



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 9TH DAY OF JUNE, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

REGULAR SECOND APPEAL NO. 881 OF 2019

BETWEEN:

SRI. N. SURESH
AGED 46 YEARS,
S/O LATE NARASIMHAIAH,
R/AT PROP. SANTHOSH MESS (NON-VEG)
SUGAR FACTORY CIRCLE,
GUTTAL ROAD, MANDYA CITY,
MANDYA DISTRICT - 571 401.

...APPELLANT

(BY SRI. R.S. HEGDE, ADVOCATE)

AND:

SRI. T. RAMALINGAH
SINCE DEAD BY LRS,

1. SMT. G. CHANDRAMMA,
AGED 51 YEARS,
W/O LATE T. RAMALINGAH,
2. KUM. C.R. BHARGAVI
AGED 16 YEARS,
D/O. LATE T. RAMALINGAH,
3. CHI. C.R. SAMRUDH
AGED 12 YEARS,
S/O LATE T. RAMALINGAH,
RESPONDENTS NO.2 AND 3 ARE MINORS
REPRESENTED BY THEIR MINOR GUARDIAN
SMT. G. CHANDRAMMA,



AGED 51 YEARS,
W/O LATE T RAMALINGAH,

ALL ARE R/AT D.NO.43/1, 7TH STREET,
BMC DRIVER QUARTERS, KALASIPALYA,
BENGALURU - 560 002

...RESPONDENTS

(BY SRI. B.S. NAGARAJ, ADVOCATE FOR R1 TO R3)

THIS RSA IS FILED U/S. 100 R/W ORDER XLII OF CPC.,
AGAINST THE JUDGEMENT & DECREE DTD 28.01.2019 PASSED
IN R.A.NO.95/2013 ON THE FILE OF THE I ADDITIONAL
SENIOR CIVIL JUDGE AND CJM., MANDYA, DISMISSING THE
APPEAL AND UNHOLDING THE JUDGEMENT AND DECREE
DATED 10.07.2013 PASSED IN OS.NO.505/2008 ON THE FILE
OF THE PRINCIPAL CIVIL JUDGE (JR. DVN.) MANDYA.

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 Sri. R.S. Hegde, learned counsel for the
appellants and Sri. B.S. Nagaraj.

2. Though the matter is listed for orders, by
consent of the parties, the matter is taken up for final
disposal.



3. Defendant who suffered an order of eviction in O.S. No.505/2008 against which an appeal in RA No.48/2013 came to be filed which came to be dismissed on 28.01.2019.

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

4.1 Appellant is the tenant in respect of the immovable property situated at Sugar Factory Circle, Mandya City, bearing Municipal Khata No.8344/1487, measuring East to West, 44x9+65.5/2, North to South, 60x35/2 (hereinafter referred to as 'suit property').

4.2 Tenancy of the defendant was duly terminated and suit came to be filed seeking relief of ejectment.

4.3 Learned trial Judge after due trial, decreed the suit of the plaintiff. Defendant was also directed to pay damages at the rate of Rs.1,450/- per month from the date of termination of tenancy till 26.09.2008 or till handing over of the possession of the suit property.



4.4 Being aggrieved by the same, defendant filed an appeal before the First Appellate Court in RA No.48/2014.

4.5 Learned Judge in the First Appellate Court after securing the records, heard the arguments of the parties and dismissed the appeal.

4.6 In the meantime, plaintiff had also filed seeking enhancement of the mesne profits which appeal also came to be dismissed.

4.7 Plaintiff did not further pursue the matter and therefore decree of the Trial Court insofar as the plaintiff became final before the First Appellate Court.

5. Having been further aggrieved by the order of dismissal by the First Appellate Court of the appeal of the defendant, defendant is before this Court in the second appeal.



6. Sri. R.S. Hegde, learned counsel for the defendant/tenant, reiterating the grounds urged in the appeal memorandum would contend that plaintiff is not the owner of the property and there are other sharers who are also owners of the property and therefore suit by a single co-owner is not maintainable which aspect of the matter has not been taken into consideration by both the Courts resulting in miscarriage of justice and thus not permit admitting the appeal on the following substantial questions of law:

- (i) Whether the Courts below are justified in holding that the defendants/respondents are owners of suit schedule premises entitled to terminate the tenancy of the appellant and seek eviction of the appellant and seek possession of the suit schedule premises ?*
- (ii) Whether the Courts below have committed error and illegality in not taking into consideration of the other disputes raised by the legal heirs of the owner of suit schedule premises, proceedings initiated by Smt. Kempamma and others in OS No.258/2004 on the file of I Addl. Senior Civil Judge & CJM Mandya and RA No.48/2014, arising out of the suit proceeding initiated by Smt. Manjula*



and another on the file of the I Addl. Senior Civil Judge & CJM Mandya and other legal proceedings ?

- (iii) Whether the Courts below have committed error and illegality in holding that T.Ramalingaiah was the only legal heir succeeded to the estate of deceased Thammegowda and that the defendants/respondents are the only legal heirs succeeded to the estate of deceased T.Ramalingaiah?*
- (iv) Whether the Courts below are justified and holding that the legal notice got issued by original plaintiff/T.Ramalingaiah, Ex.P4 is valid and in accordance with law in compliance of Sec. 106 of Transfer of Property Act?*
- (v) Whether the Courts below are justified and holding that the original plaintiff/T.Ramalingaiah is the sole and absolute owner and landlord of the suit schedule premises and whether there is valid termination of the tenancy in accordance of Sec. 106 of Transfer of Property Act?*
- (vi) Whether the Courts below are justified and holding that the appellant is defaulter in payment of monthly rentals having regard to serious disputes raised by various persons with regard to the title and ownership and legal heirship of the suit*



schedule premises left behind by deceased Thammegowda ?

(vii) Whether the Courts below have properly appreciated the oral and documentary evidence on record in coming to conclusion and passing judgment and decree against the appellant ?

(viii) Whether the Lower Appellate Court is justified in not granting any time while dismissing the Regular Appeal impugned in the present Regular Second Appeal ?

7. Per contra, Sri. B.S. Nagaraj would support the impugned judgment.

8. Having heard the arguments of both sides, this Court perused the material on record meticulously.

9. On such perusal of material on record, it is crystal clear that the defendant is only a tenant.

10. It is settled principles of law that a tenant cannot question the title of the landlord. However, if he wants to question the title of the landlord, first he must



vacate the premises and thereafter file necessary proceedings to establish the ownership rights in the respect of suit property.

11. In the case on hand, defendant is not claiming any contra title to the suit property. But it is his case that there are other co-owners to the suit property who are not made parties to the suit. Therefore, decree of ejectment is not binding on him in the absence of other co-owners.

12. Such a contention is not permissible inasmuch as if there is any *inter-se* dispute between the sharers, it is for them to work out in a duly constituted suit. A tenant cannot resist the claim of the plaintiff especially having duly terminated his tenancy by issuing the necessary notice under the provisions of the Transfer of Property Act.

13. Thus, this Court does not find merit in any one of the grounds nor substantial questions of law would arise for consideration.



14. Hence, following order:

ORDER

- i. Admission declined. Appeal is ***dismissed***.
- ii. In view of dismissal of the appeal, all pending IAs are consigned to records.
- iii. Amount in deposit is ordered to be withdrawn by the plaintiff under due identification.
- iv. It is made clear that if there is any cross claims among co-owners, the defendant is absolved from future consequences.

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

SNC
List No.: 1 Sl No.: 42