produced as Ex.B5. These documents are all created after the execution of the gift deed. Prior to that neither Kist receipt nor the Adangal produced by the defendants. The 1st defendant failed to prove that the suit schedule property was belongs to him. As such, he has no right title over the suit schedule property to settle the same in favour of his son 2nd defendant. Hence, the this court comes to the conclusions that the 1st defendant without any valid right and title over the suit schedule property executed the gift deed in favour of his son, 2nd defendant as shame and nominal. Further, he failed to prove that the suit schedule property was belonged to the 1st defendant and his father Kuchappa by way of ancestral through proper documents. Even he also failed to produce oral evidence, regarding the possession and title over the suit schedule property. Hence, the document gift deed executed by the 1st defendant in favour of the 2nd defendant has to be declared as null and void and the defendants are failed to prove that the suit schedule property is the ancestral property of the 1st defendant. Accordingly, issue No. 3 & 4 are answered.

7. Issue No.5:-

Already remedy given to the plaintiff through Issue No. 1 to 4. Hence, no other remedy is available to the plaintiff. Accordingly, Issue No. 5 answered.

8. In the result

The suit is decreed by declaring that the suit schedule property is absolute property of the plaintiff consequently the defendants and their men and agent restrained to disturb plaintiffs peaceful possession and enjoyment in the suit schedule property. Further the Doc.No.16583/2014 dated 10.11.2014 of Hosur, Sub Registrar Office is declared as null and void. Accordingly, the suit is decreed. Considering the nature of the suit no cost is imposed.

Dictated to the Steno typist directly and computerized by her corrected and pronounced by me in the open court on 10th day September 2025.

Principal Subordinate Judge,
Hosur.

Plaintiff side witnesses:-

1. PW1 - N.Narayanappa (1st Plaintiff)
2. PW2 - Nagaraj

Plaintiff side Exhibits:-

1. Ex.A1 Certified copy of the Registered gift settlement deed in D.No.2957/1943 dated 30.08.1943.
2. Ex.A2 - Certified copy Registered sale deed in D.No.17890/2014 dated 08.12.2014.
3. Ex.A3 - Certified copy of the Registered gift settlement deed in D.No.16583/2014 dated 10.11.2014.
4. Ex.A4 - Computer generated chitta extract dated 05.03.2015.
5. Ex.A5 - Tax receipts -10 Nos - Original
6. Ex.A6 - Legal notice on 07.01.2015- Office copy
7. Ex.A7 - Postal receipts -Original
8. Ex.A8 - Acknowledgment cards -2 Nos- Original
9. Ex.A9 - Patta - Original

Defendants side witness:-

1. DW1 - T.Anusagiri (2nd Defendant)
2. DW2 - Rajappa
3. DW3 - T.Pillappa (4th Defendant)

Defendants side Exhibits:-

1. Ex.B1 Original Gift settlement deed in Doc.D.No.16583/2014 dated 10.11.2014.
2. Ex.B2 Online generated Chitta for Patta No.1220.
3. Ex.B3 Online generated "A" Register extract for SF.No.280.
4. Ex.B4 Certified copy of Adangal for the pasali year 1424 stands in the name of 2nd defendant.
5. Ex.B5 Original Kist receipt dated 13.01.2015.
6. Ex.B6 Copy of the application for patta transfer, dated 07.02.2020.

Principal Subordinate Judge,
Hosur.