



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 3RD DAY OF DECEMBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE C M JOSHI

REGULAR SECOND APPEAL NO.5934 OF 2010 (INJ)

BETWEEN:

1. SRI. THIMMAPPA S/O. RACHOTAPPA,
AGE: 66 YEARS, OCC. AGRICULTURIST,

SINCE DIED ON 01.03.2024 BY HIS LRS.
- 1A. SRI. SHEKHARAPPA SINGANAL S/O. THIMMAPPA,
AGE: 57 YEARS, OCC. AGRICULTURIST,
- 1B. SRI. VEERESH S/O. THIMMAPPA,
AGE: 52 YEARS, OCC. AGRICULTURIST,
- 1C. SMT. RENUKAMMA W/O. MALLIKARJUNA,
D/O. THIMMAPPA, AGE: 46 YEARS,
OCC. HOME MAKER,

ALL ARE R/O. DHARMASAGAR VILLAGE,
TQ. HOSAPETE, DIST. VIJAYANAGARA.
2. SRI. POMPANNA S/O. RACHOTAPPA,
AGE: 56 YEARS, OCC. AGRICULTURIST,
R/O. DHARMASAGAR VILLAGE,
TQ. HOSAPETE, DIST. BALLARI.

...APPELLANTS

(BY SRI. HANUMANTHAREDDY SAHUKAR, ADVOCATE)

AND:

1. SRI. BASAVANA GOUDA
S/O. POMPANNA,
AGE: 47 YEARS, OCC. AGRICULTURIST,
R/O. KOTAGINAHALLI, TQ. HOSAPETE,



DIST. BALLARI.

2. SRI. SINGANAL BASAPPA
S/O. SHANMUKHAPPA,
AGE: MAJOR, OCC. AGRICULTURIST,
R/O. DHARMASAGAR VILLAGE,
TQ. HOSAPETE, DIST. BALLARI.

SINCE DIED ON 29.12.2015 BY HIS LRS.

- 2A. SMT. SINGANAL DEVIRAMMA W/O. SINGANAL BASAPPA,
AGE: 57 YEARS, OCC. HOME MAKER,
- 2B. SRI. CHANDASHEKHARA S/O. SINGANAL BASAPPA,
AGE: 37 YEARS, OCC. AGRICULTURIST,
- 2C. SMT. YALLAMMA W/O. LINGANAGOUDA,
AGE: 34 YEARS, OCC. AGRICULTURIST,

ALL ARE R/O. DHARMASAGAR VILLAGE,
TQ. HOSAPETE, DIST. VIJAYANAGARA.

3. SRI. SINGANAL RAMAPPA
S/O. SHANMUKHAPPA,
AGE: MAJOR, OCC. AGRICULTURIST,
R/O. DHARMASAGAR VILLAGE,
TQ. HOSAPETE, DIST. BALLARI.

...RESPONDENTS

(BY SMT. VIDYAVATI M. KOTTURSHETTAR, ADVOCATE FOR R1;
R2A, R2B, R2C, R3-NOTICE SERVED)

THIS RSA IS FILED U/SEC.100 CPC., PRAYING TO SET ASIDE THE JUDGMENT & DECREE DTD. 30-07-2010 IN R.A.NO.69/2009 PASSED BY THE LEARNED ADDL. SENIOR CIVIL JUDGE HOSAPETE, CONFIRMING THE JUDGMENT AND DECREE DTD. 12-08-2009 IN O.S.NO.98/2007 PASSED BY THE LEARNED PRL. CIVIL JUDGE (JR.DN) & JMFC., HOSAPETE, AND PASS SUCH OTHER ORDER AS DEEMS FIT UNDER THE FACTS AND CIRCUMSTANCES OF THE CASE, BY ALLOWING THE ABOVE APPEAL, IN THE INTEREST OF JUSTICE AND EQUITY.

THIS APPEAL, COMING ON FOR FURTHER HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:



ORAL JUDGMENT

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

Impugning the judgment dated 30.07.2010 in R.A.No.69/2009 passed by the Additional Civil Judge (Sr.Dn), Hospet, whereby the decree dated 12.08.2009 in O.S.No.98/2007 passed by the Principal Civil Judge (Jr.Dn), Hospet, was reversed and the suit came to be dismissed, the plaintiffs are before this Court in this second appeal.

2. For the sake of convenience, the parties are referred to as per their rank before the Trial Court.

3. The brief facts that are relevant for the purpose of this appeal are as under:

(a) The suit schedule property happens to be 3.53 Acres in Survey No.95/A of Kotaginahal village of Hospet Taluk, having remaining portion of said survey number measuring 3.54 Acres on the eastern side.

(b) The plaintiffs contended that they are the absolute owners of the agricultural land bearing Survey No.95/A



measuring 7.07 Acres and it originally belonged to the father of the plaintiffs viz., Rachotappa and they were jointly cultivating the said land and the names of the plaintiffs were entered in the records of rights. The entire Survey No.95/A was joint family property and there was no division even after the death of Rachotappa.

(c) One Smt.Parvatamma filed Form No.7 under the Karnataka Land Reforms Act to the Land Tribunal to an extent of 3.54 Acres and sought to declare herself as an occupant. After enquiry, the Land Tribunal granted occupancy rights in favour of Smt.Parvatamma in respect of 3.54 Acres of land. Thus, she was in possession and enjoyment of only 3.54 Acres.

(d) The plaintiffs further contended that the name of the defendant No.1-Basavanagouda was entered in the records of rights of the remaining extent of land in the year 2005 on the basis of mutation entry dated 03.09.2004. Thereafter, the plaintiffs approached the Revenue Authorities, who gave an endorsement stating that there are no such mutation records but the name of defendant No.1-Basavanagouda was entered in the



records of rights pertaining to Survey No.95/A of Kotaginahal village.

(e) It is contended that defendant No.1-Basavanagouda had no manner of right, title or interest in whatsoever manner over the land measuring 3.53 Acres and he was entitled only in respect of 3.54 Acres, which was granted in the name of Smt.Parvatamma. The defendant No.1-Basavanagouda even though he has no manner of right, title or interest over the suit property, is attempting to interfere with the peaceful possession and enjoyment of the plaintiffs and the resistance made by the plaintiffs was not heeded to by the defendants and therefore, there was a need for the plaintiffs to file the present suit. On such grounds, the plaintiffs sought for injunction against the defendants restraining them from interfering with the possession and enjoyment of the plaintiffs over the suit schedule property.

4. The suit of the plaintiff was resisted by the defendants contending:

(a) A portion of the land in Survey No.95/A measuring 3.54 Acres was sold by one Singanala Thimmavva, Singanala



Rachotappa, Singanala Yerribasappa and Singanal Basamma in favour of Nelludi Pompanna for a sum of ₹200/- on 07.06.1947 and he was put in possession. It is contended that remaining extent of 3.53 Acres in Survey No.95/A was sold for ₹500/- by Singanal Sanna-Mookappa and Thippamma in favour of Nelludi Pompanna on 30.12.1952 and he was put in possession.

(b) The defendants further contended that Nelludi Pompanna sold the land purchased by him in favour of Kammar Pompanna S/o. Kammar Yellavva on 04.04.1956 and as such, he became the owner to the entire extent of 7.07 Acres and as such, he was put in possession. After the death of Kammar Pompanna, his daughter Smt.Parvatamma succeeded to his estate and she is in possession and enjoyment of the property. The said Parvatamma filed Form No.7 in respect of Survey No.95/A measuring 3.54 Acres of land and the Land Tribunal granted occupancy rights in her favour. She died intestate and issueless and thereafter, mutation is effected in the name of the defendants in respect of 3.53 Acres. It is contended that Smt.Parvatamma has also paid premium and therefore, the defendants being legal heirs of Smt.Parvatamma as her sister's



sons, they are having right, title and interest in respect of the same. Hence, the defendants sought for dismissal of the suit.

5. On the basis of the above contentions, the following issues were framed by the Trial Court:

"ISSUES

1. *Whether Plaintiffs prove that they are in lawful possession over the Suit Schedule Property?*
2. *Whether plaintiffs prove alleged interference of defendant over suit Schedule Property?*
3. *Whether defendant proves boundary mentioned in the schedule are not correct?*
4. *Whether plaintiffs are entitled for the relief sought for?*
5. *What decree or order?"*

6. The plaintiff No.1 was examined as PW1 and Ex.P1 to Ex.P.16 were marked. The defendant No.1 was examined as DW1 and one witness was also examined as DW2 and Ex.D1 to Ex.D15 were marked in the evidence. After hearing both the sides, the Trial Court held issue No.1, 2 and 4 in the affirmative



and issue No.3 in the negative and decreed the suit of the plaintiffs.

7. Being aggrieved, the defendants approached the First Appellate Court in R.A.No.69/2009. After hearing both the sides, the First Appellate Court allowed the appeal and set aside the judgment of the Trial Court and dismissed the suit of the plaintiffs.

8. Being aggrieved, the plaintiffs are before this Court in this second appeal.

9. This Court while admitting this appeal, has framed the following substantial questions of law:

- i) *Whether the first appellate Court has committed a serious error in allowing the appeal by relying on the evidence of P.W.1 for some purpose and ignoring the evidence of P.W.1 for other purpose, that too on technical grounds when the mistake is apparently of the advocate?*
- ii) *Whether the learned Judge of the first appellate Court has committed a serious error in allowing the appeal by dismissing the suit instead of remanding the matter to the trial Court for recording evidence*



afresh and thus the judgment of the first appellate Court has become perverse and illegal?"

10. The learned counsel appearing for the appellants and the respondents are heard.

11. The learned counsel appearing for the appellants/plaintiffs would submit that the Trial Court as well as the First Appellate Court came to the conclusion that the plaintiffs are in possession and enjoyment of 3.53 Acres in Survey No.95/A, however, the First Appellate Court holds that there was no such obstruction by the defendants and therefore, the suit is not maintainable. It is submitted that the First Appellate Court relied upon the deposition of PW1. In the cross-examination, PW1 admits that there was no interference by the defendants and therefore, it dismissed the suit. It is submitted that the resistance offered by the defendants to the suit itself would show that there was obstruction by the defendants and as such, the impugned judgment of the First Appellate Court is not sustainable. It is submitted that the possession of the plaintiffs in respect of 3.53 Acres in Survey No.95/A is not disputed by the defendants and therefore, the logical outcome of the suit would



be that the defendants be restrained by injunction. Hence, he seeks to restore the judgment of the Trial Court.

12. Per contra, learned counsel for the respondents would submit that the categorical admission by the PW1 would show that there is no dispute between the plaintiffs and DW1-Basavanagouda. PW1 contends that he does not know who is Kammara Pompanna. Therefore, when PW1 had expressed in categorical terms that there was no interference, the impugned judgment cannot be termed to be illegal or perverse.

13. The perusal of the records would indicate that Smt.Parvatamma was granted occupancy rights only in respect of 3.54 Acres of land in Survey No.95/A as evidenced by Ex.P2. Though the defendants in their written statement contend that the entire 7.07 Acres of land was owned by the defendants through the said Basavanagouda, there is no justification for the same. It is worth to note that the records of rights produced at Ex.P6 show that Smt.Parvatamma was in possession of 7.07 Acres but the name of the Thimmavva, Pompanna, children of Rachotappa can also be found in the records. It is pertinent to note that the right, title and interest of Parvatamma under whom



the defendants are claiming rights, was only to the extent of 3.54 Acres. At no stretch of imagination there can be any additional right, which had accrued in favour of the said Parvatamma.

14. The entry of the name of Smt.Parvatamma as per the mutation entry was sought by the plaintiffs and an endorsement was issued by the Taluk Office as per Ex.P16 where it was indicated that such records are not available. Therefore, the claim of the defendants that Parvatamma was holding the land to the extent of 7.07 Acres is not established. Her right, title and interest are only in respect of 3.54 Acres as per the Form No.10 issued by the Land Tribunal.

15. Coming to the documents produced by the defendants, Ex.D1 is the sale deed dated 30.12.1952 pertaining to the portion of Survey No.95/A measuring 3.53 Acres executed by one S.Mookappa and Thippamma in favour of N.Pompanna. The said N.Pompanna sold to K.Pompanna and later it was inherited by Parvatamma. It is pertinent to note that though those sale deeds mention that it was 3.53 Acres, it is an admitted fact that Parvatamma had inherited 3.54 Acres through



the Land Tribunal. It is not the case of the defendants that 3.53 Acres was inherited by Parvatamma and remaining 3.54 Acres was tenanted property and as such it was granted to her. Obviously, the sale deed dated 07.06.1947 executed by Rachotappa and others in favour of N.Pompanna was for 3.54 Acres. Nowhere, the defendants have contended that 3.53 Acres was inherited and 3.54 Acres was tenanted land and as such, Parvatamma had 7.07 Acres. The name of the plaintiffs is appearing in the records continuously and as such, the documents show the possession of the plaintiffs. If at all the defendants are disputing the title of the plaintiff, they are at liberty to seek appropriate relief by way of declaration.

16. Coming to the oral testimony of PW1, in his deposition, he admits that he does not know about the Form No.7 submitted by Parvatamma and he is unable to say the boundaries of the land. His deposition is of ignorance to a greater extent. However, he contends that half of Survey No.95/A is under his possession and enjoyment and he is cultivating the same. He also admitted that he does not have any dispute with Basavanagouda. Obviously, after the demise of



defendant No.1-Basavanagouda, defendant No.2 and 3 have been impleaded. Therefore, it is evident that when the suit came to be filed, there was no such dispute, which was in existence regarding possession of the suit schedule property.

17. The DW1, in his cross-examination, admits that there is no revenue record showing that 3.53 Acres i.e. the suit schedule property was mutated in his name. Though he contends that the said property was purchased under the sale deed, the records do not show the same. Under these circumstances, the First Appellate Court was justified in holding that the plaintiff has continued in possession and enjoyment of the property to the extent of 3.53 Acres and the defendants are enjoying 3.54 Acres in Survey No.95/A. When there was no such obstruction stated by the PW1 in the cross-examination and it being admitted fact that the name of the plaintiffs continued in the revenue records pertaining to the suit schedule property, the possession of the plaintiff cannot be disputed. Though the defendants contend that they inherited 3.54 Acres under the sale deed executed by Rachotappa and others in favour of Pompanna and later it was subject matter of the order of the Land Tribunal, which find place



in the revenue records, there is no material on record to show that 3.53 Acres was sold to N.Pompanna and under them Parvatamma had obtained title. Evidently, the plaintiffs are not Class-I legal heirs of Parvatamma. Therefore, the said 3.53 Acres, claimed by the plaintiff appears to be in his possession without obstruction by the defendants.

18. Thus, it is evident that the First Appellate Court, after considering the evidence on record, came to the conclusion that the plaintiffs are in possession of the suit schedule property measuring 3.53 Acres and there is nothing on record to show that the defendants are in possession of 3.53 Acres claimed by the plaintiffs. However, the defendants are in possession of 3.54 Acres under the Form No.10 issued by the Land Tribunal in favour of Parvatamma. Thus, the suit being one for bare injunction, the First Appellate Court has rightly relied upon the mutation entries to ascertain the possession. It has rightly relied upon the admission of PW1, as extracted in paragraph 20 and 23 of the impugned judgment. Therefore, there is no infirmity in the judgment of the First Appellate Court, which has reversed the finding of the Trial Court. Under these circumstances, the



substantial questions of law framed by this Court are answered in the negative.

19. It needs to be observed that while the appeal filed by the plaintiffs is to be dismissed, the finding of the Court that the defendants are not interfering with the possession and enjoyment of 3.53 Acres of the plaintiff deserves to be upheld.

20. In view of the above, the appeal is ***dismissed***.

21. However, it is noted by this Court that the learned counsel for the respondent has made a categorical statement before this Court that the respondents are not interfering in the possession and enjoyment of the 3 acres and 53 cents of the land belonging to the appellants in Survey No.95/A.

22. In view of disposal of the appeal, pending interlocutory applications, if any, do not survive for consideration and are disposed of.

SD/-
(C M JOSHI)
JUDGE

YAN
CT:PA
LIST NO.: 1 SL NO.: 38