



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19TH DAY OF SEPTEMBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE H.T. NARENDRA PRASAD

REGULAR FIRST APPEAL NO. 233 OF 2008 (INJ)

BETWEEN:

SRI B L VEERABHADRE GOWDA
AGED ABOUT 70 YEARS
S/O LAKANNA GOWDA
R/AT NO 492/C7 A CROSS
7 BLOCKJAYANAGAR, BANGALORE

...APPELLANT

(BY SRI. B N ANANTHA NARAYANA., ADVOCATE)

AND:

SRI RAMASWAMY
AGED ABOUT 60 YEARS
S/O PETE MUNISWAMAPPA
R/AT VENKATESHWARA CYCLE MART
5 CROSS, CHANNAMMA KERE ACHUKATTU
BANASHANKARI 3 STAGE, BANGALORE.

...RESPONDENT

(BY SMT. P ANITHA, ADVOCATE)

Digitally signed by
HEMALATHA A
Location: HIGH
COURT OF
KARNATAKA

THIS RFA IS FILED UNDER SECTION 96 OF THE CPC
AGAINST THE JUDGMENT AND DECREE DATED: 23.11.07
PASSED IN OS NO. 1711/2002 ON THE FILE OF THE XI ADDL.
CITY CIVIL JUDGE, BANGALORE CITY (CCH NO.8), DISMISSING
THE SUIT FOR PERMANENT INJUNCTION.

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

CORAM: HON'BLE MR. JUSTICE H.T. NARENDRA PRASAD



ORAL JUDGMENT

1. This appeal under Section 96 of CPC is filed by the appellant-plaintiff challenging the judgment and decree dated 23.11.2007 passed by the XI Addl. City Civil Judge, Bangalore City, in O.S.No.1711/2002, whereby the suit filed by the plaintiff has been dismissed.

2. For the sake of convenience, the parties are referred to as per their ranking before the Trial Court in the original suit.

3. Brief facts of the case:

a) The plaintiff has purchased the suit schedule property at Sy.No.34 measuring 15 guntas situated at Uttarahalli Village, Bangalore South Taluk, from one Smt.Lakshamma under a registered sale deed dated 17.11.1971. From the date of purchase, the plaintiff is in actual possession and enjoyment of the said property. The suit schedule property is a vacant land. The



defendant is having property on the eastern side of the suit schedule property and he is trying to interfere with the suit schedule property. On 09.03.2002, the defendant tried to dispossess the plaintiff from the suit schedule property. Therefore, the plaintiff filed the suit for bare injunction.

b) On service of suit summons, the defendant appeared through counsel and filed written statement and has denied the entire plaint averments. He also denied that the plaintiff has purchased the suit schedule property by registered sale deed . Hence, he sought for dismissal of the suit.

c) On the basis of the pleadings of the parties, the Trial Court framed the following issues:

1. ದಾವಾ ಆಸ್ತಿ ದಾವಾ ದಿನಾಂಕದಂದು ತನ್ನ ನ್ಯಾಯಯುತ ಸ್ವಾಧೀನಾನುಭವದಲ್ಲಿತ್ತು ಎಂಬುದನ್ನು ವಾದಿ ಸಾಬೀತು ಪಡಿಸುವರೇ?
2. ದಾವಾ ಆಸ್ತಿಯ ತನ್ನ ಶಾಂತಿಯುತ ಸ್ವಾಧೀನಾನುಭವದಲ್ಲಿ ಪ್ರತಿವಾದಿ ಅಡ್ಡಿ ಆತಂಕ ಉಂಟು ಮಾಡಲು ಪ್ರಯತ್ನಿಸಿದ್ದಾರೆಂಬುದನ್ನು ವಾದಿ ಸಾಬೀತು ಪಡಿಸುವರೇ?



3. ಪ್ರತಿವಾದಿಯ ವಿರುದ್ಧ ಶಾಶ್ವತ ಪ್ರತಿಬಂಧಕಜ್ಞೆಯನ್ನು ಪಡೆಯಲು ವಾದಿ ಅರ್ಹರೇ?
4. ಡಿಕ್ರಿ ಅಥವಾ ಆದೇಶವೇನು?

d) To prove the case, the plaintiff has examined himself as PW-1, but no document has been produced and marked. On behalf of the defendant, defendant has neither examined any witness nor produced any documents. On appreciation of oral and documentary evidence, the Trial Court has answered issue Nos.1 to 3 in favour of the defendant and against the plaintiff and accordingly dismissed the suit. Being aggrieved by the same, the plaintiff has filed this present appeal.

4. The learned counsel for the appellant-plaintiff has contended that the plaintiff has purchased the suit schedule property by registered sale deed dated 17.11.1971. From the date of purchase, the plaintiff is in possession of the suit schedule property. During the trial, he was unable to produce the sale deed and



revenue records, which stands in the name of the plaintiff. The Trial Court, only on the basis that the plaintiff has not produced the sale deed and any other relevant documents has dismissed the suit. Now, for the first time, it is produced before this court by way of filing an application under Order XLI Rule 27 of CPC for production of additional documents.

5. The learned counsel for respondent-defendant supports the impugned judgment and decree passed by the Trial Court. Hence, she sought for dismissal of the appeal.

6. Heard the learned counsel for the parties.

7. The specific case of the plaintiff is that he has purchased the suit schedule property by way of registered sale deed dated 17.11.1971. The Trial Court has dismissed the suit only on the ground that the



plaintiff has not produced the sale deed and any other documents to establish his case.

8. Now, the appellant-plaintiff has filed an application under Order XLI Rule 27 of CPC before this Court seeking for production of additional documents i.e., copy of the sale deed and revenue records.

9. Therefore, in the interest of natural justice and in order to give opportunity to the parties, the matter requires to be remitted back to the Trial Court for fresh consideration.

10. Accordingly, the following order is passed:

ORDER

- a) The appeal is **allowed**.
- b) The judgment and decree dated 23.11.2007 passed by the XI Addl. City Civil Judge, Bangalore City, in O.S.No.1711/2002, is set aside.



- c) The matter is remanded to the Trial Court for fresh consideration.
- d) Parties are directed to produce additional documents before the Trial Court.
- e) The Trial Court is directed to decide the matter in accordance with law.

Sd/-
(H.T. NARENDRA PRASAD)
JUDGE