

KABR030014752015



IN THE COURT OF THE I ADDL.CIVIL JUDGE,
BENGALURU RURAL DISTRICT, BENGALURU

Present

Smt. Hamsa.V B.Sc(Seri)., L.L.B.
I Additional Civil Judge,
Bengaluru Rural District,
Bengaluru.

Dated this the 17th day of October, 2025.

O.S.No.1419/2015

Plaintiff : **Sri. Anees Kunjan**
S/o. K. Mohammed Ishaq,
Aged about 36 years,
R/at.No.400, 72/3,
7th Cross, 1st Block,
Jayanagar, Bengaluru.

Rep by GPA Holder
Mr. Tabseer. K,
S/o Late Haji. K. Mohamed Ishaq Saheb,
Aged about 32 years,
R/at.No.400, 22/3,
7th Cross, 1st Block,
Jayanagar,
Bengaluru-560 011

(By Sri. B.V.R., Advocate)

-V/s-

- Defendants:** 1. **Arun Kumar,**
S/o. Sri. Mari Somanna,
Aged about 35 years,
R/at.No.251, 2nd Main Road,
Hebbal Bengaluru-560 024.
2. **Sri. Mohameed Zakeer Ali,**
S/o. Sri. Hakim Jan,
Aged about 38 years,
R/at No.E. 11/3
Chinnappa Layout,
1st Cross, Kammanahalli
St. Thomas Town Post
Bengaluru-560 043.
3. **Sri. Madhu. R,**
S/o. Sri. R. Radhakrishna Rao,
Aged about 32 years,
R/at Chokkanahalli Village
Jakkur Post, Yelhanka
Bengaluru-560 064.

(Def No.1 By Sri.V.R.R., Advocate)

(Def No.2 By Sri.S.S., Advocate)

(Def No.3 By Sri.P.S.Y., Advocate)

Date of institution of the suit : 26.11.2015
Nature of the suit : Injunction

Date of commencement of : 22.11.2017
recording of evidence

Date on which the Judgment is : 17.10.2025
Pronounced

	Year/s	Months	Day/s
.....			
Total duration	-09-	-10-	-21-
.....			

(Hamsa.V)
I Addl. Civil Judge,
Bengaluru Rural District,
Bengaluru.

J U D G M E N T

The plaintiff has filed this suit against the defendants for the relief of permanent injunction to restrain the defendants, their henchmen, servants, agents or anybody claiming through them or any authority through them either from interfering with the plaintiff's peaceful possession and enjoyment of the suit schedule property or not to demolish the suit schedule property and also not to dispossess the plaintiff from the suit schedule property and such other reliefs.

SUIT SCHEDULE PROPERTY:-

All the piece and parcel of immovable property bearing BBMP No.112/10, Old No.10, Khata No.164/64/112/10, Chokkanahalli Village, Yelhanka Hobli, Bangalore North Taluk (Formerly old site No.10, Katha No.164 then No.64) Bangalore North Taluk, Bangalore. Now under the limits of Bruhath Bengaluru Mahanagara Palike, Bengaluru, Byatarayanapura Zone, Yelhanka Ward office Bruhath Bengaluru Mahanagara Palike, Bengaluru, measuring East to West 50 feet and North to South 30 feet totally measuring 1500 sq feet and bounded on the:

East by : 25 Feet Wide Road
West by : Main Road
North by : Property No.9
South by : Property No.10/1

The case of the plaintiff in brief is as under:

2. The plaintiff submits that the suit schedule property is within the Sy.No.64 which belong to one R. Krishnamurthy and the said Krishnamurthy sold the entire land in Sy.No. 64 in favour of one Arun Kumar vide registered sale deed dated 16/5/1997. The said Arun Kumar had formed a layout and sold the suit schedule property in favour of one Prem

Sagar vide registered sale deed dated 03/03/2004. The said Prem Kumar in turn sold the suit schedule property in favor of one D.S. Manumala vide registered sale deed dated 24/10/2007. The said Manumala sold the suit schedule property in favor of Mohammad Zakir Ali vide registered sale deed dated 27/10/2009. The said Mohammad Zakir Ali has sold the suit schedule property in favour of the plaintiff herein vide registered sale deed dated 19/11/2012. The plaintiff further submits that after obtaining the sale deed the plaintiff has got the Khata mutated in his name and also has paid taxes to the concerned authority. The plaintiff also has got power connection to the suit schedule property and also the suit schedule property is free from all the encumbrances. The plaintiff further submits that the plaintiff is in peaceful possession and enjoyment of the suit schedule property. The plaintiff submits that the plaintiff has executed general power of attorney in favour of his brother Tabasheer key. The plaintiff further submits that R. Krishnamurthy had valid title to sell the suit schedule property in favor of Arun Kumar and so on till to the plaintiff. The legal possession and enjoyment of the suit schedule property was delivered from R. Krishnamurthy to Arun Kumar and so on till to the plaintiff. The plaintiff further submits that as there was old house in the suit schedule property the plaintiff repaired the same and

also constructed shops in the same. The plaintiff is having legal right title and interest over the suit schedule property and also having possession over the same. The plaintiff further submits that on 24/11/2015 at 10 AM the defendants colluding with each other without having any right title and interest attempted to interfere with the plaintiff's peaceful possession and enjoyment and also attempted to demolish the existing structure in the suit schedule property. Immediately the GPA holder of the plaintiff along with his friends restrained the acts of the defendants and hence the plaintiff has approached the court seeking the relief of permanent injunction. The defendants may dispossess the plaintiff from the suit schedule property which he had acquired wide the registered documents and also may demolish the suit schedule property. Hence the plaintiff has filed the present suit.

3. After service of summons, defendant one, two, three have appeared before the court, but defendant No.1 and 2 have not filed their written statement. Defendant No.3 has filed his written statement and in the written statement, the defendant No.3 has contended that the present suit filed by the plaintiff is not maintainable either in law or on facts and the same is liable to be dismissed. Further, the defendant

No.3 admits that the suit schedule property is within the Sy.No. 64. The defendant No.3 has denied the formation of layout by one Arun Kumar and also the execution of the sale deed in favour of the plaintiff. The defendant No.3 further contends that originally the land in Sy.No.64 was owned by one Achamma as absolute owner and as per section 14 of the Hindu Succession Act, she was the absolute owner which she acquired through a registered sale deed dated 16/08/1925. Later, the said Achamma executed a registered settlement deed in favor of her daughter-in-law Chandravati Bai and her grandchildren Radhakrishna Rao, Krishnamurthy and Madhav Rao. The said Madhav Rao remained unmarried and died leaving behind Chandravati Bai as his class one legal heir to succeed his share of the property. The said Chandravati Bai was allotted three acres 10 guntas of land in Sy.No.62 and acquired two acres 29 guntas of land in the same survey number from her deceased son Madhav Rao. As such, the said Chandravati Bai became the absolute owner of five acre 39 guntas of land. Further, the said Chandravati Bai sold two acre 29 guntas of land in favour of one Ismail under registered sale deed dated 20/08/1980 and she also sold one acre 8 guntas of land in favour of one Nagaraj on 30/08/1980. Later, after disposing the said extent of land, the said Chandravati Bai retained one acre 6 ½ guntas of

land. One Krishnamurthy, who is the son of Chandravati Bai, fraudulently executed a sale deed in respect of one acre 6 ½ guntas in favour of Arun Kumar, who is the defendant No.1 herein. The said Arun Kumar formed a layout and plaintiff is claiming the right and title and possession under the first defendant. It is further contention of the defendant No.3 that the title of the first defendant is declared as null and void in RFA.No.165/2006 which has been confirmed by the Supreme Court. It is further contended that Chandravati Bai filed O.S.No.1543/2004 against the first defendant herein and her son Krishnamurthy seeking the relief of declaration and other consequential reliefs. The said suit was dismissed and later aggrieved by the judgment and decree, Chandravati Bai preferred RFA in RFA.No.165/2006. The said RFA was allowed on 17/09/2009. Then the first defendant and Krishnamurthy have challenged the judgment of RFA by filing SLP.No.34873/2009. The said SLP was dismissed on 22/09/2010 by Honorable Supreme Court of India. The first defendant and Krishnamurthy did not yield to the judgment of Honorable Supreme Court of India, then the said Chandravati Bai filed an execution petition in EP.No.92/2010 for recovery of vacant possession of one acre 6 ½ guntas of land in Sy.No. 64. The suit schedule property is a part of the said survey number and the execution petition is still pending

consideration. During the lifetime of Chandravati Bai, she had executed a registered WILL dated 04/11/2004 in favour of third defendant who is none other than the grandson. On 25/05/2011, Chandravati Bai died and the WILL came into force immediately after her death. The third defendant came on record in execution petition as legal representative of the deceased decree holder and is contesting the execution petition. It is further contended that Honorable High Court of Karnataka and Supreme Court of India has already declared the Chandravati Bai as owner of land in Sy.No.64 and also has set aside the sale deed executed by Krishnamurthy in favour of defendant No.1 as null and void. Hence the plaintiff sale deed is also void and has no value in the eye of law. Hence the question of possession of the plaintiff in the suit schedule property is not maintainable and the plaintiff is not the absolute owner of the suit schedule property has his vendor lost his right in respect of Sy.No.64 by virtue of judgment and decree passed in earlier suits. Hence prays to dismiss the suit.

4. In view of the above pleadings of the parties, this court had framed the following issues;

- 1) Whether the plaintiff proves that he is in peaceful possession and enjoyment of the

suit schedule property as on the date of the suit ?

2) Whether the plaintiff proves the alleged interference by the defendants?

3) Whether the plaintiff is entitled for the relief of Permanent Injunction as sought for?

4) What order or decree?

5. In order to prove the plaintiffs case, the General Power of Attorney holder of plaintiff has examined himself as P.W-1. P.W-1 got marked 37 documents as per Ex.P-1 to P-37 and two more witnesses examined on his behalf as PW.2 and 3. Similarly, in order to prove the defence, the defendant no.3 examined himself as DW-1 and got marked 5 documents on his behalf which have been marked as Ex.D1 to 5. Both witnesses are fully cross examined.

6. Heard the arguments from both sides.

7. Counsel for the plaintiff relying upon the following citations:-

1. ILR 1999 Karnataka Series
2. ILR 1999 Karnataka Short Notes 84

3. AIR 1963 Bombay 100
Jaiprakash Mangilal Agarwal V/s Smt. Lilabai
Bhate and another
4. ILR 2004Karnataka 1074
Naganna V/s Shivanna
5. AIR 2008 SC 901
Gurunath Manohar Pavaskar and others V/s
Nagesh Siddppa Navalgund and others
6. AIR 1972 Suprem E-court 2299
M. Kallappa Setty V/s M.V. Lakshminarayana
Rao,
7. AIR 1980 Kerala 224
Karthiyanyani Amma V/s Govindan
8. ILR 1999 Karnataka 1451
Sathyam @ Ramaiah and others V/s
Karnataka Milk Federation Co-operative Ltd
9. (1989) 4 Supreme Court Cases 131
Krishna Ram Mahale (Dead), by his Lrs V/s
Mrs. Shobha Venkat Rao
10. AIR 1975 Supreme Court 1674
Puran Singh and others V/s The Sstate of
Punjab
11. AIR 1986 Karnataka 194 Karnataka High
Court

M/s. Patil Exhibitors (Pvt Ltd) V/s The Corporation of the City of Bangalore

12. AIR 1984 Patna 191
Janaki Rai and another V/s Amir Chand Ram and other
 13. (1999) 3 Supreme Court cases 573
Vidhyadhar V/s Manikrao and another
 14. AIR 1981 Supreme Court 2235
 15. AIR 1971 Allahabad 29
Allahabad High Court
 16. RFA No.1631/2007
 17. RFA No.947/2005
 18. Writ Petition No.13640/2014 Clubbed with 29515/2019
 19. AIR 1968 Supreme Court 1413
8. Counsel for the defendant No.3 relying upon the following citations:-
1. AIR 2006 Karnataka 114
 2. AIR 1983 Orissa High Court
Sarat Chandra Panda V/s Hari Das and others
9. The findings of this Court on the above said 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 : As per final order
for the following:

REASONS

10. **Issue No.1 & 2**:-Since issue No. 1 and 2 are interlinked to each other, they are taken together for common consideration in order to avoid the repetition of facts and evidence.

11. Admittedly, the plaintiff has filed the present suit against the defendants for the relief of permanent injunction restraining the defendants or any PA holders assignees, agents or workers anybody acting on behalf of the defendant from interfering to the peaceful possession of the plaintiffs in respect of the suit schedule properties and pass such other reliefs.

12. It is the specific case of the plaintiff that, the plaintiff is the absolute owner of the schedule property. The plaintiff has acquired the schedule property by virtue of registered sale deed dated 19.11.2012 executed by Mohammed Zakir Ali. The

vendor of the plaintiff has acquired the schedule property by virtue of registered sale deed dated 27.10.2009 from his vendors i.e., D S Manumala. The said D S Manumala has acquired the suit schedule property from one Premasagar vide registered sale deed dated 24.10.2007. Premasagar acquired the suit schedule property from Arun Kumar vide registered sale deed dated 03.03.2004. The said Arun Kumar had purchased the land in Sy.No.64 from one R Krishnamurthy vide registered sale deed dated 16.05.1997 and formed layout in the said Sy.No.64. The plaintiff has acquired the property by registered sale deed hence and the plaintiff has got registration of katha. The defendants who are utter strangers and no way concerned to the schedule properties on 24.11.2015 at about 10.00 AM attempted to interfere with the plaintiff peaceful possession by attempting to demolish the existing structure. Hence plaintiff has filed suit for permanent injunction.

13. Per contra, It is the case of the defendant No.3 that the land in Sy.No.64 belonged to one Achamma who acquired the same vide registered sale deed dated 16.08.1925. the said Achmamma executed registered settlement deed in favour of her daughter-in-law Smt. Chandravati Bai and her grand children Radhakrishna Rao, Krishnamurthy and Madhava

Rao. As the said Madhava Rao remained unmarried he died issueless leaving behind his mother Chandravathi Bai as class 1 legal heir. Chandravathi Bai was allotted 3acre 10 guntas of land in Sy.No.64 and acquired land to an extent of 2 acres 29 gunats in the same Sy.No belonging to her deceased son Madhavarao. As a result the said Chandravathi Bai owned 5acre 39 guntas of land. Later the said Chandravathi Bai sold 2 acres 29 guntas of land in favour of one Ismail vide registered sale deed dated 20.08.1980. Further she sold land to an extent of 1acre 8 guntas of land in favour of one Nagaraj vide registered sale deed dated 30.08.1980. Finally Chandravathi Bai retained 1 acre 6 ^{1/2} guntas of land. But Krishna Murthy who is the son of Chandravathi Bai fraudulently sold the said remaining land to one Arun Kumar the 1st defendant who in turn formed layout and the plaintiff is claiming on the same. The sale deed executed in favour of Arun Kumar i.e., 1st defendant herein is declared null and void as per Judgment in RFA 165/2006 which is also confirmed by Hon'ble Supreme Court. Chandravathi Bai filed a suit in O.S.No.1543/2004 against 1st defendant and her son Krishna Murthy seeking the relief of declaration and for other consequential reliefs. The said suit was dismissed. Aggrieved by the said Judgment Chandravathi Bai filed appeal in RFA 165/2006 and the said RFA was allowed vide Judgment dated

17.09.2009. the said Judgment was challenged in Hon'ble Supreme Court vide SLP No.34873/2009 and the said SLP was dismissed vide dated 22.09.2010. As the 1st defendant and Krishna Murthy didnt allow the said Chandravathi Bai to enjoy the fruits of the Judgment and Decree execution petition was filed in Ex.P92/2010. During the pendency of the said Ex.Petition Chadravathi Bai expired and the 3rd defendant came on record on the basis of WILL dated 04.11.2004 and the same is pending consideration. As the sale deeds executed by Krishna Murthy is null and void the sale deed of the plaintiff is also null and void and the question of possession of the plaintiff over the suit schedule property doesn't arise. Hence defendant No.3 prays to dismiss the suit.

14. The burden is casted on the plaintiff to prove his case. Therefore in order to discharge the burden, the plaintiff his examination in chief affidavit and he got examined as P.W-1 and reiterated the entire plaint averments in his evidence. Therefore there is no necessity to repeat the facts again. P.W-1 got marked 37 documents as per Ex.P-1 to P-37. Ex.P-1 is the Certified copy of the sale deed dated 01.05.1997, Ex.P-2 is the Certified copy of the sale deed dated 19.11.2012, Ex.P-3 is the General Power of Attorney, Ex.P-4 is xerox copy of register sale deed dated 03.03.2004, Ex.P-5 is xerox copy of register

sale deed dated 24.10.2007, Ex.P-6 is xerox copy of register sale deed dated 27.10.2009, Ex.P-7 to 9 are the B Khata register extract, Ex.P-10 to 14 are the tax paid Receipts, Ex.P-15 and 16 are the Electricity bills, Ex.P-17 to 27 are the encumbrance certificates, Ex.P-28 is Akarbandh, Ex.P-29 is the Hissa, Ex.P-30 to 33 are the photographs, Ex.P-34 and 35 are the CD, Ex.P-36 is the death certificate of Chandravathi Bai, Ex.P-37 is the rental agreement.

15. On the other hand, the defendant No. 3 to disprove the contention taken by the plaintiff, has filed examination in chief affidavit and he got examined himself as D.W-1. D.W-1 has reiterated the entire written statement contentions in his evidence. Therefore there is no necessity to repeat the facts again. D.W-1 has got marked 5 documents as per Ex.D-1 to 5 documents on behalf of the defendant. Ex.D-1 is the certified copy of decree in O.S.No.165/2006, Ex.D-2 is the certified copy of order dated 24.01.2020, Ex.D-3 is the certified copy of order dated 05.09.2022 in Ex.No.92/2010, Ex.D-4 is the certified copy of order dated 29.05.2020 in Ex.No.92/2010, Ex.D-13 is the certified copy of Judgment in Civil Appeal No.34873/2009.

16. The plaintiff who is claiming the relief of injunction, has to establish his possession over the suit schedule property and

the breach of an obligation or infringement of his legal right. A true owner is under an obligation not to interfere with the possession of the trespasser. A person possessor of an immovable property can sustain an action for injunction even against rightful owner on the principle that such a person must be evicted only by due process of law. However it is not necessary for the person claiming injunction to prove his title to the suit schedule property and it would be sufficient if he proves that he is in lawful possession of the property and his possession was threatened to be invaded by a person who had no title whatsoever. If it is established that the plaintiff was in possession of the suit schedule property as on the date of the suit, the relief of perpetual injunction cannot be rejected. Where a person is in lawful possession of the property and his possession is threatened to be interfered with by the defendants, he is entitled to sue for a mere injunction without seeking declaration of his rights. Injunction would not be issued against the true owner.

17. The plaintiff has filed the present suit for the relief of permanent injunction. Hence in this regard, I proceeds to discuss the documentary evidence furnished by both the parties.

18. To prove the fact of possession and interference as framed in issue No.1 and 2 plaintiff has produced Ex. P.1 to 37. On perusal of Ex.P-1 the certified copy of the sale deed dated 16.05.1997 which is executed by R KrishnaMurthy in favour of Arun Kumar in respect of land in Sy.No.64 to an extent of 1acre 61/2 guntas. The recitals of the sale deed dated 16.05.1997 is as follows:

“ ಆದಾಗೀ ಬೆಂಗಳೂರು ಉತ್ತರ ತಾಲ್ಲೂಕು, ಯಲಹಂಕ ಹೋಬಳಿ, ಚೊಕ್ಕಹಳ್ಳಿ ಗ್ರಾಮದ ಸರ್ವೆ ನಂಬರು 64ರಲ್ಲಿ 5-39 ಗುಂಟೆ ಪೈಕಿ 0-09 ಗುಂಟೆ ಖರಾಬು ಜಾಗ, 5-30 ಗುಂಟೆ ಜಮೀನನ್ನು ನಮ್ಮ ಅಣ್ಣನವರಾದ ಆರ್. ರಾಧಾಕೃಷ್ಣರಾವ್ ಮತ್ತು ನಾನು ಪಂಚಾಯಿತಿ ಪಾಲು ಪಾರೀಖತೆ ಮುಖಾಂತರ ವಿಭಾಗ ಮಾಡಿಕೊಂಡ ಮೇರೆಗೆ ನನ್ನ ಹೆಸರಿಗೆ ಮೇಲ್ಕಂಡ ಸರ್ವೆ ನಂಬರಿನಲ್ಲಿ ಎಂ.ಆರ್.ನಂಬರು 31:94-95ರ ಮುಖಾಂತರ 1-34 ಗುಂಟೆ ಜಮೀನು ನನ್ನ ಹೆಸರಿಗೆ ಬಂದಾಗಿನಿಂದಲೂ ನನ್ನ ಹೆಸರಿನಲ್ಲಿ ಖಾತೆ ಸಹಾ ಇದ್ದು ಈ ರೀತಿ ನನ್ನ ಅನುಭವದಲ್ಲಿರುವ ಜಮೀನನ್ನು ಈ ಕೆಳಕಂಡ ಸಾಕ್ಷಿಗಳ ಸಮಕ್ಷಮ ಕ್ರಯಕ್ಕೆ ಕೊಡಲು ಒಪ್ಪಿ ಈ ದಿವಸ ಸದರೀ ಜಮೀನನ್ನು ಅಂದರೆ ತಹಲೆವರೆವಿಗೂ ನಾನೇ ಕಂದಾಯ ವಗೈರೆ ಪಾವತಿ ಮಾಡಿ ಅನುಭವಿಸಿಕೊಂಡು ಬರುತ್ತಿರುವ ಸ್ವತ್ತನ್ನು ನಾನು ನನ್ನ ದರದು ನಿಮಿತ್ಯ ಅಂದರೆ ನಾನು ನನಗಾಪ್ತರಾದವರಲ್ಲಿ ಮಾಡಿಕೊಂಡಿರುವ ಸಾಲಗಳನ್ನು ತೀರುವಳಿ ಮಾಡುವುದಕ್ಕೂ ಮತ್ತು ಗೃಹಕೃತ್ಯದ ಅನಿವಾರ್ಯಗಳಿಗಾಗಿಯೂ ಜರೂರು ಹಣ ಬೇಕಾಗಿ ಬಂದದ್ದರಿಂದ ಸದರೀ ಷೆಡ್ಯೂಲು ಜಮೀನು ಸ್ವತ್ತನ್ನು ನಿಮಗೆ ಸರ್ಕಾರಿ ಚಲಾವಣೆ 2,50,000-00 ಎರಡು ಲಕ್ಷದ ಐವತ್ತು ಸಾವಿರ ರೂಪಾಯಿಗಳಿಗೆ ಶುದ್ಧ ಕ್ರಯಕ್ಕೆ ಕೊಟ್ಟು, ಕ್ರಯದ ಪೂರ್ತಾ ಮೊಬಲಗನ್ನು ಈ ದಿನವೇ ಈ ಕೆಳಕಂಡ ಸಾಕ್ಷಿದಾರರುಗಳ ಸಮಕ್ಷಮ ನಿಮ್ಮಿಂದ ನಾನು ನಗದಾಗಿ ಪಡೆದುಕೊಂಡಿರುತ್ತೇನೆ. ಕ್ರಯದ ಪೂರಾ ಹಣ ನನಗೆ

ಸಂದಾಯವಾಗಿರುವುದರಿಂದ ಈ ಕ್ರಯಪತ್ರ ನಿಮ್ಮ ಹೆಸರಿಗೆ ಬರೆಸಿಕೊಟ್ಟು ಸ್ವತ್ತನ್ನು
ಸಹಾ ಈ ದಿನವೇ ನಿಮ್ಮ ಸಂಪೂರ್ಣ ಸ್ವಾಧೀನಾನುಭವಕ್ಕೆ ಬಿಟ್ಟುಕೊಟ್ಟಿರುತ್ತೇನೆ.”

In the sale deed it is very clearly mentioned that the property has been devolved to the vendor of Arun Kumar by virtue of oral partition and the vendor has been allotted with share of 1acre 34 guntas. Further on perusal of the recitals of Ex.P-1 in schedule which reads as thus:

ಷೆಡ್ಯೂಲು ವಿವರ:-

ಬೆಂಗಳೂರು ಉತ್ತರ ತಾಲ್ಲೂಕು, ಯಲಹಂಕ ಹೋಬಳಿ, ಚೊಕ್ಕನಹಳ್ಳಿ ಗ್ರಾಮದ ಸರ್ವೆ
64 ರಲ್ಲಿರುವ 5-30 ಗುಂಟೆ ಜಮೀನಿನ ಪೈಕಿ ಖುಷ್ಕಿ 1-06 ½ ಗುಂಟೆ ಜಮೀನು ಸ್ವತ್ತಿಗೆ
ಚೆಕ್ಕುಬಂದಿ:-

ಪೂರ್ವಕ್ಕೆ : ಸರ್ವೆ ನಂಬರು 60

ಪಶ್ಚಿಮಕ್ಕೆ : ಸರ್ಕಾರಿ ರಸ್ತೆ

ಉತ್ತರಕ್ಕೆ : ಇದೇ ನಂಬರಿಗೆ ಸೇರಿದ ಮಾರಿದ ಜಮೀನು

ದಕ್ಷಿಣಕ್ಕೆ : ರಸ್ತೆ (ಸರ್ವೆ ನಂಬರು 60,59,54,55ಕ್ಕೆ ಹೋಗುವ ರಸ್ತೆ)

ಈ ಮಧ್ಯೆ ಇರುವ ಮೇಲ್ಕಂಡ ವಿಸ್ತೀರ್ಣದ ಜಮೀನು ಸ್ವತ್ತು ಈ ಕ್ರಯಕ್ಕೆ ಒಳಪಟ್ಟಿರುತ್ತದೆ.
ಸದರಿ ಸ್ವತ್ತಿನ ಮಾರುಕಟ್ಟೆ ಬೆಲೆ 2,50,000-00 ರೂಪಾಯಿಗಳು ಸರಿಯಾಗಿರುತ್ತದೆ.

On plain reading of the schedule it is mentioned that out of entire extent of 5acre 39 gunats an extent of 1acre 6 1/2 guntas is sold to the said Arun Kumar. When the property is partitioned as per the oral partition the vendor of Arun

Kumar ought to have show his share as 1acre 34 gunats, but the vendor of the Arun Kumar i.e., R Krishnamurthy has shown it as 1acre 6 1/2 guntas. Towards northern side it is shown as property belonging to the same Sy.No. Which has been already sold. When the property is partitioned the said R Krishnamurthy has not properly mentioned how he got the share of 1acre 6 1/2 guntas of land. The schedule of the sale deed very clealry proves that the said Krishna Murthy has sold the property which is not in his name. On perusal of Ex.P-4 Arun Kumar M has sold site bearing number 10 measuring East to West 50ft and North to South 30ft vide registered sale deed dated 03.03.2004. In the said sale deed the recital of Ex.P-1 is forth coming. But the plaintiff has not placed any document to prove the fact of formation of sites in the said land. Ex.P-5 is the registered sale deed dated 24.10.2007 which is executed by one Premasagar in favour of D S Manumala. Ex.P-6 is the sale deed dated 27.10.2009 which is executed by D S Manumala in favour of Mohammed Zakeer Ali. Ex.P-1 is the sale deed on which the plaintiff is relying his title. Further the counsel for the defendant cross examined P.W-1. In cross examination PW-1 has admitted as under;

"ಕೃಷ್ಣಮೂರ್ತಿಯವರಿಗೆ ಸದರಿ ಜಮೀನು ಹೇಗೆ ಬಂದಿತ್ತು ಎಂದರೆ ನನಗೆ ಗೊತ್ತಿಲ್ಲ. ಕೃಷ್ಣಮೂರ್ತಿಯವರಿಗೆ ಹೆಸರಿಗೆ ಸದರಿ ಜಮೀನಿನ ಖಾತೆ ನೋಂದಾವಣೆ ಆಗಿತ್ತು ಇಲ್ಲವೋ ನನಗೆ ಗೊತ್ತಿಲ್ಲ."

"ದಿನಾಂಕ 10.07.1955ರಂದು ಅಚ್ಚಮ್ಮರವರ ಕುಟುಂಬಸ್ಥರ ಮಧ್ಯೆ ಒಂದು ನೋಂದಾಯಿತ ವ್ಯವಸ್ಥಾ ಪತ್ರ ಆಗಿದ್ದು ಅದರಂತೆ ಸರ್ವೆ ನಂಬರ್ 64 ರ ಜಮೀನು ಕೃಷ್ಣಮೂರ್ತಿಯವರ ಪಾಲಿಗೆ ಬಂದಿರಲಿಲ್ಲ ಎಂದರೆ ನನಗೆ ಗೊತ್ತಿಲ್ಲ."

19. From the above said cross examination it is clear that P.W-1 is not aware of the previous litigations in respect of the suit schedule property and also admits that he is not aware that the suit schedule property is in Sy.No.64 measuring 1 acre 6 guntas. Though P.W-1 contends that he has purchased the suit schedule property which is residential site the plaintiff has not furnished any document to prove that the land is converted and layout is formed. P.W-1 in cross examination also admits that he is not aware whether the suit schedule property is in Sy.No.64. The portion of cross examination is extracted as under;

“ದಾವಾ ನಿವೇಶನ ಸದರಿ 1 ಎಕರೆ 6 ವರೆ ಗುಂಟೆ ಜಮೀನಿನಲ್ಲಿಯೇ ಇದೆ ಎಂದರೆ ನನಗೆ ಗೊತ್ತಿಲ್ಲ.”

This admission of P.W-1 shows that plaintiff is not in a position to identify his property.

20. It is the contention of the plaintiff that he has purchased the suit schedule property and there are no encumbrances with respect to the suit schedule property. P.W-1 has got marked Ex.P-17 to 27. On perusal of the said documents, though there are no encumbrances with respect to the suit schedule property the title of the plaintiff itself is in dispute. The contention of the plaintiff is that his vendor has constructed in the suit schedule property. P.W-1 has got marked Ex.P-30 to 35. The plaintiff has not furnished any document to prove that he has got the license or plan approved for constructing the building. Ex.P-15 and 16 are electricity bills which are standing in the name of the plaintiff. In the said document address is mentioned as Noor Nagar. Further plaintiff has got examined 2 witnesses as P.W-2 and P.W-3. P.W-2 and 3 have deposed that the plaintiff is in possession of the suit schedule property. The counsel for the defendant has cross examined P.W-2 and P.W-3. In cross examination both the P.W-2 and 3 admits that they have not seen the defendants as on the date of interference. Further P.W-1 in his cross examination has admitted that he is not aware of the date of interference by the portion of the cross examination is as under;

"ಪ್ರತಿವಾದಿಗಳು ದಾವಾ ಆಸ್ತಿಗೆ ಬಂದು ಗಲಾಟೆ ಮಾಡಿದ್ದಾರೆ ಎಂದು ಹೇಳುವ ದಿನಾಂಕ ನನಗೆ ಗೊತ್ತಿಲ್ಲ. ಗಲಾಟೆಯು ದಾವಾ ಆಸ್ತಿಯಲ್ಲಿ ಆಗಿರುತ್ತದೆ. ಆ ಸಮಯದಲ್ಲಿ Vajram Builders ಗೆ ಸಂಬಂಧಪಟ್ಟ ವ್ಯಕ್ತಿಗಳು ಬಂದಿದ್ದರು."

This gives inference that the plaintiff only with an intention to file the present suit has stated that defendant has interfered with the plaintiff's peaceful possession. Be that as it may the plaintiff is claiming the right over a property in which Hon'ble High Court of Karnataka has declared that Chandravathi Bai is having right over the property and she has been declared as owner of the land to an extent of 1acre 61/2 guntas in Sy.No.64. The plaintiff has relied upon the sale deeds of his vendors as well as his sale deed to prove the flow of title. No doubt it is a registered document but when the vendor of the plaintiff himself has no title over the suit schedule property the question of passing a title in favour of the plaintiff holds no water.

21. On the other hand defendant No.3 has relied upon Ex.D-1 the Judgment copy in RFA 165/2006, wherein Hon'ble High Court of Karnataka has clearly held that Smt Chandravathi Bai is the absolute owner of the land in Sy.No.64 measuring to an extent of 1acre 6 1/2 guntas of land. The counsel for the plaintiff during the course of

argument submitted that the said document at Ex.D-1 is not pertaining to O.S.No.1534/2004 rather it pertains to MVC case. On perusal of the said document there is mention of MVC No.1543/2004, but on perusal of the schedule mentioned in the said document it very clearly proves that the RFA 165/2006 pertains to the land in Sy.No.64 measuring 1acre 6 1/2 guntas. The counsel for the defendant argued that the present suit is for bare injunction hence the question of deciding the title is not necessary. In this regard I have gone through the entire Judgment in RFA 165/2006. Hon'ble High Court of Karnataka has very clearly held as under:

“And it is further ordered and decreed that the suit schedule property is declared as the property belonged to the plaintiff. It is declared that, none of the defendants have any manner of claim or right over the plaintiff schedule property. It is further declared that, the alienation effected by the second defendant in favour of the 1st defendant as null and void.

And it is ordered and decreed that, the 1st defendant or his agent should not interfere with the possession and enjoyment of the plaintiff by an order of permanent injunction.

And it is further ordered and decreed that, the defendants are hereby directed to restore possession of the suit schedule property to the plaintiff if the plaintiff is not in possession of the suit schedule property.”

When Hon'ble High Court of Karnataka has very clearly held that the sale executed by Krishna Murthy in favour of Arun kumar is null and void the plaintiff will not derive any title or right over the suit schedule property and the plaintiff is not in lawful possession over the suit schedule property. The said Judgment was challenged before Hon'ble Supreme Court in SLP(civil) 34873/2009 which is marked at Ex.D-5. Hon'ble Supreme Court has upheld the Judgment in RFA 165/2006. Thus the same has attained finality. This proves that the vendor of the plaintiff himself had no title over the suit schedule property. As per the Judgment at Ex.D-1 the said Chandravathi Bai filed Execution petition in Ex.No.92/2010 and during the pendency of the same Chandravathi Bai has expired leaving behind 3rd defendant as legal heir. The said petition is pending consideration. The counsel for the plaintiff argued that the defendant is not the legal heir of Chandravathi Bai and he has no right over the suit schedule property. On perusal of Ex.D-3 and 4 3rd

defendant is already on record as legal heir of Chandravathi Bai. Whether 3rd defendant has right over the suit schedule property is not the subject matter of the present suit. Hence the said arguments cannot be considered and doesn't hold water. The counsel for the plaintiff has cross examined D.W-1. In cross examination the counsel for the plaintiff suggested that the defendants are not in possession over the suit schedule property, but the same was denied by D.W-1. Further in cross examination D.W-1 admits the sale to defendant No.1 by his uncle Krishna Murthy. Further suggestions was made that the defendant has not taken any steps to set aside the sale deeds of the plaintiff which was admitted by the defendant. Even though the D.W-1 has not challenged the sale deed as per Ex.D-1 the sale to 1st defendant itself is declared null and void by Hon'ble High Court of Karnataka and Suprem Court. Further D.W-1 has denied the suggestions made by the counsel for the plaintiff with regard to the possession of the plaintiff over the suit schedule property and interference caused by the defendants.

22. On going through the materials on record, it is the specific case of the defendant No.3 that, defendant No.3 has acquired the property in Sy.No.64 measuring 1acre 6 ½ guntas through a WILL executed by his grand mother.

Further as per the Judgment in RFA 165/2006 the said Chandravathi Bai is declared as absolute owner of land in Sy.No.64 measuring 1acre 6 ½ guntas. Further the sale deed executed by KrishnaMurthy is also declared as null void. Further on perusal of the documents at Ex.D-3 and 4 even before the sale in favour of the plaintiff the said Chandravathi Bai has filed petition to execute the Decree in RFA 165/2006. Hence it can be easily inferred that the sale deed executed in favour of plaintiff is lis pendens sale. The rule of Lis Pendens states that when there is a suit or proceeding pending between two persons with respect to an immovable property and one of these parties sells or otherwise transfers the subject matter of the litigation, then the transferee will be bound by the result of the suit or proceeding whether he had the notice of the suit or proceeding or not. In the instant case the sale deed executed by KrishnMurthy in favour of 1st defendant itself is declared as null and void hence the question of transfer of title in favour of the plaintiff is not valid. Further on perusal of the cross examination of PW.1 and DW.1, the suggestions put by the learned counsel for the both parties it reveals that, there is a serious dispute in respect to the title of the suit schedule property between the parties. In the present suit there is a serious dispute

regarding existence and identity of the suit schedule property as admitted by P.W-1 in his cross examination.

23. On perusal of the documents and evidences of PW.1 it is noticed that, there is serious dispute regarding existence and identity of the suit schedule property. Further, the boundaries mentioned in the documents is not convincing. The tax paid receipts, electricity bills do not establish the fact of title in respect of the suit schedule property. Further the documents pertaining to the rental agreement executed by the plaintiff are subsequent documents and the photographs also proves that the plaintiff has constructed building in the suit schedule property subsequent to filing of the suit. Ex.P-37 is the rental agreement which is dated 02.02.2019 which is subsequent to the filing of the suit. When there is cloud over the title between the parties regarding to the suit schedule property, the suit for permanent injunction does not survive. As per the decision of Hon'ble Supreme Court in AIR 2008 SC 2033 between Anathula Sudhakar V/s P.Buchi Reddy and others. Hon'ble Apex court has held as under:

“Where a cloud is raised over the plaintiff's title and he does not have possession, a suit for declaration and possession, with or without a

consequential injunction, is the remedy. Where the plaintiff's title is not in dispute or under a cloud, but he is out of possession, he has to sue for possession with a consequential injunction. Where there is merely an interference with the plaintiff's lawful possession or threat of dispossession, it is sufficient to sue for an injunction simpliciter".

Admittedly the plaintiff has filed this suit for permanent injunction. Without seeking for the relief of declaration, the plaintiff is not entitled for the relief of permanent injunction, as already the title in respect of the land in Sy.No.64 to an extent of 1 acre 6 ½ guntas is declared Chandravathi Bai is declared as owner. However the documents furnished by the defendant No.3 very positively asserts that execution petition is pending adjudication with respect to the entire land in Sy.No.64 measuring 1acre 6 ½ guntas. Hence, during the pendency of the said petition, this court cannot come to conclusion that the plaintiff is in lawful possession and enjoyment of the suit schedule property as on date of filing of the suit. Under these circumstances the plaintiff has utterly failed to prove the issue No.1. when the plaintiff has failed to prove his lawful possession over the suit schedule property the question of interference doesn't arise. With these

observations, this court answered **issue No.1 and 2 in the “Negative”**.

24. **Issue No. 3:-** As per the discussion made above in Issue No.1 and 2, the plaintiff has failed to prove his possession over the suit schedule property as on the date of filing of the suit and alleged interference by the defendants. Hence the plaintiff is not entitled for the relief of injunction as prayed in the suit. Accordingly Issue No.3 is answered in the **“Negative”**.

25. **Issue No.4** : In view of my findings on issue Nos.1 to 3, this Court proceeds to pass the following:

ORDER

**The suit of the plaintiff is hereby
dismissed with cost.**

Draw decree accordingly

(Dictated to the stenographer, typed by her, corrected and then pronounced by me in the Open Court on **17th day of October, 2025**).

(Hamsa.V)
I Addl. Civil Judge,
Bengaluru Rural District,
Bengaluru.

ANNEXURE**List of witnesses examined for plaintiff/s :**

- P.W-1 : Mr. Tabseer. K
General Power of Attorney holder
- P.W-2 : Mr. Mahommed Ziyauddin.L
- P.W-3 : Mr. Ahmed Ali. T.M

List of exhibits marked for plaintiff/s :

- Ex.P-1 : Certified copy of the sale deed dated
01.05.1997
- Ex.P-2 : Certified copy of the sale deed dated
19.11.2012
- Ex.P-3 : General Power of Attorney
- Ex.P-4 : Xerox copy of register sale deed
dated 03.03.2004
- Ex.P-5 : Xerox copy of register sale deed
dated 24.10.2007
- Ex.P-6 : Xerox copy of register sale deed
dated 27.10.2009
- Ex.P-7 to 9 : B Khata register extract
- Ex.P-10 to 14 : Tax paid Receipts
- Ex.P-15 & 16: Electricity bills
- Ex.P-17 to 27 : Encumbrance certificates
- Ex.P-28 : Akarbandh

- Ex.P-29 : Hissa
Ex.P-30 to 33 : Photographs
Ex.P-34 and 35 : CD
Ex.P-36 : Death certificate of Chandravathi Bai
Ex.P-37 : Rental agreement.

List of witnesses examined for defendants:-

- D.W-1 : Sri. Madhu. R

List of exhibits marked for defendants:-

- Ex.D-1 : Certified copy of decree in
O.S.No.165/2006
Ex.D-2 : Certified copy of order dated
24.01.2020
Ex.D-3 : Certified copy of order dated
05.09.2022 in Ex.No.92/2010
Ex.D-4 : Certified copy of order dated
29.05.2020 in Ex.No.92/2010
Ex.D-5 : Certified copy of Judgment in Civil
Appeal No.34873/2009.

(Hamsa.V)
I Addl. Civil Judge,
Bengaluru Rural District,
Bengaluru.