HC-KAR

NC: 2026:KHC:54584
MSA No. 49 of 2026

CNR: KAHC010067052026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MS. JUSTICE JYOTI M

MISCELLANEOUS SECOND APPEAL NO. 49 OF 2026 (RO)

BETWEEN:

SRI. RAVI KUMAR R.,
S/O. SRI. RAMANNA @ RAMAPPA,
AGED ABOUT 59 YEARS,
R/O. KODIHALLI,
OLD WARD NO.15,
NEW WARD NO.17,
BHADRAVATHI-577301.

...APPELLANT

(BY SRI. B.K.MANJUNATH, ADVOCATE)

AND:

SRI. S.RAMESH,
S/O. SRI. A.S.KUMAR,
AGED ABOUT 43 YEARS,
PWD CONTRACTOR,
R/O. MADHAVANAGARA,
OLD TOWN,
BHADRAVATHI- 577301.

...RESPONDENT

(BY SRI. SRINATH, ADVOCATE FOR C/R)

Digitally signed by
PREMCHANDRA M R
Location: HIGH
COURT OF
KARNATAKA

THIS MISCELLANEOUS SECOND APPEAL IS FILED UNDER ORDER 43 RULE 1(u) OF THE CODE OF CIVIL PROCEDURE, 1908.

THIS MISCELLANEOUS SECOND APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 23.09.2026, THIS DAY, AN JUDGMENT IS PRONOUNCED AS UNDER:

CAV JUDGMENT

Sri. B. K. Manjunath, counsel for the appellant, and Sri. Srinath, counsel for the caveator/respondent, appeared in person.

2. The appeal is filed to set aside the judgment and decree dated 03.11.2025, passed by the Court of the Principal Senior Civil Judge and JMFC, Bhadravati, in R.A.No.80/2022, on several grounds as outlined in the appeal.

3. Counsel for the respective parties urged several contentions.

Submissions of counsel for the Appellant:

It is urged that the impugned judgment contradicts facts and law. Counsel contends that the Court overlooked evidence of a residential house - old property No.85 and new property No.504/526 in Survey No.66/2 - sold at Court

auction. It is argued that the Court erred in remanding the case and directing issuance of a delivery warrant, despite the Executing Court having ordered eviction through lawful procedure, since the appellant possessed the house built by his father in Survey No.66/2.

Counsel points to the dismissal of HRC No.10/2010, which rejected the eviction proceedings for want of a landlord-tenant relationship. Reliance is placed on *Sameer Singh v. Abdul Rab* (2015) 1 SCC 379, wherein the Supreme Court held that all questions relating to right, title, or interest - including those raised by strangers - must be adjudicated. On these grounds, it is urged that the appeal be allowed.

Submissions of Counsel for the Respondent:

Conversely, counsel for the respondent justified the remand order. It is submitted that the Executing Court rightly rejected the obstructor's application, and subsequent appeals were dismissed. The respondent, being the auction purchaser, is entitled to possession. Since the Executing

Court declined to issue a delivery warrant, the appellate Court was justified in directing its issuance. Urging additional contentions, counsel submits that the appeal lacks merit and must be dismissed.

4. This Court heard the arguments and carefully perused the record.

5. The only law point that would arise for determination is:

Whether the remand order directing the Executing Court to issue a delivery warrant is justified.

6. The controversy lies within a narrow compass: whether the remand order directing issuance of a delivery warrant is sustainable. The record discloses that the property was attached and sold in Court auction, with the respondent emerging as the highest bidder. A sale certificate and delivery warrant were issued on 19.03.2016. Subsequently, Ravi Kumar filed an objection application under Order XXI Rules 97–103 CPC, claiming rights in the property. Upon inquiry, the Executing Court held that the objector had no

right, title, or interest and was at best a trespasser. Yet it declined to issue a delivery warrant, directing that possession be taken through due process.

Such refusal was unsustainable in law. Once the Executing Court adjudicated the objection and found no right in the objector, the only lawful course was to issue a delivery warrant to the auction purchaser. The Appellate Court, therefore, rightly corrected the error and directed issuance of the warrant.

The appellant's reliance on the HRC proceedings is misplaced, as the absence of a landlord-tenant relationship is irrelevant to execution proceedings. Likewise, possession without title cannot defeat the rights of the auction purchaser. The Supreme Court decision in *Sameer Singh v. Abdul Rab* reinforces that objections must be adjudicated, which has already been done.

7. Moreover, the Executing Court has held that the appellant has no independent right to the property. The matter thus stands concluded.

8. Therefore, this Court passes the following order.

1. The remand order directing the Executing Court to issue a delivery warrant is upheld.

2. The appellant has failed to establish any independent right, title, or interest in the property.

3. The Executing Court shall forthwith issue a delivery warrant to the auction purchaser.

4. The appeal is devoid of merit and stands ***dismissed*.**

5. Because of dismissal of the appeal, interim order granted if any stands discharged and pending interlocutory applications if any are disposed of.

Sd/-
(JYOTI M)
JUDGE

MRP
List No.: 1 Sl No.: 3