



NC: 2026:KHC:54141
RSA No. 35 of 2014

CNR: KAHC010064652014

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

REGULAR SECOND APPEAL NO. 35 OF 2014 (DEC/INJ)

BETWEEN:

1. KRISHNEGOWDA
S/O LATE NANJEGOWDA,
AGED ABOUT 60 YEARS,
2. JAVAREGOWDA
S/O LATE NANJEGOWDA,
AGED ABOUT 58 YEARS,
3. DHANANJAYA
S/O KRISHNEGOWDA,
AGED ABOUT 29 YEARS,

ALL ARE R/AT ALAMBADIKAVALA VILLAGE,
AKKIHEBBAL HOBLI, K.R.PET TALUK,
MANDYA DISTRICT- 571 605.

...APPELLANTS

(BY SRI. SHARATH S GOWDA, ADVOCATE)

AND:

1. SMT SHANTHAMMA
W/O M.KRISHNEGOWDA,
AGED MAJOR,
2. SANJEEVGOWDA
S/O LATE NANJEGOWDA
AGED MAJOR,

BOTH ARE R/AT ALAMBADIKAVALA VILLAGE,
AKKIHEBBAL HOBLI, K.R.PET TALUK,
MANDYA DISTRICT -571 605.

...RESPONDENTS

(BY SRI. P.M.GOPI, ADV.FOR SRI. P.M. SIDDAMALLAPPA, ADVOCATE
FOR R-1, R-2 SERVED)

Digitally
signed by
VANISHA S
Location:
High Court
of Karnataka



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THIS RSA IS FILED U/S. 100 OF CPC AGAINST THE JUDGEMENT & DECREE DTD 16.3.2012 PASSED IN R.A.NO.61/2009 ON THE FILE OF SENIOR CIVIL JUDGE AND JMFC, K.R.PET, DISMISSING THE APPEAL AND CONFIRMING THE JUDGEMENT AND DECREE DTD 15.9.2009 PASSED IN OS.16/2004 ON THE FILE OF CIVIL JUDGE(JR.DN.) AND JMFC,KRISHNARAJAPETE.

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

CORAM: HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

ORAL JUDGMENT

This appeal by the defendants in O.S.No.16/2004 on the file of Civil Judge (Jr.Dn) & JMFC, K.R.Pet, Mandya district, is directed against the impugned judgment and decree dated 15.09.2009 passed by the Trial court which granted decree of permanent injunction in favour of the respondents – plaintiffs against the appellants – defendants which was confirmed in an Appeal in R.A.No.61/2009 filed by the appellants – defendants, which was dismissed by the First Appellate court vide judgment and decree dated 16.03.2012.

2. Heard learned counsel for the appellants and learned counsel for the respondents and perused the material on record.



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3. On 13.07.2016, the present appeal was admitted to consider the following substantial questions of law:-

“1. Were the Courts below justified in granting injunction in favour of the plaintiff. When the plaintiff failed to prove his title in respect of the property in question and both the Courts dismissed the suit for declaration of the title by the plaintiff?

2. Were the Courts below justified in granting injunction on the basis of Ex.P1 – sale deed dated 23.4.2001 ignoring the earlier agreement of sale dated 10.01.2001 wherein the recital clearly indicates that possession was delivered to the present defendants?

3. Were the Courts below justified in granting permanent injunction when the plaintiff failed to prove his title in respect of suit schedule property?

4. Whether the Lower Appellate Court was justified in confirming the order of the Trial Court without following the order of the Trial Court without following the procedure contemplated under Order 41 Rule 31 of the Code of Civil Procedure?

5. Were the Courts below justified in granting injunction in the facts and circumstances of the present case?”

4. Learned counsel for the appellants and learned counsel for the respondents jointly submit that in addition to the present dispute between the appellants and respondents, an earlier suit in



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O.S.No.21/2003 had been instituted by the appellants – defendants against one Abdul Khayum and others for specific performance and other reliefs in relation to the very same suit schedule property. The said suit having been contested / opposed by the aforesaid Abdul Khayum and others, the trial court proceeded to pass the judgment and decree dated 21.09.2013 rejecting the prayer for specific performance and directed refund of the amount in favour of appellant No.1 herein by partly decreeing the suit as hereunder:-

“ORDER

- A) *The suit of the plaintiff is partly decreed with costs as under:*
- B) *The defendant No.1 is hereby directed to repay the advance amount of Rs.25,500/- together with simple interest at the rate of 8% per annum from the date of suit till its realisation.*
- C) *The relief for specific performance of contract is hereby rejected.*
- D) *Draw a decree accordingly.”*

5. Aggrieved by the aforesaid judgment and decree passed in O.S.No.21/2003 insofar as it related to rejecting the prayer / relief of specific performance, the appellants have preferred an



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appeal in R.A.No.19/2014, which is currently pending before the Prl.Senior Civil Judge and JMFC, K.R.Pet, and the said appeal stands posted to 12.10.2026 for arguments. It is therefore submitted that the appellants and respondents are not only parties to the present proceedings but also parties to the aforesaid R.A.No.19/2014 and in order to prevent multiplicity of proceedings and to avoid conflicting orders, the impugned judgment and decree passed by the First appellate court may be set aside and the matter be remitted back to the First Appellate court to be heard, clubbed, consolidated and dispose of along with R.A.No.19/2014 pending before the very same First Appellate court i.e., Prl.Senior Civil Judge and JMFC, K.R.Pet.

6. In view of the aforesaid facts and circumstances and the undisputed fact that the appellants and respondents are also parties to the pending R.A.No.19/2014 before the very same First Appellate Court and in respect of the very same suit schedule property, in view of the joint submissions made by both sides, I deem it just and appropriate to set aside the impugned judgment and decree passed by the First Appellate Court in R.A.No.61/2009



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and remit the matter back to the First Appellate court to be heard, clubbed, consolidated and dispose of along with R.A.No.19/2014 pending before the very same First Appellate court i.e., Prl.Senior Civil Judge and JMFC, K.R.Pet, by leaving open all contentions.

7. In the result, I pass the following:-

ORDER

(i) Appeal is hereby allowed.

(ii) The impugned judgment and decree dated 16.03.2012 passed in R.A.No.61/2009 by the Senior Civil Judge and JMFC, K.R.Pet, is hereby set aside.

(iii) R.A.No.61/2009 is remitted back to the Senior Civil Judge and JMFC, K.R.Pet to be clubbed, heard and consolidated along with R.A.No.19/2014 and dispose of both the appeals in accordance with law.

(iv) All rival contentions between the parties are kept open and no opinion is expressed on the same.

(v) Registry is directed to transmit the Trial Court records as well as the present order to the First Appellate Court without any delay.



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(vi) Having regard to the fact that R.A.No.19/2014 is presently posted for arguments on **12.10.2026**, the parties to the present appeal are hereby directed to appear in R.A.No.19/2014 as well as R.A.No.61/2009 before the First Appellate court on **12.10.2026**.

(vii) The First Appellate Court shall dispose of both R.A.No.61/2009 and R.A.No.19/2024 without being influenced by the findings and observations, if any, in the present order.

Sd/-
(S.R.KRISHNA KUMAR)
JUDGE

Srl.