

(2015) 01 KAR CK 0181
In the Karnataka High Court
Case No : Regular First Appeal No. 1281/2008

Huche Gowda and Others

APPELLANT

Vs

V. Venkatesh and Others

RESPONDENT

Date of Decision : 21-01-2015

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 23 Rule 3

Citation : (2015) 01 KAR CK 0181

Hon'ble Judges : H.G. Ramesh, J.

Bench : Single Bench

Advocate : C.M. Nagabushana and P.V. Chandrashekar, for the Appellant; V. Vishwanath, Advocates for the Respondent

Final Decision : Disposed off

Judgement

H.G. Ramesh, J.—The compromise petition is filed under Order 23 Rule 3 of CPC duly signed by the respective parties. Parties are present before the Court and they are identified by their respective counsel.

2. Plaintiff-respondent-1 who is the son of Smt. Honnamma and brother of Munimara has filed a suit in O.S. No. 79/2001 before the 18th Addl. City Civil and Sessions Judge, Bangalore, for partition and separate possession of his share in the suit schedule properties. Respondent's mother Smt. Honnamma and his brother Minimara have sold and conveyed 1 acre 30 guntas out of 1 acre 38 guntas in Survey No. 58/5 of Mylasandra Village, Kengeri Hobli, Bangalore South Taluk, in favour of appellant No. 2 Doddaswame Gowda by executing registered Sale Deed dated 24.12.1987 and at that time 2nd appellant was the President of BEML Employees Cooperative Society Ltd. The trial Court party decreed the suit as per the judgment and decree dated 31.7.2008. Against which, the present appeal is filed by the plaintiffs.

3. It is stated that at the intervention of well wishers of both the parties, the dispute with regard to allotment of share has been amicably settled amongst the

parties to the appeal on the following terms.

4. The appellants have agreed to allot an extent of land measuring East to West 200 ft and North to South 62 ft, having an advantage of 40 ft. wide road on its northern side to the plaintiffs land purchased by the 2nd appellant from the respondent's mother and brother in Survey No. 58/5 of Mylasandra Village. The extent of land allotted to the 1st respondent Venkatesh is more fully described in the Schedule to the compromise petition and hereinafter referred to as Schedule Property. The plaintiff-Venkatesh is duly put in possession of the schedule property.

5. The respondent confirms the registered Sale Deed dated 25.12.1997 executed by his mother Smt. Honnamma and brother Minimara through their GPA holder Doddaswame Gowda and 2nd appellant herein in favour of M. Huche Gowda-1st appellant, which was registered as document No. 11226/1997-98 of Book-1 in the office of the Sub-Registrar, Kengeri, in so far it concerned to the extent of the property excluding the schedule property allotted to the respondent under this compromise petition and the respondent hereby gives up all his claims made in the plaint-A schedule property.

6. The entire extent of 1 acre 30 guntas is converted into non-agricultural residential purpose by the appellants and hence the respondent shall also be entitled for the benefit of conversion order of the said land.

7. The appellants have no objection to the plaintiff/respondent to get transfer of all the revenue records in his favour from the BBMP authorities and enjoy the property as he deems fit in the circumstances.

8. The appellants declare and assure that the schedule property is free from all kinds of encumbrance and they have not created any charge or encumbrance in respect of the schedule property in favour of third parties till today.

9. The sketch of the converted land bearing Survey No. 58/5 measuring 1 acre 30 guntas is annexed to the compromise petition for better identification of the schedule property allotted to the share of the plaintiff which is delineated by the letter ABCD in the sketch, remaining portion of the said property absolutely belongs to the appellants and their society including its members thereon. So also the 40 ft. common public road existing on the northern side of the schedule property and the sketch be treated as part and parcel of the compromise petition.

10. It is stated that the remaining extent on the eastern side in Survey No. 58/5 of the schedule property out of 1 acre 30 guntas of converted land since purchased by the 2nd appellant as the President of the BEML Employees Co-operative Society Ltd., Bangalore, exclusively belongs to the said society, the BEML Employees Co-operative Society and its allottees have been in possession and enjoyment of the said extent upon which the respondent No. 1 has given up his claim.

11. The respondent No. 1 has voluntarily given up his claim of share in favour of

his brother Munimara and mother Honnamma in respect of Plaint-B schedule property and remaining extent of 8 guntas of land in A schedule property to the plaint.

12. It is submitted that the appellants on behalf of BEML Employees Co-operative Society Ltd., has formed 40 ft. wide road on the northern side of the schedule property in Survey No. 58/5 of Mylasandra village. The parties have agreed to reserve the said road as a public road for the use of the public including the respondent-Venkatesh, his brother Minimara, his mother Honnamma and other allottees of the sites formed in the layout by the BEML Employees Co-operative Society.

13. It is submitted that the respondent-Venkatesh shall be entitled to have all the civic amenities now available to the other allottees of the sites in Survey No. 58/5 of Mylasandra village, Kengeri Hobli, Bangalore South Taluk.

The schedule of the property is more fully described in the compromise petition. The compromise petition be made part and parcel of the record.

Appeal is accordingly disposed of in terms of the compromise petition.