



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 2ND DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

REGULAR SECOND APPEAL NO. 1594 OF 2018 (DEC/INJ)

BETWEEN:

1. SMT. GOWRAMMA
AGED ABOUT 68 YEARS
D/O SRI BADRAPPA
2. SMT GAYITHRAMMA
AGED ABOUT 53 YEARS,
W/O LATE ERANNA
3. SRI PRAVEEN
AGED ABOUT 28 YEARS
S/O LATE ERANNA
4. SRI VINAY KUMAR
AGED ABOUT 27 YEARS
S/O LATE ERANNA
5. SMT ASHWATHAMMA
AGED ABOUT 46 YEARS
S/O LATE NAGANNA

ALL ARE RESIDING AT
ANUDI VILLAGE, HOSSUR HOBLI,
GOWRIBIDANUR TALUK - 561 210

...APPELLANTS

(BY SRI. T. PRAKASH, ADVOCATE)

Digitally
signed by
MAHADESH
K C
Location:
HIGH
COURT OF
KARNATAKA



AND:

1. SMT LALITHAMMA
AGED ABOUT 48 YEARS,
D/O LATE THIMMAIAH
W/O SRI MAHADEVAPPA
R/AT DEVARAHALLI,
KORATAGERE TALUK,
TUMKUR DISTRICT - 572 129
2. SRI SHIVAKUMAR
AGED ABOUT 46 YEARS
D/O LATE THIMMAIAH
R/AT ANUDI VILLAGE
HOSSUR HOBLI,
GOWRIBIDANUR TALUK - 561 210,
3. SMT RATHNAMMA
AGED ABOUT 43 YEARS
D/O LATE THIMMAIAH
W/O SRI MAHADEVAPPA
R/AT THEETHA
HOLAVANAHALLI HOBLI,
KORATAGERE TALUK,
TUMKUR DISTRICT - 572 121
4. SRI T UMESH
AGED ABOUT 38 YEARS
D/O LATE THIMMAIAH
R/AT ANUDI VILLAGE
HOSSUR HOBLI,
GOWRIBIDANUR TALUK - 561 210

...RESPONDENTS

(R1,2,4 - SERVED

VIDE ORDER DATED 08.06.2026, NOTICE TO R3 IS H/S)



THIS RSA IS FILED UNDER SEC.100 OF CPC., AGAINST THE JUDGMENT AND DECREE DATED 12.12.2017 PASSED IN RA NO.155/2015 C/W 216/2015 ON THE FILE OF THE SENIOR CIVIL JUDGE AND JMFC, GOWRIBIDANUR, DISMISSING THE RA NO.155/2015 AND ALLOWING THE RA NO.216/2015 AND SETTING ASIDE THE JUDGMENT AND DECREE DATED 20.6.2015 PASSED IN OS NO.183/2010 ON THE FILE OF THE PRL. CIVIL JUDE AND JMFC, GOWRIBIDANUR.

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. T. Prakash, learned counsel for the appellants. None appears for the respondents.

2. The present appeal is preferred by the defendants challenging the decreeing of the suit in *toto* by the First Appellate Court by modifying the judgment of Trial Court in OS No.183/2010, wherein suit was decreed in part.



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

3.1 A suit in OS No.183/2010 came to be filed in respect of the following properties hereinafter referred to as 'suit properties' by contending that plaintiff is the absolute owner in possession and enjoyment of the suit properties and thus sought for cancellation of the revenue entries directing the concerned revenue authorities to enter the name of the plaintiff as kathedar in respect of the suit properties and consequential relief of permanent injunction restraining the defendants from enjoyment of the suit properties.

SCHEDULE

1) The land bearing Sy.No. 45/1, extent 00.11 Guntas, assessed at Rs.00.53p. Situated at Anudi Village, Hossur Hobli, Gowribidanur Taluk and bounded as follows.

East: Basamma W/o Venkatappa

West: Road

North: Plaintiffs Property

South: Plaintiffs property

2) The land bearing Sy.No. 45/3, extent 00.24 Guntas, assessed at Rs.01.13p. Situated at Anudi Village, Hossur Hobli, Gowribidanur Taluk and bounded as follows.



*East : Basamma W/o Venkatappa
West : Road
North: Nanjamma W/o Basanna
South: Gangamma W/o Byalappa*

3) The land bearing Sy.No. 45/13, extent 00.05 Guntas, assessed at Rs.0024p. Situated at Anudi Village. Hossur Hobli, Gowribidanur Taluk and bounded as follows.

*East : Krishnappa
West: Plaintiffs Property
North: Basamma W/o Venkatappa
South: Nanjamma W/o Nanjaiah*

4) The land bearing Sy.No.45/14, extent 00.10 Guntas, assessed at Rs.00.47p. Situated at Anudi Village. Hossur Hobli, Gowribidanur Taluk and bounded as follows.

*East: Road
West: Nanjamma W/o Nanjaiah
North: Basamma W/o Venkatappa
South: Mahadevappa S/o 'Thimmaiah*

5) The land bearing Sy.No. 46/1, extent 01.12 Guntas, assessed at Rs.01.47p. Situated at Anudi Village. Hossur Hobli, Gowribidanur Taluk and bounded as follows.

*East: Kaleel Saheb
West: Bheemappa
North: Narayana swamy
South: Plaintiffs Property*

6) The property bearing Janger No. 63 & Prop. No. 61/86. Situated at Anudi Village, Hossur Hobli, Gowribidanur Taluk and bounded as follows.

*East: Road
West: Mylarappa
North: Venkatappa
South: Road*

3.2 Plaintiffs further contended that suit properties originally belonged to one Bayyanna, who was the



common ancestor of the plaintiff, who had a wife by name Eramma. The couple, Bayyanna and Eramma had a son by name Basanna, who was married to Bhadramma.

3.3 As the time passed by, Bayyanna, Basanna and Bhadramma died and only surviving legal representative in the family was Bhadramma.

3.4 After death of the parents, ancestors and parents of the plaintiff, the suit properties devolved on the plaintiff in *toto* by inheritance. Therefore, plaintiff is the owner of the property and contented that With the assistance of her husband Thimmaiah and children, she is cultivating the suit properties.

3.5 It is also contented that in order to obstruct the enjoyment of the suit properties, on 18.05.2010 defendants started interfering with the suit properties and therefore, sought for the suit relief.

3.6 It is also contented by the plaintiffs that in active collusion with the revenue authorities, defendants



without there being any right title or interest concocted the revenue entries in their name and started interfering with the suit properties and thus sought for decreeing the suit.

3.7 Pursuant to the suit summons, defendants No.1 and 2 appeared through an advocate and filed written statement; whereas defendant No.3 though engaged an advocate did not choose to contest the suit.

3.8 In the written statement, plaint averments were totally denied and they contended that as per the revenue entries defendants are in possession and enjoyment of the properties and in that regard, they produced the documents and sought for dismissal of the suit.

3.9 Learned trial Judge after raising necessary issues recorded the evidence of the parties and decreed the suit in part granting the decree based on the sale deed in respect of Items No.1 and 3 only and dismissed the suit in respect of Items No.2, 4 to 6.



3.10 Being aggrieved by the decreeing of the suit in part and both plaintiffs and defendants filed appeal.

3.11 Learned Judge in the First Appellate Court after securing the records, re-appreciated the material evidence on record, decreed the suit of the plaintiffs in toto and dismissed the appeal filed by the defendants, *inter alia* holding in paragraphs No.41 to 44 as under:

41. The Trial Court while dismissing the suit with regard to said item No.2, 4 and 5 as well as item No.6 of the house property observed that based on the revenue records the title of the plaintiff cannot be declared in the absence of any title documents. But the Trial Court has not noticed the basic pleadings of the plaintiff in paragraph No.4 of plaint as referred above, wherein it is contended she has inherited the entire item No.1 to 6 through inheritance. Though item No.1 and 3 supported with Ex. P.40, but the Ex. P.2 and 3 also supports the claim of the plaintiff having their predecessor name i.e Eramma and Badramma shown in the records of rights and index of land, but absolutely there is no evidence how the item No.2, 4 and 5 of the landed properties in Sy.No.45/3, 45/14 and 46/1 acquired either by Eramma or by Badramma and not produced IHR No.13/47-48.

42. Now the question is whether the revenue entries which stood in the name of Badramma and Eramma rises presumption or those presumption has been rebutted by the defendants and whether the revenue entries are reliable and thus even the plaintiff can be declared as owner of the item No.2, 4 and 5 including item No.6 house property to be seen.

43. Absolutely there is no any contra material as against the revenue documents Ex.P.2 and 3 and the Ex.P.8



Encumbrance certificate pertaining to the schedule CORT landed properties i.e. Sy.No.45/3, 45/14 and 46/1 as well as house property item No.6.

44. Absolutely there is no dispute that the Badrappa was died as per Ex.P.5 and as could be seen from Ex.P.4 the property at item No.6 stood in the name of Badramma and as against this document there is also no any contra material. As could be seen from Ex P.38 and 39 the plaintiff has paid tax to the above said landed properties as on 11.09.2013 and her name entered in the patta receipt book as to the arrears of revenue.

4. Being further aggrieved by the same, all the defendants have preferred the present appeal on the following grounds:

- *The Judgment &. Decree passed by the Trial Court as well Court as the 1st Appellate arbitrary capricious is illegal, perverse and not sustainable in law and liable to be set aside by this Hon'ble Court.*
- *The Courts below erred in not properly appreciating the evidence and documents on record in its proper perspective and thereby erred in passing the impugned Judgment & Decree which is illegal and opposed to law and documentary evidence on record.*
- *The Courts below erred in giving more undue weight to the oral testimony of the plaintiff and thereby ignored the cogent indefeasible documentary defendants. and unimpeachable and oral evidence of the*



- *The Judgment & Decree of the Courts below is based on probabilities and not on the prevailing facts and circumstances of the case.*
- *The Courts below erred in not appreciating the fact that the name of Sakamma is found in the RTC, which gives presumptive value that the suit properties held, owned, possessed and enjoyed by the khatedar Sakamma, the defendants being the legal heirs of the said Sakamma, got the khata and mutation entry transferred to their name on inheritance basis and they are lawful continuing document in actual, physical schedule of the suit possession and enjoyment schedule lands and they are the true and suit the of owners properties by succession. On the contrary, the plaintiff has not produced any piece of to show her ownership and possession by inheritance of otherwise.*
- *The trial court is erred in granting Permanent Injunction in respect of all the item Nos.1 to 6 of the suit schedule properties, against the defendants, though it has held that the plaintiffs are not the owners of the suit item Nos.2, 4 to 6 and the sale deed produced by the plaintiffs i.e., Ex.P.40 speaks about only item no.1 and 3. Quite strangely 1st appellate modified the said Judgment and allowed the suit in entirety by declaring that the plaintiffs are the absolute owners of all the 1 to 6 items of the suit schedule properties.*



- *The Courts below have ignored the fact that the revenue records standing in the name of the defendants, which goes to and show that they are in possession enjoyment of the suit properties, hence a decree of Permanent Injunction cannot be granted against the true and lawful owners in possession and enjoyment of the suit properties.*
- *The courts below erred in not appreciating the fact that the plaintiff has failed to prove that she was in possession of the suit properties at any point of time. In spite of unproved fact, the Courts below have decreed the suit of the plaintiffs, without any legal basis. The trial court and the 1st appellate court have failed to appreciate the admission of P.w.1 in the cross examination that she has only allowed the defendants to cultivate the suit schedule lands which proves the fact that these defendants are in possession of the suit schedule properties.*
- *The lower courts have further failed to consider the alternative contention of the defendants that they have perfected their title by adverse possession.*
- *The Courts below erred in relying upon the stray, oral suggestions and admissions in the evidence of the witnesses, to come to wrong conclusions which resulted in the erroneous Judgment and decree by the trial court and the 1st appellate court.*



- *The observations, findings and conclusions arrived at by the Courts below to dismiss the suit and the appeal is quite to the prevailing facts and contrary circumstances of the case.*
- *The Courts below erred in giving contrary findings and coming to the wrong conclusion to dismiss the suit, which is vexatious, capricious and not in accordance with law. The Judgment & Decree of the Courts below are liable to be set aside and reversed.*
- *There is no proper and valid reasons assigned by the Courts below to come to the conclusions arrived at which is contrary to the evidence available on record.*
- *The impugned Judgment and Decree passed by the Courts below is based on assumptions and presumptions and not based upon the prevailing facts and circumstances of the case and the same is illegal, vexatious, capricious.*
- *Viewed from the any angle, the of the impugned Judgment and Decree Courts below are not at all sustainable in law, facts and in all probabilities of the case and the same is liable to be set aside and it calls for interference by this Hon'ble High Court.*



5. Sri. T. Prakash, learned counsel for the appellants reiterating the grounds urged in the appeal memorandum would contend that decreeing of the suit by the Trial Court based on the sale deed in respect of Items No.1 and 3, though cannot be faulted with, but decreeing of the suit in *toto* by the First Appellate Court only on the basis of the revenue entries is incorrect and sought for admitting the appeal on following substantial questions of law:

1. Whether the 1st appellate court was right in declaring the plaintiff/respondent as absolute owner pertaining to all the 1 to 6 items of the suit schedule properties, despite there is no documentary evidence to prove the same, particularly the sale deed Ex.P.40 relied upon by the plaintiff shows only item no.1 and 3.

2. Whether the trial court was right in granting permanent injunction against the defendants pertaining to all the items of the suit schedule property i.e., 1 to 6, despite dismissing a suit pertaining to item no.2 and 4 to 6. Whether the 1st appellate court was right in confirming the said Judgment and decree regarding granting of permanent injunction pertaining to all the items of the suit schedule property i.e., 1 to 6.



3. Whether the trial court is correct in granting the permanent injunction against the defendants, despite the admission made by the plaintiff in her evidence that the defendants / appellants are in possession of the suit schedule properties and revenue entries are standing in their name. Whether the 1st appellate court was right in confirming the said Judgment and decree regarding granting of permanent injunction against the defendants.

4. Whether The 1st Appellate Court is right in dismissing the Appeal R.A.No.155/2015 filed by the defendants/appellants herein and allowing the appeal R.A.No.216/2015 filed by the plaintiff/respondent herein, by declaring that the plaintiff is the absolute owner of all the suit schedule properties i.e., item no.1 to 6.

6. Since the respondents are served and unrepresented, this Court perused the material on record in the light of the arguments put-forth on behalf of the appellants.

7. On such perusal of the material on record, even though RTC extracts are filed by the defendants which are already placed on record by way of Exhibits.D4 to D8 and certified copy of the Mutation Register Extract vide



Exhibits D1 to D3, it is to be noted that those RTC extracts are of the recent origin and without there being any basis as to how their names came to be entered in the revenue records.

8. Whereas RTC extract filed in respect of Items No.2 and 4 to 6 of the plaintiffs is concerned, not only the RTC extracts of the relevant year is filed but also the RTC extract from their ancestors' period is also placed on record.

9. There is a tracing of the history to the title by contending that Bayyana was the owner of the properties who had a wife and children and their names consistently found in records including the Record of Rights and Index of Lands, which is sufficiently old.

10. Having regard to the settled principles of law enunciated by the Hon'ble Apex Court in the case of ***Bheemeshwara Swamyvaru Temple versus Pedapudi Krishnamoorthy*** reported in ***AIR 1973 SC 1299*** and in



the case of **Chetty Konattirao versus Pallai Venkatasubrao** reported in **AIR 2011 SC 1480**, long standing revenue entries are to be preferred having presumptive value, when there is no document of title that has been placed on record by either of the parties.

11. Therefore, learned Judge while appreciating the appellate powers vested in it under Section 96 of the Code of the Civil Procedure re-appreciating the very same material evidence on record and decreeing the suit of the plaintiff in *toto* does not require any further interference by admitting the appeal for further consideration.

12. Accordingly, following order :

ORDER

- (i) Admission declined.
- (ii) Regular Second Appeal is ***dismissed***.

Sd/-
(V SRISHANANDA)
JUDGE

SNC
List No.: 1 Sl No.: 59