



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19TH DAY OF DECEMBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE S VISHWAJITH SHETTY

REGULAR FIRST APPEAL NO. 410 OF 2004 (SP)

C/W

REGULAR FIRST APPEAL NO. 1621 OF 2022

IN RFA No. 410/2004:

BETWEEN:

S. RAYAPPAN
SINCE DEAD BY LRs.

1a. SMT. R.A. MARY
W/O LATE S. RAYAPPAN
AGED ABOUT 72 YEARS.

1b. SMT. R. BRIDGET
D/O LATE S. RAYAPPAN
AGED ABOUT 45 YEARS.

1c. SMT. R. VINNARASI
D/O LATE S. RAYAPPAN
AGED ABOUT 40 YEARS.

1d. SRI R. BOSCO
S/O LATE S. RAYAPPAN
AGED ABOUT 48 YEARS.

ALL ARE RESIDING AT
R/A No.38, KADIRENAPALYA
INDIRANAGAR
BANGALORE - 560 038.

...APPELLANTS

(BY SRI Y.R. SADASHIVA REDDY, SR. COUNSEL FOR
SRI RAHUL S REDDY, ADV., FOR LRs OF DECEASED APPELLANT)

AND:

1 . SMT. LAKSHMAMMA
AGED MAJOR.



- 2 . SRI MUNIVEERAPPA
S/O LATE OBLAPPA
AGED MAJOR.
- 3 . SMT. MUNIVENKATAMMA
W/O LATE MARAPPA
AGED MAJOR
A. NARAYANAPURA
DOORAVANINAGAR POST
BANGALORE.
- 4 . THE CHIEF ADMINISTRATIVE OFFICER
BYAPPANAHALLI NOTIFIED AREA
COMMITTEE, BANGALORE SOUTH
TALUK, BANGALORE.

...RESPONDENTS

(BY SRI L. VENKATARAMA REDDY, ADV., FOR R-4;
SRI CHANDRASHEKARA REDDY V, ADV., FOR R-3;
R-1 TO R-2 SERVED AND UNREPRESENTED
V/O DTD: 06.12.2025 R-1 PERMITTED TO
TREATED AS LR'S OF DECEASED R-2)

THIS RFA FILED UNDER SECTION 96 AND 41 R 1 AND 2 OF
CPC AGAINST THE JUDGMENT AND DECREE DT:09.09.2003 PASSED
IN O.S.NO.1176/96 ON THE FILE DOF THE XI ADDL. CITY CIVIL
JUDGE, BANGALORE (CCH-8), DISMISSING THE SUIT FOR SPECIFIC
PERFORMANCE.

IN RFA No.1621/2022:

BETWEEN:

R. BOSCO
S/O S. RAYAPPAN
AGED ABOUT 45 YEARS
R/A NO.399, MARUTHINAGAR
II PHASE SONNENNAHALLI VILLAGE
JNANABHARATHI POST
BENGALURU - 560 066.

...APPELLANT

(BY SRI Y.R. SADASHIVA REDDY, SR. COUNSEL FOR
SRI RAHUL S. REDDY, ADV.)



NC: 2025:KHC:54463
RFA No. 410 of 2004
C/W RFA No. 1621 of 2022

AND:

MUNIVENKATAMMA
W/O LATE NARAPPA
AGED ABOUT 78 YEARS
R/A A NARAYANAPURA VILLAGE
DOORAVANINAGAR POST
BENGALURU - 560 016.

...RESPONDENT

(BY SRI CHANDRASHEKAR REDDY V, ADV.)

THIS RFA FILED UNDER SECTION 96 R/W ORDER 41 RULE 1 OF CPC., AGAINST THE JUDGMENT AND DECREE DATED 29.06.2022 PASSED IN OS No.5402/2014 ON THE FILE OF THE XXXIV ADDL. CITY CIVIL AND SESSIONS JUDGE, BENGALURU DISMISSING THE SUIT FOR PERMANENT INJUNCTION.

THESE APPEALS, HAVING BEEN RESERVED FOR JUDGMENT ON 11.12.2025, COMING ON FOR PRONOUNCEMENT THIS DAY, COURT MADE THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE S VISHWAJITH SHETTY

CAV JUDGMENT

1. The subject matter of these two appeals is common and the contesting parties in these two appeals are also common, and therefore, the appeals are heard together and disposed of by this common judgment, with the consent of the learned Counsels appearing for the parties.

2. Suit in O.S.No.1176/1996 was filed by S.Rayappan seeking the relief of specific performance of the agreement for sale dated 16.01.1982 said to have been executed in



his favour in respect of the suit schedule property by defendant nos.1 & 2 in the suit, and to cancel the registered sale deed dated 02.04.1994 said to have been executed by defendant nos.1 & 2 in favour of defendant no.3 in the suit.

3. The Trial Court vide the judgment and decree dated 09.09.2003 has dismissed the suit in O.S.No.1176/1996, and aggrieved by the same, the plaintiff in the said suit viz., S.Rayappan, is before this Court in RFA.No.410/2004.

4. During the pendency of RFA.No.410/2004, it appears that S.Rayappan had executed a registered sale deed dated 26.05.2012 in respect of the suit schedule property in favour of his son R.Bosco on the strength of the registered power of attorney executed by defendant nos.1 & 2 in O.S.No.1176/1996 in favour of S.Rayappan. Alleging that defendant no.3 in O.S.No.1176/1996 viz., Smt. Munivenkatamma tried to interfere with the possession of the suit schedule property by the purchasers



under the registered sale deed dated 26.05.2012, suit in O.S.No.5402/2014 was filed by R.Bosco S/o S.Rayappan seeking the relief of permanent injunction against Smt. Munivenkatamma. The said suit was dismissed by the Trial Court by judgment and decree dated 29.06.2022. Aggrieved by the same, R.Bosco S/o S.Rayappan has filed RFA.No.1621/2022 before this Court.

5. Heard the learned Counsel for the parties.

6. Learned Senior Counsel appearing on behalf of the appellants submits that the Trial Court was not justified in dismissing O.S.No.1176/1996 having recorded a finding that the plaintiff in the said suit had proved the agreement in question. He submits that defendants in the said suit had not at all contested the claim of the plaintiff, and therefore, the Trial Court ought to have decreed the suit. He further submits that the sale deed was executed by S.Rayappan in favour of his son R.Bosco on the basis of the irrevocable power of attorney executed by defendant



nos.1 & 2 in O.S.No.1176/1996. Since the power of attorney was coupled with interest, the same could not have been cancelled by the executors. He submits that the Trial Court has failed to appreciate this aspect of the matter and has erred in dismissing the suit O.S.No.5402/2014.

7. Per contra, learned Counsel appearing for respondent no.3 in RFA.No.410/2004 who is the sole contesting respondent, submits that RFA.No.410/2004 was dismissed for non-prosecution by this Court, and thereafter, under a registered sale deed dated 12.03.2024, the suit schedule property had been sold in favour of one Smt. Jayapritha. Therefore, no relief can be granted in these appeals. He, accordingly prays to dismiss the appeals.

8. **Re: RFA.No.410/2004**: Suit in O.S.No.1176/1996 was filed with a prayer to cancel the registered sale deed dated 02.04.1994 executed by defendant nos.1 & 2 in favour of defendant no.3 - Smt. Munivenkatamma, and



also for specific performance of the agreement for sale dated 16.01.1982 said to have been executed by defendant nos.1 & 2 in favour of the plaintiff.

9. Defendant nos.1 & 2 were placed ex-parte in O.S.No.1176/1996. Defendant no.3 had filed her written statement and based on the rival pleadings, the Trial Court had framed as many as five Issues in the suit.

10. Plaintiff had examined himself as PW-1 and 16 documents were got marked as Exs.P-1 to P-16. PW-1 was not cross-examined on behalf of the defendants and no oral or documentary evidence was placed on record on behalf of the defendants.

11. The Trial Court had answered Issue no.1 framed in the suit in the affirmative and had held that plaintiff had proved that defendant nos.1 & 2 had agreed to sell the suit schedule property for a valuable sale consideration of Rs.3,000/- and also executed a General Power of Attorney and agreement for sale dated 16.01.1982 in favour of



plaintiff after having received advance amount of Rs.2,900/-. However, the Trial Court has held that plaintiff had not proved his readiness and willingness to perform his part of the contract. The sale agreement was dated 16.01.1982 and the suit for specific performance was filed in the year 1996. The plaintiff had not even issued any legal notice to defendant nos.1 & 2 calling upon them to execute the sale deed in his favour, nor had he expressed his readiness and willingness to perform his part of the contract by paying balance sale consideration as agreed under the agreement for sale dated 16.01.1982. It is under these circumstances, the Trial Court has held that the plaintiff had not proved his readiness and willingness to perform his part of the contract.

12. It is also relevant to note here that Section 20 of the Specific Relief Act, 1963, prior to its amendment in the year 2018, provided that the relief of specific performance of the contract was a discretionary relief to be granted by



the court taking into consideration the facts and circumstances of each case.

13. In the case on hand, undisputedly, defendant nos.1 & 2 have executed a registered sale deed in favour of defendant no.3 on 02.04.1994. Though plaintiff has sought for cancellation of the said sale deed, no material was produced by the plaintiff to prima facie prove before the Trial Court that such a sale deed was executed by defendant nos.1 & 2 in favour of defendant no.3. The plaintiff had not even produced the copy of the such a sale deed, much less the certified copy of the said document. In the absence of any material before the court to show that defendant nos.1 & 2 had executed a sale deed in favour of defendant no.3 in respect of the suit schedule property, the Trial Court had refused to grant any relief to the plaintiff to cancel the aforesaid sale deed dated 02.04.1994.



14. It is relevant to note here that during the pendency of RFA.No.410/2004 which arises out of the judgment and decree passed in O.S.No.1176/1996, the plaintiff viz., S.Rayappan has executed a registered sale deed in respect of the suit schedule property on 26.05.2012 in favour of his son R.Bosco.

15. Section 16 of the Specific Relief Act provides for personal bars to relief. Section 16(b) of the said Act provides that specific performance of the contract cannot be enforced in favour of a person who has become incapable of performing the contract.

16. Since the plaintiff in O.S.No.1176/1996 has now executed a sale deed in respect of the suit schedule property in favour of his son under the alleged irrevocable registered General Power of Attorney stated to have been executed by defendant nos.1 & 2 in his favour, the relief of specific performance of agreement for sale dated



16.01.1982 in respect of the suit schedule property cannot be granted in his favour.

17. It is also relevant to note here that this Regular First Appeal was dismissed for non-prosecution by this Court on 25.03.2019 and the said order was recalled on 07.11.2024. In the meanwhile, on 12.03.2024, respondent no.3 herein viz., Smt. Munivenkatamma has executed sale deed in respect of the suit schedule property in favour of one Smt. Jayapritha for valid sale consideration and copy of the sale deed is produced along with the memo before this Court by the learned Counsel for respondent no.3. Since the sale transaction has taken place when the appeal was dismissed for non-prosecution, it cannot be said that the said transaction is hit by the principles of Section 52 of the Transfer of Property Act, and therefore, the plaintiff/appellant cannot be granted the relief sought for in this appeal. Under the circumstances, I am of the opinion that this appeal is liable to be dismissed.



18. **Re: RFA.No.1621/2022**: This Regular First Appeal arises out of the judgment and decree dated 29.06.2022 passed in O.S.No.5402/2014. R.Bosco S/o S.Rayappan is the plaintiff in the said suit. It is the case of the plaintiff that his father acting as the General Power of Attorney holder of defendant nos.1 & 2 in O.S.No.1176/1996, has executed a sale deed in his favour in respect of the suit schedule property. Alleging that defendant - Smt. Munivenkatamma had tried to interfere with his possession and enjoyment of the suit schedule property, he had approached the Trial Court seeking the decree of permanent injunction against her.

19. It is relevant to note here that in O.S.No.1176/1996, the Trial Court has recorded a finding that plaintiff in the said suit had failed to prove that he was put in possession of the suit schedule property by defendant nos.1 & 2. Copy of the agreement for sale dated 16.01.1982 is produced at Ex.D-2 in the present suit and copy of the registered General Power of Attorney said to have been



executed by defendant nos.1 & 2 in O.S.No.1176/1996 in favour of the father of the plaintiff is produced at Ex.P-7.

20. Perusal of the averments found in Ex.D-2 as well as Ex.P-7 would go to show that there is no mention that late S.Rayappan was put in possession of the suit schedule property under the said document. On the other hand, Smt. Munivenkatamma who is examined as DW-1 in O.S.No.5402/2014 has produced necessary material before the Trial Court to show that after the sale deed dated 02.04.1994 (Ex.D-8) was executed in her favour, she was put in possession of the suit schedule property. She has also produced photograph of the house constructed by her in the suit schedule property as Ex.D-3. The electricity bills in respect of the electricity connection to the house constructed in the suit schedule property are produced by her as Exs.D-12 to D-31. Ex.D-11 is the original of property tax register relating to the suit schedule property. Exs.D-34 to D-40 are the water bills which stand in the name of the defendant - Smt.



Munivenkatamma. She has also produced property tax paid receipts in respect of the suit schedule property.

21. Plaintiff, who has examined himself as PW-1, has not produced any document before the Trial Court to show that he was put in possession of the suit schedule property at any point of time. It is relevant to note here that plaintiff claims that his father Rayappan had executed the sale deed - Ex.P-1 dated 26.05.2012 in his favour on the strength of the General Power of Attorney said to have been executed by defendant nos.1 & 2 in O.S.No.1176/1996. According to the plaintiff, the said General Power of Attorney is coupled with interest, and therefore, it is an irrevocable document. However, a reading of the said document would go to show that no consideration was paid under the said document by S.Rayappan - plaintiff in O.S.No.1176/1996 to defendant nos.1 & 2 in the said suit. Therefore, it cannot be said that the said General Power of Attorney is an irrevocable document.



22. In addition to the same, the material on record would go to show that the registered General Power of Attorney which was executed by defendant nos.1 & 2 in O.S.No.1176/1996 in favour of S.Rayappan was cancelled by them by executing a registered deed of revocation of general power of attorney on 18.04.1991. The original of the said registered deed of revocation is produced at Ex.D-7 by defendant - Smt. Munivenkatamma. The material on record would also go to show that, defendant no.2 in O.S.No.1176/1996 - Muniveerappa who allegedly had executed General Power of Attorney in favour of S.Rayappan, had died on 14.12.2001, which is much prior to execution of the sale deed dated 26.05.2012 in favour of the plaintiff by his father - S.Rayappan on the strength of the General Power of Attorney executed by the defendant nos.1 & 2 viz., Lakshamma and Muniveerappa, in O.S.No.1176/1996. Since Muniveerappa was not alive as on the date of registration of sale deed dated 26.05.2012 in favour of the plaintiff herein, it cannot



be said that plaintiff has derived a valid title, right and interest over the suit schedule property under the registered sale deed dated 26.05.2012 - Ex.P-1 executed in his favour by his father Rayappan on the strength of the General Power of Attorney executed by a dead person.

23. It is also relevant to note here that the sale deed dated 26.05.2012 has been registered in favour of the plaintiff in the present case by his father S.Rayappan acting as the General Power of Attorney holder of defendant nos.1 & 2 in O.S.No.1176/1996. Suit in O.S.No.1176/1996 was filed by S.Rayappan against defendant nos.1 & 2 and another seeking the relief of specific performance of the agreement for sale dated 16.01.1982 said to have been executed in his favour by defendant nos.1 & 2. After dismissal of the said suit, when RFA.No.410/2004 filed by S.Rayappan was pending consideration before this Court, the sale deed Ex.P-1 dated 26.05.2012 was executed in favour of the plaintiff in the present case, and therefore, a doubt arises with regard to



the title that has been passed on him under the said sale deed dated 26.05.2012.

24. The Trial Court having appreciated all these aspects of the matter, has dismissed O.S.No.5402/2014. Under the circumstances, I am of the opinion that the said judgment and decree does not call for interference at the hands of this Court and no grounds are made out by the appellant to entertain this appeal. Accordingly, the following order:

25. R.F.A.No.410/2004 & R.F.A.No.1621/2022 are dismissed.

Sd/-
(S VISHWAJITH SHETTY)
JUDGE

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