



IN THE HIGH COURT OF KARNATAKA AT DHARWAD

DATED THIS THE 26TH DAY OF NOVEMBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE C M JOSHI

REGULAR SECOND APPEAL NO.100393 OF 2016 (INJ)

C/W

REGULAR SECOND APPEAL NO.100341 OF 2016

IN RSA NO. 100393/2016

BETWEEN:

MAYUR PATIL
S/O. VIRUPAKSHAPPA PATIL,
AGE: 36 YEARS,
OCC. AGRICULTURE AND MEDICAL PRACTITIONER,
R/O. GANGAVATHI,
REPRESENTED BY HIS GPA HOLDER
VIRUPAKSHAPPA AMAREGOUDA PATIL,
AGE: 62 YEARS,
OCC. MEDICAL PRACTITIONER,
R/O. LOTUS MAHAL, NEAR LIC OFFICE,
HOSALLI ROAD, GANGAVATHI-583227,
DIST. KOPPAL.

...APPELLANT

(BY SRI. NEELENDRA GUNDE, ADVOCATE)

AND:

1. SHRI K.SUGAPPA @ K. SANNA SUGAPPA,
AGE: 64 YEARS,
OCC. AGRICULTURE AND BUSINESS,
R/O. KARATAGI-583229,
TQ. GANGAVATI,
DIST. KOPPAL.

YASHAVANT
NARAYANKAR

Digitally signed by
YASHAVANT
NARAYANKAR
Date: 2025.11.29
09:58:45 +0530



2. SMT. K. MANJULA W/O. K. SUGAPPA,
AGE: 53 YEARS, OCC. AGRICULTURE,
R/O. KARATAGI-583229,
TQ. GANGAVATI, DIST. KOPPAL.
3. SMT. K.SAVITRAMMA W/O. NAGAPPA,
AGE: 53 YEARS, OCC. AGRICULTURE,
R/O. KARATAGI-583229, TQ. GANGAVATI,
DIST. KOPPAL.

...RESPONDENTS

(BY SRI. DEEPAK C. MAGANUR, ADVOCATE)

THIS RSA IS FILED UNDER ORDER XLII RULE 1 R/W SEC. 100 OF CPC, 1908, PRAYING TO SET ASIDE THE JUDGEMENT & DECREE DATED 29.01.2016 PASSED BY THE SENIOR CIVIL JUDGE, GANGAVATHI IN R.A.NO.25/2010, SO FAR AS REJECTING THE CLAIM FOR MANDATORY INJUNCTION IS CONCERNED AND TO SET ASIDE THE JUDGMENT AND DECREE DATED 31.07.2010 PASSED BY THE ADDITIONAL CIVIL JUDGE GANGAVATI IN O.S.NO.112/2005 AND ALLOW THIS APPEAL WITH COSTS THROUGHOUT BY DECREETING THE SUIT IN O.S.NO.112/2005 IN ITS ENTIRETY IN THE FILE OF ADDITIONAL CIVIL JUDGE GANGAVATI AND ETC.

IN RSA NO. 100341/2016
BETWEEN:

1. K SUGAPPA @ K SANNA SUGAPPA
AGE: 64 YEARS, OCC. AGRICULTURE,
R/O. KARATAGI VILLAGE,
TQ. GANGAVATHI, DIST. KOPPAL.



HC-KAR

NC: 2025:KHC-D:16518
RSA No. 100393 of 2016
C/W RSA No. 100341 of 2016

2. K. MANJULA W/O. K. SUGAPPA,
AGE: 57 YEARS, OCC. AGRICULTURE,
R/O. KARATAGI VILLAGE,
TQ. GANGAVATHI, DIST. KOPPAL.
3. K. SAVITRAMMA W/O. NAGAPPA,
AGE: 52 YEARS, OCC. AGRICULTURE,
R/O. KARATAGI VILLAGE,
TQ. GAGAVATHI, DIST. KOPPAL.

...APPELLANTS

(BY SRI. DEEPAK C. MAGANUR, ADVOCATE)

AND:

MAYUR PATIL S/O. VIRUPAKSHAPPA PATIL,
AGE: 36 YEARS,
OCC. AGRICULTURE, R/O. GANGAVATHI,
REPRESENTED BY HIS GPA HOLDER
VIRUPAKSHAPPA S/O AMAREGOUDA PATIL,
AGE: 61 YEARS, OCC. PRIVATE MEDICAL PRACTITIONER,
R/O. GANGAVATHI, DIST. KOPPAL-583227.

...RESPONDENT

(BY SRI. NEELENDRA GUNDE, ADVOCATE)

THIS RSA IS FILED UNDER SECTION 100 OF CPC, PRAYING TO
CALL FOR RECORDS AND SET ASIDE THE JUDGMENT AND DECREE
DATED 29.01.2016 PASSED BY THE LEARNED SENIOR CIVIL JUDGE
GANGAVATHI IN R.A. 25/2010, PARTLY ALLOWING THE JUDGMENT
AND DECREE DATED 31.07.2010 PASSED BY THE LEARNED ADDL.
CIVIL JUDGE GANGAVATHI, IN O.S.NO.112/2005, IN THE INTEREST
OF JUSTICE AND EQUITY.

THESE APPEALS, COMING ON FOR ADMISSION THIS DAY,
JUDGMENT WAS DELIVERED THEREIN AS UNDER:



ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE C M JOSHI)

Heard learned counsel appearing for the appellant and respondent in all the three appeals.

2. This appeal arises out of the judgment of the First Appellate Court in R.A.No.25/2010 by which the judgment of the Trial Court in O.S.No.112/2005 was partly set-aside granting permanent injunction restraining the defendants from causing interference to the plaintiff's peaceful possession and enjoyment of suit property.

3. This is a second round of litigation subsequent to the remand of the matter by this Court in RSA No.6045/2011. The factual matrix that is relevant for purpose of this appeal had been culled out by this Court in RSA No.6045/2011 in following words:

"The suit filed by the plaintiff before the Addl. Civil Judge, Gangavathi, in O.S.No.112/2005 for permanent injunction as well as mandatory injunction restraining the defendants from interfering with the peaceful possession and enjoyment over the suit land and for directing the defendants to remove the temporary road laid illegally on the extreme western side of the suit



land has been dismissed in appeal. Hence, this second appeal.

The suit property of the plaintiff is said to have been purchased during his minority through his guardian. It is stated that there is a road formed in the property belonging to the plaintiff which measures about 15 feet. The defendants have tried to lay a new road in the suit land under a wrong presumption. It is contended that the defendants having no right over the property, to the extent of 15 feet, have formed a road in the land of the plaintiff. It is further contended that the defendants trespassed the property of the plaintiff to form the road. As such, the suit was filed and the same was contested by the defendants.

2. According to the stand of the defendants, that there was no road measuring 15 feet is not correct and neither they have formed any road nor they have committed any trespass. Denying the stand of the plaintiff, it is stated by the defendants that already there was a road in existence and there is no such encroachment. The plaintiff taking undue advantage in the guise of that road which was already in existence, had filed a suit against the defendants.

3. The trial Court having framed as many as four issues for consideration was of the opinion that there are no documents produced though there was alleged interference. Accordingly, the suit came to be dismissed. However, in the appeal before the lower appellate Court, similar stand was taken by the defendants and the lower appellate Court having noted that there is no cause of action for the plaintiff to seek mandatory injunction on two occasions and also noting further that the said road was in existence in the



land of Sangamma Patil, opined that definitely the plaintiff has no case against the defendants. Also noting that there is no piece of evidence except the evidence of the plaintiff, it has dismissed the appeal filed by the plaintiff. As against which, this second appeal."

4. In RSA No.6045/2011, this Court noticed that the existence of the road and as to whether it is in the property of the defendants or the plaintiffs was the crux of the matter. Therefore, this Court had remanded the matter to the First Appellate Court with a direction that the ADLR be directed to fix the boundaries as per the entitlement on the basis of the title deeds. It was observed by this Court that if the road is formed on the part of the property of the defendants, then the plaintiff has no case and if the road comes within the plaintiff's property, the First Appellate Court has to proceed in accordance with law.

5. It is submitted by learned counsels appearing for the appellants in all the appeals that subsequent to the remand, ADLR was the Court commissioner and he has given a report stating that the road falls within the property belonging to the plaintiff. Therefore, it is submitted that the judgment and



NC: 2025:KHC-D:16518
RSA No. 100393 of 2016
C/W RSA No. 100341 of 2016

decree of the First Appellate Court will have to prevail in R.A.No.25/2010. In other words, the judgment and decree passed by the Trial Court as well as dismissal of the appeal will have to be upheld. Hence, both these appeals are dismissed in view of the report of the ADLR who has categorically stated that the road falls within the property of the plaintiff.

6. In view of the same, no substantial question of law arises in the present appeals and as such, the appeals are unmerited. Hence, dismissed. The judgment of the First Appellate Court in R.A.No.25/2010 dated 29.01.2016 is confirmed.

SD/-
(C M JOSHI)
JUDGE

RKM
CT:PA
LIST NO.: 1 SL NO.: 0