

02. 31.07.2015

Heard learned counsel for the petitioner and learned counsel for the opposite parties.

This petition has been filed by the petitioner challenging the order dated 02.04.2015 passed by the learned Civil Judge (Senior Division), Umerkkote in C.S. No. 54/2014 rejecting the compromise petition filed under Order 12 Rule 6 of C.P.C.

The prayer of the C.S. No. 54/2014 is as follows:-

(a) Let it be declared that the suit land is exclusive land of plaintiff as the same has been purchased out of her own nucleus.

(b) Let it be declared that neither the defendants no.1 nor the defendant no.2 to 9 have any manner of right, title, interest over the suit land;

(c) for cost.

(d) for any other relief (s) as deems, just and proper under the facts and circumstances of the case be extended to the plaintiff.

The defendant no.1 in the said suit appeared and filed written statement admitting in paragraphs 2 and 3 which reads as follows:-

2. That, it is a fact that suit land i.e. area of Ac. 0.05 dec. out of Ac.0.08 dec. from Plot No. 208/8 has been purchased on 9.1.79 vide RSD No. 373 from one Raghunath Santara in the name of this defendant no. 1. It is also not disputed that, the consideration money has been paid by plaintiff due to her joint family problem.

3. That, it is a fact that the lands in question has been mutated in the name of this defendant no.1. But the holding and electric connection are in the name of plaintiff.

The plaintiff has constructed her house, since last 20 to 25 years.

The Defendant nos. 2 & 9 also filed written statement admitting the prayer of the plaintiff under Annexure-3.

In that view of the matter, the learned Civil Judge (Senior Division), Umerkot has no business to reject the prayer of the petitioner made in the application under Order 12, Rule 6 of C.P.C.

The impugned order dated 02.04.2015 passed by the learned Civil Judge (Senior Division), Umerkkote is set aside and the learned Civil Judge (Senior Division), Umerkkote is directed to dispose of the suit in terms of the prayer made in the application under Order 12, Rule 6 of C.P.C.

I have passed this order without noticing O.Ps. If O.Ps. feel so aggrieved, they will file an application with regard of this.

The C.M.P. is disposed of accordingly.

Issue urgent certified copy.

B.P.Ray, J.

