



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF JUNE, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

REGULAR SECOND APPEAL NO.529 OF 2019 (DEC/INJ)

BETWEEN:

D. KRISHNA SHETTY
S/O LATE VENKATA SHETTY

SINCE DECEASED BY HIS LR'S

1. SRI.PUTTA LAKSHMAMMA
AGED ABOUT 79 YEARS,
W/O LATE D.KRISHNA SHETTY
2. SRI. D.K. PARAMESH
AGED ABOUT 56 YEARS,
S/O LATE D.KRISHNA SHETTY,

APPELLANT NO.1 AND 2 ARE
RESIDENT OF RADHA KRISHNA
BADAVANE, KUSHALNAGAR
SOMWARPET TALUK
KODAGU - 571 236.

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signed by
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Location:
HIGH
COURT OF
KARNATAKA

3. SRI. D.J.MEENAKSHI
AGED ABOUT 61 YEARS,
D/O LATE D.KRISHNA SHETTY,
W/O JAYARAM
RESIDENT OF KODLIPET,
SOMWARPET TALUK,
KODAGU - 571 236.

...APPELLANTS

(BY SRI. B S NAGARAJ, ADVOCATE)



AND:

1. THE STATE OF KARNATAKA
REP BY THE DEPUTY COMMISSIONER,
KODAGU DISTRICT,
MADIKERI - 571 201.
2. THE CHAIRMAN
LAND GRANT COMMITTEE,
SOMAWARPET TALUK,
SOMAWARPET
KODAGU DISTRICT - 571 236
3. THE THASILDAR
SOMAWARPET TALUK,
SOMAWARPET,
KODAGU DISTRICT - 571 236.
4. SMT. SHAJI MATHEW
AGED ABOUT 53 YEARS,
W/O K.J.MATHEW,W
GUMMANAKOLI VILLAGE,
MULLOSOGI POST,
KUSHALNAGAR,
SOMWARPET
KODAGU DISTRICT - 571 234

...RESPONDENTS

(BY SRI SESHU.V, ADDITIONAL GOVERNMENT ADVOCATE FOR
R1 TO R3;

VIDE ORDER DATED 17.06.2026, APPEAL AGAINST R4 IS
DISMISSED AS ABATED)

THIS RSA IS FILED UNDER SECTION 100 OF CIVIL
PROCEDURE CODE, AGAINST THE JUDGMENT AND DECREE
DATED 27.11.2018 PASSED IN R.A.NO.77/2013 ON THE FILE
OF THE PRINCIPAL DISTRICT AND SESSIONS JUDGE, KODAGU,
MADIKERI, DISMISSING THE APPEAL AND CONFIRMING THE
JUDGMENT AND DECREE DATED 11.11.2013 PASSED IN
O.S.NO.22/2004 ON THE FILE OF THE SENIOR CIVIL JUDGE,
MADIKERI.



THIS APPEAL, COMING ON FOR ADMISSION, THIS DAY,
JUDGMENT WAS DELIVERED THEREIN AS UNDER:
CORAM: HON'BLE MR. JUSTICE V SRISHANANDA

ORAL JUDGMENT

Heard Sri B.S. Nagaraj, learned counsel for the appellant
and Sri Seshu V, learned Additional Government Advocate for
respondent Nos.1 to 3.

2. Plaintiff is the appellant in the second appeal
challenging the dismissal of the suit in O.S.No.22/2004,
confirmed in R.A.No.77/2013.

3. Facts in the nutshell which are utmost necessary for
disposal of the present appeal are as under:

3.1. A suit for declaration and injunction came to be filed
in O.S.No.22/2004 in respect of the following property
(hereinafter referred to as suit property) by contending that
suit property was granted to the plaintiff by Tahasildar and
since the date of grant plaintiff is in possession and enjoyment
of the suit property:



"3 acres of dry land in Sy.No. 1/13(old Sy.No.1/1) and bounded on the East: by Sy.No.1/2, West by Channel, North by Sy.No.1/4, South Gondibasavanahalli Village, boundary and situated in Gummanakolli Village, Kushalnagar Hobli, Somwarpet Taluk."

3.2. Sri K.J.Mathew who is the husband of defendant No.4 being economically and politically powerful, tried to grab the suit property and therefore made unsuccessful attempt to forcible dispossession of the plaintiff and thus he created fabricated documents in the year 2001 and interfered with the peaceful possession and enjoyment of the suit property.

3.3. It is also contended that when defendant No.4 failed to take possession of the suit property illegally, gave a petition to land grant committee which is appointed for regularization of the illegal occupation, stating that she is in unauthorized occupation of the suit property and said application is still pending.

3.4. Plaintiff also contended that under Section 80 of the Land Reforms Act, the Tribunal cannot grant land and ignoring mandatory provision of law, certain members of Land Grant Committee yielding to the influence of husband of the



defendant No.4 and based on the fabricated document, Tahasildar, who granted the land in favour of the plaintiff, cancelled the same by Order dated 26.02.2003. Thus, sought for declaring that plaintiff is the owner and is entitled for the permanent injunction against all the defendants.

4. Pursuant to the suit summons, defendant Nos.1 to 3 entered appearance through District Government Pleader and defendant No.4 engaged the services of an Advocate and filed their respective written statements.

5. All the defendants denied the plaint averments in *toto* and contented that Tahasildar had no power to grant the land in favour of the plaintiff and the cancellation is thus just and proper and sought for dismissal of the suit.

6. Learned Trial Judge raised necessary issues based on the rival contentions of the parties and on considering the material on record, dismissed the suit of the plaintiff.

7. Learned Trial Judge also noted that under Section 61 of the Karnataka Land Revenue Act, Civil Court has no jurisdiction to deal with the *lis* between the parties, especially the jurisdiction of Civil Court is barred and it is the exclusive



jurisdiction of the revenue Courts to deal with such grant and cancellation thereof.

8. Being aggrieved by the same, plaintiff filed an appeal before the District Court in R.A.No.77/ 2013.

9. Learned judge in the First Appellate Court after securing the records, heard the arguments of the parties in detail and noted that there is a bar to entertain the suit under Section 61 of the Karnataka Land Revenue Act and upheld the dismissal of the suit.

10. Being further aggrieved by the same, plaintiff has filed the present appeal raising following substantial questions of law:

"1. Whether the trial court is justified in dismissing the suit under the provision of section 61 of Karnataka land Revenue Act, 1964, inspite of the admission of the defendant No.3, Thasildar, in his written statement that no order of cancellation is made?

2. The admission of the defendant No.3 and 4 regarding title of the suit schedule property of the plaintiff is it not sufficient to decree the suit of the plaintiff under section of 58 of the Evidence?,

3. Both the court below have committed concurrent error in appreciating evidence on record and dismissing the suit?



4. Whether the judgment and decree of both courts below were justified in concurrently not considering the admission of the Defendant No.3 and 4, at Ex.D(a) to D(g) and pleading of the defendants, which corroborates the title of the plaintiff?

5. The Mixed question of fact and law are involving in the Appeal?"

11. During the course of hearing, Sri B.S.Nagraj, learned counsel for the appellant has filed a memo along with documents. Memo reads as under:

"The above named Appellants are begs to submits as follows:-

It is submitted that the Appellants father Krishna Shetty filed suit O.S.No.22/2004, and the same was dismissed as barred by law under section 61 of the Karnataka Land Revenue Act, and the same is confirmed in R.A.No.77/2013, on the file of the Principal District Judge Kodagu at Madikeri. Now this Second Appeal.

The appellant herein was also challenged the order dated, 10.03.2003, passed by the Respondent No.3, Thasildar, before the Assistant Commissioner, U/S 49 of the Karnataka Land Revenue Act, in R.A.No.90/2002-03. And, the same was dismissed by its order dated 23.02.2005,

Now the matter is pending before the Deputy Commissioner And, the Deputy Commissioner issued the endorsement dated 26.03.2005, stating that Proceedings



will be initiated, after conclusions of Civil Proceedings finally.

Therefore, it is necessary to direct the authorities decides, the matter after affording opportunity to both parties, in the interest of justice and equity."

12. Sum and substance of the memo is that the appellant has challenged the order dated 10.03.2003 passed by the Tahasildar before the Assistant Commissioner under Section 49 of the Karnataka Land Revenue Act in R.A.No.90/2002-03 which was dismissed and matter is now pending before the Deputy Commissioner and there is an endorsement given by the Deputy Commissioner to the effect that the appeal would be decided on merits after disposal of the civil dispute.

13. Thus, Sri B.S. Nagraj would request the Court to pass appropriate orders.

14. Sri Seshu V., learned Additional Government Advocate would contend that no liberty can be granted by this Court, so also the order passed by the learned Trial Judge upheld by the First Appellate Court needs no interference as there is a clear bar under Section 61 of the Karnataka Land Revenue Act to entertain the civil suit which has been



considered by the learned Trial Judge while answering issue No.6 in the suit and thus sought for dismissal of the appeal.

15. Having heard the arguments of both sides and noted the rival contentions of the parties, it is to be noted that dispute is with regard to the grant of land by the Tahasildar to the plaintiff and defendant No.4 purportedly using the influence of her husband got the grant cancelled.

16. Whether at all the cancellation was justified or not cannot be decided by the Civil Court in view of Section 61 of the Karnataka Land Revenue Act.

17. Exclusive jurisdiction to deal with such aspect is the Revenue Courts and not the Civil Court. Therefore, dismissal of the suit by the Trial Judge, confirmed by the First Appellate Court is just and proper.

18. In fact, learned Judge in the First Appellate Court also bestowed his best attention to Section 61 of the Karnataka Land Revenue Act while upholding the order of the learned Trial Judge. It is in the light of those orders, a memo came to be filed.

19. Since the plaintiff has already taken recourse to challenge the order of cancellation before the Assistant



Commissioner under Section 49 of the Karnataka Land Revenue Act, which came to be dismissed and matter is now seized before the Deputy Commissioner, plaintiff can canvas all favourable points before the Deputy Commissioner and obtain necessary orders.

20. It is also to be noted that the appeal came to be dismissed as against respondent No.4 who was defendant No.4 before the Trial Court and despite the same, the plaintiff is reserved liberty to urge all favourable points before the Deputy Commissioner in accordance with law.

21. With the above observation, following order is passed:

ORDER

- (i) Admission is declined.
- (ii) Appeal is dismissed.

**Sd/-
(V SRISHANANDA)
JUDGE**