



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. 1004 OF 2018 (DEC/INJ)

BETWEEN:

1. SRI RANGAIAH
S/O LATE HONNAIAH
AGED ABOUT 79 YEARS,
2. SMT NARASAMMA
W/O SRI RANGAIAH
AGED ABOUT 59 YEARS,

BOTH ARE RESIDENTS OF
HARADAGERE VILLAGE,
NITTUR HOBLI GUBBI TALUK
TUMKUR DISTRICT - 572 222

...APPELLANTS

(BY SRI. SAMARTH PRAKASH, ADVOCATE)

AND:

1. SRI CHANDRAIAH
S/O RANGAIAH
AGED ABOUT 49 YEARS,
RESIDENT OF HARADAGERE VILLAGE,
NITTUR HOBLI GUBBI TALUK
TUMKUR DISTRICT - 572 222

...RESPONDENT

(BY SRI. B.G. VIJAYA KUMARASWAMY, ADVOCATE)

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Location:
HIGH
COURT OF
KARNATAKA



THIS RSA IS FILED U/S. 100 OF CPC., AGAINST THE JUDGEMENT AND DECREE DATED 16.10.2017 PASSED IN R.A.NO.8/2014 ON THE FILE OF THE PRL.SENIOR CIVIL JUDGE AND JMFC., GUBBI, DISMISSING THE APPEAL AND CONFIRMING THE JUDGEMENT AND DECREE DTD 23.01.2014 PASSED IN OS.NO.283/2008 ON THE FILE OF THE PRL.CIVIL JUDGE AND JMFC., GUBBI.

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. Samarth Prakash, learned counsel for the appellants and Sri. B.G. Vijaya Kumaraswamy, learned counsel for the respondents.

2. Plaintiff is the appellant in the second appeal challenging the dismissal of the suit in OS No.283/2008 for permanent injunction confirmed in RA No.8/2014.

3. Facts of the case are as under:

3.1 Plaintiff filed a suit to the extent of 4 acres 1 gunta in land bearing Sy.No.51/1 situated Kallanalli Village



more fully disturbed in the schedule to the plaint (hereinafter referred to as suit property) which is culled out hereunder for ready reference for the relief of permanent injunction:

Land bearing Sy.No.51/P1 measuring 4 acres 1 gunta and 2 acres 25 guntas, totally measuring 6 acres 26 guntas, dry situated at Kallanahalli village, Nittur Hobli, Gubbi Taluk, bounded by:

East : Land of Shivakumar

West: Land of Thimmaiah

North: Land of Rajanna

South: Land of B.C. Shivakumar

S/o. H.C. Shivanna

3.2. It is the case of the plaintiff that second plaintiff unauthorizedly has cultivated the suit property to the extent of 2 acres 25 guntas on the Eastern side of the land of the first plaintiff, which was abutting to each other.

3.3 Both the plaintiffs thus, are in possession of the suit property. Plaintiff further filed a suit in OS No.72/2007 for permanent injunction in respect of the suit property which came to be dismissed for non prosecution.



3.4 However, the fresh suit is filed on the ground that the defendant being the stranger started interfering with the suit property and therefore second suit for permanent injunction was filed on different cause of action.

3.5 Pursuant to the suit summons, defendant entered appearance denied the plaint averments in *toto*.

3.6 He would further contend that he is the owner of the land bearing Sy.No.51/P1 and therefore, the schedule mentioned in the plaint showing that the land is Sy.No.51/1 is incorrect as there was a 'podi' has taken place after visiting the spot and verifying the possession of the defendant and therefore, the claim of the plaintiff is to be rejected.

3.7 Defendant also contended that the defendant and his mother had already filed a suit in OS No.127/2005 against the plaintiff and Sri. Shivkumara as they were



trying to encroached upon the property of the defendants from the Western side.

3.8 It is the contention of the defendants that as a counter blast in OS No.72/2007 was filed, two years later the suit filed by the defendants which came to be dismissed for non-prosecution and subsequent suit is thus not maintainable and defendants are in possession of land in Sy.No.51/P1 to the extent of 6 acres 31 guntas.

3.9 It is submitted by counsel for the respondent that the said suit is decreed and it is now pending before this Court in R.S.A. No.891/2014. Thus, the suit of the plaintiff was resisted.

3.10 Learned trial Judge after raising necessary issues recorded the evidence of the parties and by considered judgment dated 23.01.2014 dismissed the suit of the plaintiff.



3.11 Being aggrieved by the same, an appeal in RA No.8/2014 is filed by the plaintiffs which also came to be dismissed on merits.

4. Being further aggrieved by the same, present second appeal is filed by the plaintiffs.

5. Learned counsel for the appellant reiterating the grounds urged in the appeal memorandum would contend that stray admission given by PW1 during the evidence has been placed on record and same is the basis for dismissal of the suit, which has resulted in miscarriage of justice and sought for admission of the appeal on the following substantial questions of law:

- i. Whether the both the Court below was justified in decreeing the suit based upon the admission of PW1 that the eastern side of the 1st Appellant's land there is a hill rock kharab land without appreciating the fact that the entire extent of 2 acres 26 guntas of land situated at the easterner boundary of the 1st Appellant's land in the Sy.No.51/P1 is not hill rock kharab ?*



- ii. Whether the both the Court below was justified in decreeing the suit based upon the admission of PW1 that the eastern side of the 1st Appellant's land there is a hill rock kharab land without considering the document vide EX.P.1 Grant Certificate and the Written statement, evidence filed by the Respondent that the eastern side of the 1st Appellant there is a government land where the 2nd Appellant is in possession?*
- iii. Whether the both the Court below was justified in decreeing the suit based upon the admission of PW1 that the eastern side of the 1st Appellant's land there is a hill rock kharab land without appreciating the evidence of PW3 wherein he specifically admits in his Cross-examination that on the eastern side of the 1st Appellant land, the 2nd Appellant Narasamma's land is situated.*
- iv. Whether the both the Court below was justified in decreeing the suit on the wrong premise that Ex.P7 is unsigned and without having seal without appreciating the fact that the said document is marked in evidence and issued by the Surveyor stating that the 2nd Appellant is in possession of 2 acres 30 gutnas of land in Sy.No.51 under Bagar Hukum scheme drawn as per the Phodi No.18/1999-2000?*



6. Per contra, counsel for respondent would support the impugned judgment by contending that suit filed by the defendant is decreed and therefore, suit for permanent injunction filed by the plaintiff cannot be decreed at all and thus sought for dismissal of the appeal.

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

8. On such perusal of the material on record, it is crystal clear that the suit schedule property which has been mentioned as Sy.No.51/1 whereas the defendants are in possession of the property to the extent of 6 acres 31 guntas as per the categorical finding recorded by the learned trial Judge in Sy.No.51/P1.

9. Thus, the injunction suit is rightly dismissed taking note of the fact that, plaintiffs failed to prove that their possession of the suit property.



10. At this juncture, learned counsel for the appellant would submit that application is filed for regularization of the land under 'Bagar hukum' scheme.

11. If the plaintiff succeeds in such an attempt, and if the further cause would arise, he may take appropriate proceedings in accordance with law.

12. With that observation, this Court does not find merit in any one of the substantial questions of law raised in the appeal.

13. Accordingly, following Order:

ORDER

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

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

SNC
List No.: 1 Sl No.: 57