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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 11TH DAY OF JANUARY, 2012.

BEFORE

THE HON'BLE MR.JUSTICE DILIP B. BHOSALE

REGULAR SECOND APPEAL NO.2120/2008

BETWEEN

1. THAMMANNA
S/O.HANUMANTHAPPA
AGED ABOUT 45 YEARS
OCC:AGRICULTURIST, R/O.YAREHALLI VILLAGE
BIRUR HOBLI, KADUR TALUKA,
DIST:CHIKAMAGALUR
2. THIMMANNA SINCE DEAD BY HIS LRS
- 2(a) MANJULA D/C.TIMMANNA
AGED ABOUT 24 YEARS
- 2(b) LAKKAMMA, D/O.THIMANNA
AGED ABOUT 17 YEARS
- 2(c) SOMA @ SOMESHA, S/O.THIMMANNA
AGED ABOUT 15 YEARS

ALL RESIDENTS OF YAREHALLI VILLAGE
BIRUR HOBLI, KADUR TALUK
DISTRICT: CHIKMAGALUR.

SINCE APPELLANTS NO.2(B) AND 2(C) MINORS
REP BY THEIR GUARDIAN
MANJULA D/O.THIMMANNA

... APPELLANT(S)

(BY SRI. I G GACHCHINAMATH, ADVOCATE)

AND

1. SHASHIDHAR
S/O.GOVINDAPPA
AGED ABOUT 18 YEARS
OCC:AGRICULTURE,
R/O.GALIHALLI VILLAGE
BIRUR HOBLI, TQ:KADUR
DIST:CHIKAMAGALUR
2. PARAMESHWARAPPA
S/O.VENKATAHIMMANNA
AGED ABOUT 44 YEARS
OCC:AGRICULTURE,
R/O.YAREHALLI VILLAGE
BIRUR HOBLI, TQ:KADUR
DIST:CHIKAMAGALUR
3. THE SECRETARY
GRAM PANCHAYAT
HULLEHALLY VILLAGE
KADUR TALUKA
DIST:CHIKAMAGALUR
4. THE EXECUTIVE OFFICER
TALUKA PANCHAYAT
CHIKAMAGALUR
DISTRICT: CHIKAMAGALUR
5. THE CHIEF EXECUTIVE OFFICER
ZILLA PANCHAYAT CHIKAMAGALUR
DIST:CHIKAMAGALUR
6. THIMMANNA
S/O.LATE LAKSHMANA
AGED ABOUT 65 YEARS
OCC:AGRICULTURE
R/O.YAREHALLI VILLAGE
BIRUR HOBLI, KADUR TALUKA
DIST:CHIKAMAGALUR.


... RESPONDENTS

(BY SRI. CHANNAKESHA B.S. FOR R1, R2-R6 FOR SERVED)

THIS RSA FILED U/S. 100 OF CPC AGAINST THE JUDGEMENT & DECREE DTD 26.8.08 PASSED IN R.A.NO 34/07 ON THE FILE OF THE CIVIL JUDGE, (SR.DN), KADUR, DISMISSING THE APPEAL AND CONFIRMING THE JUDGEMENT AND DECREE DTD 12.9.07 PASSED IN OS 212/03 ON THE FILE OF THE ADDL. CIVIL JUDGE, (JR.DN), KADUR.

THIS RSA COMING ON FOR ADMISSION THIS DAY, THE COURT DELIVERED THE FOLLOWING:

P.C.

 This second appeal is directed against the concurrent findings of facts recorded by the Courts below while decreeing the suit filed by the respondent- plaintiff. The suit was filed by the respondent/plaintiff for injunction restraining the defendants from dispossessing their peaceful possession and enjoyment of the suit property bearing Sy.No.19/2 measuring 2 acres 27 guntas situated at Yerehalli village.

2. Learned counsel for the appellants, at the outset, invited my attention to the findings recorded by the trial Court and submitted that the admission of PW2 in the

cross-examination clearly reveals that the appellants are in possession of 'Hittalu property' (backyard), which is a part and parcel of the suit property and in the face of his admission, the Courts below committed grave error of law in granting blanket injunction against the appellants. I find absolutely no merit in the contention urged by the learned counsel for the appellants. Paragraph No.11 of the judgment of the trial Court reveals that the defendants did not produce any material on record to show that the Hittalu property is a part and parcel of the suit property. In fact, the trial Court has recorded that the suit property is an agricultural property and therefore, it cannot partly or fully be treated as a 'Hittalu property'. I do not find any material on record to show that the Hittalu property, allegedly in possession of the appellant, is the suit property. No substantial question of law is either involved or raised in the appeal. Hence, the appeal is dismissed.

Sd/-
JUDGE