



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF JUNE, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

REGULAR SECOND APPEAL NO. 1561 OF 2021 (DEC/INJ)

BETWEEN:

RAME GOWDA
S/O UDDE GOWDA
AGED ABOUT 63 YEARS
AGRICULTURIST
R/O MADENERALU VILLAGE,
KELAGUR POST
CHIKKAMAGALURU - 577 111.

REPRESENTED BY HIS SPA HOLDER
DAYAKARA M.R.
S/O RAME GOWDA
AGED ABOUT 30 YEARS
R/O MADENERALU VILLAGE
KELAGUR POST
CHIKKAMAGALURU TALUK - 577 111.

...APPELLANT

(BY SRI. GURURAJ R, ADVOCATE)

AND:

SMT. NICKHAT ALMASS
W/O HABEEB AHAMED
AGED ABOUT 58 YEARS
R/O SRI. NANDIKESHWARA NILAYA
1ST FLOOR, 2ND CROSS, BYRESHWARA LAYOUT
BEHIND PAIS COMPOUND
CHIKKAMAGALURU - 577 111.

...RESPONDENT

(VIDE ORDER DATED 09.06.2026, NOTICE TO RESPONDENT IS
HELD SUFFICIENT)

Digitally
signed by
MALATESH
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Location:
HIGH
COURT OF
KARNATAKA



THIS RSA IS FILED UNDER SECTION 100 OF CPC AGAINST THE JUDGMENT AND DECREE DATED 20.11.2020 PASSED IN RA.No.09/2019 ON THE FILE OF THE PRINCIPAL DISTRICT AND SESSIONS JUDGE, CHIKKAMAGALURU, DISMISSING THE APPEAL AND CONFIRMING THE JUDGMENT AND DECREE DATED 21.12.2018 PASSED IN OS No.48/12 ON THE FILE OF THE I ADDITIONAL SENIOR CIVIL JUDGE, CHIKKAMAGALURU.

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

CORAM: HON'BLE MR. JUSTICE V SRISHANANDA

ORAL JUDGMENT

1. Heard learned counsel for the appellant.

Respondent is served with the notice and remained absent.

2. Unsuccessful plaintiff is the appellant in this second appeal challenging the dismissal of the suit in O.S.No.48/2012 dated 21.12.2018 which was confirmed by the First Appellate Court in RA No.9/2019 dated 20.11.2020.

3. Facts of the case are as under:

3.1. A suit for permanent injunction came to be filed by the plaintiff in O.S.No.48/2012 in respect of the following property (hereinafter referred to as suit property):



"Property situated in Sy.No.112 of Kelagur village, Aldur Hobli, Chikmagalur Taluk, measuring 1 acre 32 guntas, Dry land having the following boundaries:

East: Halla.

West: Land belonging to H.S.Manjula, Ere Gowda and Raghu.

North: Land belonging to the defendant, thereafter burial ground belonging to SC/ST communities and thereafter lands belonging to H.S.Manjula and Ere Gowda.

South: Lands belonging to Raghu, Rathnamma, Channesha and thereafter burial ground belonging to Vokkaliga community."

3.2. Plaintiff contended that there was a partition among his brothers and mother and thereafter, he had applied for grant of land to Tahsildar, Chikkamagaluru and based on his application, Tahsildar has granted the land to the extent of 1 acre 32 guntas in Sy.No.112 of Kelagur village and a saguvali chit came to be issued bearing No.396/2002-03 in the year 2002 and thereafter, he got mutated his name in the revenue records. Saguvali chit is marked as Ex.P.2, RTC extract is marked and Mutation Register extract is marked as Ex.P.4 and



thus claimed that he is in possession and enjoyment of the suit property.

3.3. It is his further contention that defendant by virtue of the sale deed executed by his brother, started interfering with the suit property and therefore, suit for injunction came to be filed.

4. Pursuant to the suit summons, defendant entered appearance and filed written statement denying the plaint averments in *toto* and maintained that he is in possession of the suit property by virtue of the sale deed executed by brother of the plaintiff on 16.02.2012.

5. Learned Trial Judge based on the rival contentions of the parties, raised necessary issues and after recording the evidence of the parties, dismissed the suit of the plaintiff holding that Ex.P.2 does not contain the boundaries and total land in Sy.No.112 of Kelagur village which measured more than 7 acres and in the absence of any boundaries mentioned in Ex.P.2, it is unable to comprehend as to where the plaintiff is in possession to the extent of 1 acre 32 guntas though Exs.P.2 to P.4 are produced and relied upon by the plaintiff.



6. Being aggrieved by the same, plaintiff filed an appeal before the First Appellate Court in RA No.9/2019.

7. Learned Judge in the First Appellate Court after securing the records, heard the arguments of the parties in detail and on reappreciation of the material evidence placed on record, dismissed the appeal of the plaintiff knowing that even the survey sketch that is sought to be relied upon by the plaintiff by filing an application under Order XLI Rule 27 of Code of Civil Procedure did not improve the case of the plaintiff.

8. Being further aggrieved by the same, plaintiff has filed the present appeal challenging the dismissal of the suit and confirmation thereof in this second appeal on following substantial questions of law:

"a) Whether the judgment and decree passed by the courts below are based on sound and proper reasonings?

b) Whether the courts below were right in relying upon the report of the commissioner to establish the possession and enjoyment of the parties over the land in question which amounts to collection of evidence and factum of actual possession of land cannot be opined by the court commissioner and same has to be independently decided by the Hon'ble court?

c) Whether the courts below were right in accepting the commissioner's report overruling the objections filed by the plaintiff though there were various defects and anomalies in the said report?



d) Whether the courts below were right in relying upon the report of the commissioner in the absence of phodi of Survey No.112 is done in accordance with the provisions of Karnataka Land Revenue Act 1974?

e) Whether the courts below committed illegality in not appreciating the title documents produced by the plaintiff as per Ex.P2- grant certificate, Ex. P3- RTC and Ex. P4- Mutation Register extract and other documents establishing the enjoyment and possession of the plaintiff over the land in question?

f) Whether the lower appellate court was right in rejecting application filed by the plaintiff as per IA No.2 in appeal RA No.9 of 2019 under Order 41 Rule 27 of CPC?

g) Even otherwise, whether the Courts below were right in dismissing the suit in its entirety without moulding the relief based on the report of the commissioner as per Ex.C5 and Ex.C6?"

9. Learned counsel for the appellant reiterating the grounds urged in the appeal memorandum would contend that both the Courts have failed to appreciate that when saguvali chit issued at E.P.2 in the year 2002, and revenue entries got mutated in the name of the plaintiff, subsequent sale deed executed by the brother of the plaintiff in favour of the defendant did not grant any right, title or interest in respect of the suit property and there was no possession handed over to the defendant.

10. Further, brother of the plaintiff with an intention to cheat the plaintiff, without there being any right in respect of



the suit property, executed the sale deed in favour of the defendant which did not create any right in respect of the suit property to the defendant and thus sought for admitting the appeal.

11. Respondent is served with the notice and remained absent.

12. In the light of the arguments put forth on behalf of the appellant, this Court perused the material on record meticulously.

13. On such perusal of the material on record, it is noted that there are two sets of title documents in respect of the suit property. One claimed by the plaintiff based on saguvali chit bearing No.369/2002-03 marked at Ex.P.2 said to have been issued by the Tahsildar, Chikkamagaluru.

14. Pursuant to the said saguvali chit, mutation has been affected vide Ex.P.4 and RTC extract is marked at Ex.P.3.

15. As against the title of the plaintiff in this regard, defendant has come with a contra title stating that brother of the plaintiff has executed a sale deed on 16.02.2012. Same is



marked before the Court as Ex.D.16. In this regard, RTC extract is marked as Ex.D.15.

16. The patta book, statement, akar band and other revenue documents also shows with boundaries in respect of the property which is in occupation of the defendant whereas the title document that is relied on by the plaintiff is the saguvali chit.

17. Pertinently, in Ex.P.2, no boundaries are mentioned.

18. It is not in dispute that Sy.No.112 of Kelagur village, measured more than 7 acres. What has been granted under Ex.P.2 is the land to the extent of 1 acre 32 guntas.

19. If the land has measured more than 7 acres, in which portion of 7 acres of the land measuring 1 acre 32 guntas is granted to the plaintiff is a question that remains unanswered.

20. In other words, even assuming for the sake of argument that Ex.P.2 is held to be a true document, there is no explanation on behalf of the plaintiff as to the identity of the property granted under Ex.P.2.



21. Pertinently, suit is one for bare injunction and therefore, further investigation into the veracity of the title of the rival parties is unnecessary.

22. When the document that has been placed on record by the defendant with specific boundaries and revenue entries are *per se* acceptable, rejection of the suit by the learned Trial Judge and confirmation thereof by the First Appellate Court needs no interference having regard to the scope of Section 100 of Code of Civil Procedure.

23. Accordingly, the following:

ORDER

- i. Admission is declined.
- ii. Appeal is ***dismissed***.

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

KAV
List No.: 1 Sl No.: 55