



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 7TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE ASHOK S.KINAGI

REGULAR SECOND APPEAL NO. 170 OF 2015 (DEC/INJ)

BETWEEN:

1. LAKSHMIDEVAMMA
W/O LATE M MUNISHAMAPPA,
SINCE DEAD BY LRS

A) M RAMANJU
S/O LATE M MUNISHAMPPA,
AGED ABOUT 57 YEARS,

B) M NAGARAJ
S/O M MUNISHAMAPPA,
AGED ABOUT 55 YEARS,

2. SRINIVASA MURTHY
S/O LATE M MUNISHAMAPPA,
AGED ABOUT 59 YEARS,

ALL ARE NOW
R/AT NO.154, NORTH ROAD,
BANASWADI RAILWAY STATION ROAD,
NEAR CANARA BANK, WHEELER ROAD,
HIGH STREET, COKE TOWN,
BENGALURU-560005

...APPELLANTS

(BY SRI. K N PHANINDRA, SR. COUNSEL FOR
SRI. SRINIVASA C., ADVOCATE FOR A1(A&B), & A2)

Digitally signed
by KIRAN
KUMAR
Location: HIGH
COURT OF
KARNATAKA



AND:

NAGAMANI @ NAGARATHNA
D/O LATE MUNISHAMAPPA
W/O ANJANAPPA,
AGED ABOUT 42 YEARS,
R/O KONADASAPURA,
VIRGO NAGAR POST,
BENGALURU-560049

...RESPONDENT

(BY SRI. VIJAYA KRISHNA BHAT M., ADVOCATE FOR C/R
(CP No.810/2014)
SRI. UDAYA HOLLA, SR. COUNSEL FOR
SRI. V.N.SHANKAREGOWDA & RAJENDRAN S.S,
ADVOCATE) (NOC VK FILED)

THIS RSA IS FILED U/S. 100 OF CPC AGAINST THE
JUDGEMENT & DECREE DTD 10.12.2014 PASSED IN
R.A.NO.65/2012 ON THE FILE OF PRESIDING OFFICER, FAST
TRACK COURT-II, BANGALORE RURAL DISTRICT, BANGALORE,
ALLOWING THE APPEAL AND SETTING ASIDE THE JUDGEMENT
AND DECREE DTD 16.1.2012 PASSED IN OS.No.1499/2004 ON
THE FILE OF PRINCIPAL SENIOR CIVIL JUDGE, BANGALORE
RURAL DISTRICT, BANGALORE.

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

CORAM: HON'BLE MR. JUSTICE ASHOK S.KINAGI

ORAL JUDGMENT

This regular second appeal is filed by the appellants
challenging the judgment and decree dated 10.12.2014
passed in RA No. 65 of 2012 by the Fast Track Court – II,



Bengaluru Rural District, Bengaluru (***First Appellate Court*** for short).

2. For the sake of convenience, the parties are referred to based on their rankings before the Trial Court¹. Appellant Nos.1 and 2 are the legal representatives (LRs) of the deceased defendant No.1, appellant No.3 was defendant No.2 and respondent was the plaintiff.

3. Brief facts leading rise to the filing of this appeal are as follows:

3.1. The plaintiff filed a suit for declaration of title and injunction, to declare that the sale deed dated 18.09.1967 alleged to be executed in favour of one M.Munishamappa as null and void and not binding on the plaintiff in respect of the suit scheduled properties and defendants have not derived any title, possession or property rights over the scheduled property in any manner under the sale deed dated 18.09.1964, and grant a

¹ OS No. 1499 of 2004 on the file of the Court of the learned Principal Senior Civil Judge, Bengaluru Rural District, Bengaluru



consequential relief of declaration declaring that the plaintiff is the absolute owner of the suit schedule property. It is the case of the plaintiff that, one Ramaiah S/o Vaikunta Bhovi died in 1967 leaving behind his three sons Chikka Papaiah, Kenchappa and Munishamappa – the father of the plaintiff. In a family partition that took place amongst the three sons of Ramaiah, the plaintiff's father got 2 acres 14 guntas and 0-23 guntas of land towards his share and his brothers got 1 acre 10 guntas of land in Sy.No.106/1 of Horamavi Agara and the said divisions were entered in the revenue records. Munishamappa belongs to Bhovi community and lacks proper education. He was cultivating the property fell to his share. He never thought of parting the same to any third party during his lifetime and there were no any financial difficulties. Munishamappa passed away in 1988, his wife one Hanumakka passed away later. The plaintiff, being the sole surviving successor, was a minor at the time of death of her parents. She was looked after by her uncles. The



plaintiff, after attaining majority, started on her own taking care of the properties including the suit schedule property and it came to the knowledge of the plaintiff that some wrong revenue entries were made entering the name of defendants in the RTC records. The plaintiff, aggrieved by the entries made in the name of the defendants, approached the Assistant Commissioner, Bengaluru North Taluk in RA No. 23/1999-2000 and it is contended that, the sale deeds were executed by playing fraud and misrepresentation. Hence, a cause of action arose for the plaintiff to file a suit for declaration and injunction.

3.2. The defendants filed a written statement denying the averments made in the plaint and contended that, the land bearing Sy.No.106/1 measuring 4 acres 7 guntas including 13 guntas of *kharab* land situated at Horamavu Agara (Vaddarapalya) K.R.Puram Hobli, Bengaluru South Taluk was purchased by one Ramaiah S/o Vaikunta Bhovi under a registered sale deed dated



22.04.1947 and he was in possession and enjoyment of the said land as an absolute owner. Subsequently, he along with his three sons, have jointly sold the land measuring east to west 96 yards and north to south 120 yards (approximately 2 acres 24 guntas) out of the abovesaid land bearing Sy.No.106/1 to M.Munishamappa under a registered sale deed dated 18.09.1967 and *khata* was accepted in the name of M.Munishamappa. M.Munishamappa was in possession and enjoyment of land measuring 2 acres 24 guntas including 13 guntas of *kharab* land. M.Munishamappa died leaving behind his wife one Lakshmidevamma-Defendant No.1 and his children one M.Srinivasamurthy-defendant No.2 and other sons M.Ramanjaneya and M.Nagaraju. They have succeeded to the property bearing Sy.No.106/1B of Horamavu Agara (Vaddarapalya) and with the consent of the said M.Ramanjaneya and M.Nagaraju, the *khata* of the said land has been changed in the name of the defendants. It is contended that, the plaintiffs have no right, title or



interest over the said property. Accordingly, pray to dismiss the suit.

3.3. The Trial Court, based on the rival pleadings of the parties, framed the following issues:

- "1. *Whether the plaintiff proves that the sale deed dated; 18.9.1967 executed in. favour of M. Munishamappa is null and void and not binding on the plaintiff in respect of the suit schedule property?*
2. *Whether the plaintiff proves that she is the owner of the suit schedule property?*
3. *Whether the defendants prove that the suit is not valued properly and the court fee paid is insufficient?*
4. *Whether the defendants prove that the suit is barred by limitation?*
5. *Whether the plaintiff proves her lawful possession of the suit schedule property?*
6. *Whether the plaintiff proves the alleged interference by the defendants?*
7. *Whether the plaintiff is entitled for a Decree as prayed for?*
8. *To what order or decree?"*



3.4. The plaintiff, to substantiate her case, examined herself as PW1, examined one witness as PW2, and marked thirty-four documents as Exs.P1 to P34. In rebuttal, defendant No.2 was examined as DW1, examined a handwriting expert as DW2 and marked forty-four documents as Exs.D1 to D44.

3.5. The Trial Court, after appreciating the verbal and documentary evidence of the parties, answered issue Nos.1 to 7 in the negative and issue No.8 as per the final order. The suit of the plaintiff was dismissed with costs vide judgment dated 16.01.2012.

3.6. The plaintiff, aggrieved by the dismissal of suit by the Trial Court in OS No. 1499 of 2004, preferred an appeal in RA No. 65 of 2012 before the First Appellate Court.

3.7. The First Appellate Court, after hearing the learned counsel for the parties, framed the following points for consideration:



- "1. Whether the trial court has not properly appreciated oral and documentary evidence produced by the parties?*
- 2. Whether the impugned judgment is highly illegal and suffers from various and factual infirmities?*
- 3. Whether the judgment of the trial court is called for any interference by this court?*
- 4. What order or decree?"*

3.8. The First Appellate Court, after hearing the learned counsel for the parties, answered point Nos.1 to 3 in the affirmative and point No.4 as per the final order. The regular appeal was allowed vide judgment dated 10.12.2014 and the judgment and decree passed by the Trial Court was set aside. Consequently, the suit of the plaintiff was decreed declaring that the said sale deed dated 18.09.1967 executed in favour of Munishamappa as null and void and not binding on the plaintiff in respect of the suit schedule property and it was declared that the plaintiff is absolute owner of the suit schedule property and a decree for permanent injunction was granted



restraining the defendants from interfering with the plaintiff's peaceful possession and enjoyment of the suit land and also changing the nature of the suit land in any manner.

4. Defendant Nos.1 and 2, aggrieved by the judgment and decree passed by the First Appellate Court in RA No. 65 of 2012, filed this regular second appeal.

5. Heard the arguments of Sri. K.N.Phanindra, learned Senior Counsel for the defendants and Sri. Udaya Holla, learned Senior Counsel for the plaintiff.

6. Learned Senior Counsel for the defendants submits that, the First Appellate Court, being a final fact finding Court, is required to pass a judgment in compliance with Order XLI Rule 31 of the Code of Civil Procedure, 1908 ('**CPC**' for short). He submits that, the First Appellate Court has not re-appreciated the entire evidence on record. He submits that, the First Appellate Court has reversed the judgment and decree passed by



the Trial Court only on the weakness of the defendants. He submits that, the impugned judgment passed by the First Appellate Court is in contrary to the judgment of the Hon'ble Apex Court in the case of ***Union of India and Others Vs. Vasavi Co-operative Housing Society Ltd. and Others***². He submits that, the impugned judgment and decree passed by the First Appellate Court is without application of mind. Hence, on these grounds, he prays to allow the appeal, set aside the impugned judgment and decree passed by the First Appellate Court and remit the matter to the First Appellate Court with a direction to re-appreciate the entire evidence on record and pass an appropriate judgment in accordance with law.

7. *Per contra*, learned Senior Counsel for the plaintiff supports the impugned judgment and contended that, the impugned judgment and decree passed by the First Appellate Court is in compliance with Order XLI Rule 31 of CPC; the First Appellate Court has re-appreciated the

² (2014) 2 SCC 269



entire evidence on record and has rightly reversed the judgment and decree passed by the Trial Court. Hence, on these grounds, he prays to dismiss the appeal.

8. Perused the records and considered the submissions of the learned counsel for the parties.

9. This Court, vide order dated 10.03.2015, has framed the following substantial questions of law:

- "i) *Whether the Lower Appellate Court was justified in reversing the judgment and decree passed by the trial Court by arriving at conclusion that the sale deed dated 18.09.1967 (Ex.D6) has not been proved by the defendants and in that regard, whether the Lower Appellate Court was justified in rejecting a document which was more than 30 years old as on the date of filing the suit.*
- ii) *Whether the Lower Appellate Court has committed an error in law in not raising a question of limitation as a point for consideration."*

Reg. Substantial Questions of Law Nos.1 and 2:

10. Substantial questions of law Nos.1 and 2 are inter-linked, hence, they are taken together for common discussion to avoid repetition of facts.



11. The plaintiff filed a suit for declaration of title and injunction on the ground that her grandfather Ramaiah executed a registered sale deed dated 18.09.1967 in favour of husband of defendant No.1 i.e., Munishamappa. Ramaiah had purchased the said property under a registered sale deed dated 22.04.1947 and he became the absolute owner of the suit schedule property. Ramaiah had three sons. He died in 1967. There was a family partition between her grandfather, her father and uncles, and in the said partition, the father of the plaintiff got 2 acres 14 guntas and her uncles got 1 acre 10 guntas of land in Sy.No.106/1. Munishamappa never thought of parting the suit schedule property in favour of any third party. The father of the plaintiff got 2 acres of land. The plaintiff being the sole legal representative of Munishamappa, she succeeded to the suit schedule property. In 2000, it came to the knowledge of the plaintiff that the wrong revenue entries were made in the names of the defendants in the revenue records. Then, the plaintiff



approached the Assistant Commissioner, Bengaluru North Taluk challenging the entries in the revenue records and the plaintiff came to know regarding the execution of the alleged sale deed which was executed by the defendants by playing fraud, misrepresentation, etc. It is contended that, the plaintiff is in physical possession and enjoyment over the suit schedule property.

12. The plaintiff, to substantiate her case, examined herself as PW1. She has reiterated the plaint averments in the examination-in-chief and marked thirty-four documents as Exs.P1 to P34. The plaintiff also examined one witness as PW2. In rebuttal, defendant No.2 examined himself as DW1. He reiterated the written statement averments in the examination-in-chief. The sale deed was sent to the handwriting expert. The handwriting expert submitted a report and the handwriting expert was examined as DW2.

13. The Trial Court, after recording the evidence, has held that the plaintiff has failed to prove that the sale



deed dated 18.09.1967 executed in favour of Munishamappa as null and void and not binding on the plaintiff in respect of the suit schedule property and also failed to establish that she is the absolute owner of the suit schedule property. The Trial Court further held the suit filed by the plaintiff is barred by limitation. The plaintiff has failed to prove her lawful possession over the suit schedule property and the alleged interference by the defendants. Consequently, the Trial Court has dismissed the suit vide judgment dated 16.01.2012. The plaintiff, aggrieved by the dismissal of the suit by the Trial Court, preferred an appeal in RA No. 65 of 2012 before the First Appellate Court.

14. The First Appellate Court, extracting the depositions of PW1 and PW2 and referring to the exhibits produced by the parties and extracting some of the decisions of the Hon'ble Apex Court and other High Courts, has reversed the judgment and decree passed by the Trial Court.



15. From the perusal of the impugned judgment, the First Appellate Court has not re-appreciated the entire evidence on record, except extracting the deposition of the witnesses and referring to the exhibits. The impugned judgment and decree passed by the First Appellate Court is not in compliance with Order XLI Rule 31 of CPC. The impugned judgment and decree passed by the First Appellate Court is contrary to the judgment passed by the Hon'ble Apex Court in case of ***H. Siddiqui (Dead) by LRs Vs. A. Ramalingam***³.

16. Further, though the defendants had raised a contention that the suit is barred by limitation, the First Appellate Court has not recorded its finding on the limitation, as the plaintiff is challenging the registered sale deed executed by her father on 18.09.1964 and the suit is filed on 17.11.2004, and further, as of the date of filing of the suit, the plaintiff was aged about 31 years. The plaintiff ought to have filed the suit within three years

³ (2011) 4 SCC 240



after attaining the age of majority as per Article 60(a) of the schedule to the Limitation Act, 1963. The said aspect was not considered by the First Appellate Court and committed an error in reversing the judgment and decree passed by the Trial Court. The impugned judgment and decree passed by the First Appellate Court is arbitrary and erroneous. Hence, the matter requires re-consideration by the First Appellate Court.

17. In view of the above discussion, I answer substantial question of law Nos.1 and 2 in the affirmative. Accordingly, I proceed to pass the following:

ORDER

- (i) The Regular Second Appeal is ***allowed***;
- (ii) The judgment and decree dated 10.12.2014 passed in RA No. 65 of 2012 by the First Appellate Court is hereby set aside;
- (iii) The appeal in RA No. 65 of 2012 is restored to its original file;
- (iv) The First Appellate Court is directed to hear the arguments of the learned counsel for both



parties and pass a judgment in compliance with Order XLI Rule 31 of CPC;

- (v) The parties are directed to appear before the First Appellate Court on **07.09.2026** without awaiting any further notice;
- (vi) Registry is directed to transmit the records to the First Appellate Court, forthwith;
- (vii) All contentions of both parties are kept open;
- (ix) Pending IA(s) in this appeal, if any, shall stand disposed of.

Sd/-
(ASHOK S.KINAGI)
JUDGE

PA
List No.: 2 SI No.: 7