



CNR: KAHC010199562020

NC: 2026:KHC:42570
RFA No. 1475 of 2020

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 11TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

REGULAR FIRST APPEAL No. 1475 OF 2020 (INJ)

BETWEEN:

1. A.V.SRINIVASSAN
S/O VENKATAKRISHNAN
AGED ABOUT 57 YEARS.
2. NALINI SRINIVASSAN
W/O A V SRINIVASSAN
AGED ABOUT 51 YEARS.

BOTH R/A No.A-1-16-01
ELITA PROMANADE
BEERESHWARA NAGAR MAIN ROAD
J P NAGAR, 7TH PHASE
BANGALORE - 560 078.

...APPELLANTS

Digitally signed by
LAKSHMINARAYANA
MURTHY RAJASHRI

Location: HIGH
COURT OF
KARNATAKA

(BY SRI VARADARAJAN M S, ADVOCATE FOR
SRI SANTHOSH, ADVOCATE)

AND:

1. MUNIYAPPA
S/O RAMAIAH
AGED ABOUT 75 YEARS.
2. V M RAJU
AGED ABOUT 50 YEARS



CNR: KAHC010199562020

NC: 2026:KHC:42570
RFA No. 1475 of 2020

3. MUNIRAMA
AGED ABOUT 48 YEARS
4. CHANDRU
AGED ABOUT 46 YEARS.

RESPONDENTS No.1 TO 4 ARE
S/O OF 1ST RESPONDENT MUNIYAPPA
RESPONDENTS No.1 to 4
R/AT VAJARAHALLI
THALAGHATTAPURA POST
BANGALORE - 560 062.

5. K REDDY
AGED ABOUT 48 YEARS
6. K SRINIVASA
AGED ABOUT 46 YEARS
7. K PRABHAKARA
AGED ABOUT 44 YEARS

RESPONDENTS No.5, 6 & 7 OF
S/O OF LATE KRISHNAPPA
RESPONDENTS No.5 to 7
R/A VAJARAHALLI
THALAGHATTAPURA POST
BANGALORE – 560 062.

...RESPONDENTS

(BY SRI SRINIVASA K, ADVOCATE FOR R2 & R3.
V/O DTD. 23.02.2023 NOTICE TO R1-R4 H/S
V/O DTD. 23.02.2023 NOTICE TO R5-R7 ARE D/W)

THIS RFA IS FILED UNDER SECTION 96 OF CPC AGAINST
THE JUDGMENT AND DECREE DATED:20.02.2020 PASSED IN
OS.No.9635/2015 ON THE FILE OF THE LXXV ADDITIONAL
CITY CIVIL AND SESSIONS JUDGE, BENGALURU, DISMISSING
THE SUIT FOR PERMANENT INJUNCTION.



NC: 2026:KHC:42570
RFA No. 1475 of 2020

CNR: KAHC010199562020

THIS RFA HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 23.07.2026, THIS DAY, **SHIVASHANKAR AMARANNAVAR J**, DELIVERED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

CAV JUDGMENT

1. This appeal is filed by the unsuccessful plaintiffs challenging dismissal of the suit for perpetual injunction by judgment and decree dated 20.02.2020 passed in O.S.No.9635/2015 by LXXV Additional City Civil and Sessions Judge, Bengaluru (CCH-76).

2. The appellants were plaintiffs and respondents were defendants before the trial Court.

3. The plaintiffs who are appellants herein filed a suit for perpetual injunction with the following pleadings:

- (i) The plaintiffs are absolute owners in possession and enjoyment of the suit property bearing Site No.1308, situated at Vajarahalli Village, Uttarahalli Hobli, Bangalore South Taluk. They purchased the same from one N.Ganesh for valuable consideration through a registered sale deed dated 01.12.2011. The plaintiffs' vendor,



NC: 2026:KHC:42570
RFA No. 1475 of 2020

CNR: KAHC010199562020

Sri.Ganesh had purchased the suit schedule property from Bengaluru City Co-operative Housing Society Ltd. through a registered sale deed dated 21.03.1996 and a registered rectification deed dated 20.07.2011. The suit schedule property is a part and parcel of Sy.No.46 of Vajarahalli Village.

(ii) The Government initiated acquisition in respect of Survey No.46 and other lands of Raghuvanahalli for the benefit of Bengaluru City Co-operative Housing Society Ltd. and its members. The said Society formed lay out and sold the sites to its members. In this regard, the Government issued preliminary notification dated 23.08.1988 and final notification dated 25.09.1989. Defendant No. 1, his children i.e. defendant Nos.2 to 5 and Krishnappa the predecessor of defendant Nos. 6 to 9 were the owners in respect to the said land. Award was passed in favour of Muniyappa and Krishnappa and the Government has taken possession of the acquired lands. Defendant No. 1 - Muniyappa challenged the land acquisition proceedings in W.P.No.4946/1990 which was dismissed as withdrawn on 26.09.1994. Thus, the Society became absolute owner of all the acquired lands.



CNR: KAHC010199562020

(iii) Since the vendor of the plaintiffs was a member of the Society, the suit schedule property is allotted in his favour. The khata was standing in the name of plaintiffs' vendor and he used to pay the taxes. Subsequent to the purchase by the plaintiffs, the khata has been transferred in their names and they have been regularly paying taxes. The defendants having no manner of right and interest in the suit property are attempting to cause interference to the possession of plaintiffs. The plaintiffs have put up fence around the suit property. But the defendants by taking advantage of the fact that the plaintiffs are residing far away from the suit property, unlawfully removed the fence. With these pleadings, the plaintiffs have filed suit for perpetual injunction against the defendants.

4. The suit against defendant Nos.5 and 6 has been dismissed as not pressed and defendants Nos.7 to 9 were placed exparte. Defendant No.2 had filed written statement and it was adopted by defendant Nos.1, 3 and 4.



CNR: KAHC010199562020

NC: 2026:KHC:42570
RFA No. 1475 of 2020

5. The defendants have taken the following defense:

(i) The defendants have admitted the plaint averments regarding the land acquisition by the Government in favour of Bengaluru City Co-operative Housing Society Ltd. and passing of award. But they have denied the rest of plaint averments. These defendants have contended that Sy.No.46 belongs to Muniyappa and Krishnappa and they got partitioned and an extent of 32 guntas each had fallen to their shares. These defendants also admitted regarding filing of W.P.No.4946/1990 by Muniyappa and withdrawal of the same. But they contended that in view of the fraud committed by the Society, the writ petition was withdrawn without consent and knowledge of Muniyappa, as the Society assured that it will not interfere with the possession of the land. These defendants have contended that the land acquisition proceedings initiated by Government has been dropped as the said proceedings involved malpractices, money, engagement of agents and fraud was played. The Hon'ble Supreme Court in Civil Appeal No.7425-26/2022 had directed the Society to return the land to the landlords. But the plaintiffs have suppressed the same and filed the present suit.



CNR: KAHC010199562020

(ii) Subsequent to the judgment of Hon'ble Supreme Court, the Government of Karnataka exercising its powers under Section 48(1) of the Land Acquisition Act, withdrew the land from acquisition on 25.06.1999 and the same has been confirmed by the High Court in W.A.No.6039/1998. The Hon'ble High Court while delivering the judgment has observed that the entire scheme is not meant for public purpose and the Society had not formulated any housing scheme and obtained the approval before issuing notification under Section 4(1) of Land Acquisition Act. The said judgment applies to the entire layout.

(iii) The defendants are in possession of their land in Sy.No.46 and the plaintiffs are not at all in possession. Therefore, the plaintiffs cannot maintain the present suit for bare injunction without seeking declaratory relief. The Society never took possession of the land in question and there is no developmental work carried out by the Society in order to say that there is a formation of lay-out and sites. With these pleadings, defendant Nos.1 to 4 have prayed for dismissal of the suit.



CNR: KAHC010199562020

6. On the basis of the said pleadings, the trial Court has framed the following issues:

- (i) Whether the plaintiffs were in lawful possession of suit property as on the date of suit?
- (ii) Whether the alleged interference is true?
- (iii) What order or decree?

7. The plaintiff No.1 has been examined as PW.1 and got marked Exs.P1 to P18. Defendants have not adduced any evidence.

8. The trial Court after hearing arguments and appreciating the evidence on record has answered issue Nos.1 and 2 in the negative and dismissed the suit of the plaintiffs. The plaintiffs have challenged the said judgment of dismissal of their suit in the present appeal.

9. Heard the learned counsel for appellants and learned counsel for respondents.



CNR: KAHC010199562020

10. Learned counsel for appellants has filed I.A.No.1/2025 under Order XLI Rule 27 CPC seeking production of the following documents as additional evidence:

- Order dated 06.02.2004 passed in W.A.No.4246/1998 c/w W.A.No.6039/1998.
- Order dated 02.02.2012 passed in C.A.No.7425-26/2002 c/w C.A.No.774-778/2005.
- Order dated 25.02.2014 passed in W.P.No.16858/2004 c/w W.P.No.22445/2004.
- Order dated 05.03.2020 passed in Review Petition No.463/2017.
- Order dated 06.01.2021 passed in SLP No.16948/2017 c/w SLP No.9240/2020.
- Order dated 15.12.2022 passed in W.A.No.978/2014.
- Order dated 11.01.2023 passed in W.A.No.818/2014.



NC: 2026:KHC:42570
RFA No. 1475 of 2020

CNR: KAHC010199562020

- Order dated 11.01.2023 passed in W.A.No.958/2014.
- Order dated 18.05.2023 passed in SLP Dairy No.1506/2023 c/w SLP No.9956/2023 c/w SLP No.10072/2023.

11. Learned counsel for the appellants would contend that the suit schedule site was allotted to one Sri.Ganesh, who is the vendor of appellants/plaintiff Nos.1 and 2. The said site allotted to Sri Ganesh is by a Society by name Bengaluru City Co-operative Housing Society. The said suit schedule site is comprised in Sy.No.46 of Vajarahalli Village. The defendants who are owners of the said Sy.No.46 which was acquired for the purpose of the said Society have challenged the acquisition before this Court in W.P.No.4946/1990 and the said writ petition came to be dismissed on 26.09.1994 copy of which is at Ex.P4. The owners have not challenged the said order passed in the said writ petition. The trial Court placing reliance on the judgment passed in W.A.No.4246/1998 has opined that the land acquisition has been cancelled and on that ground



dismissed the suit of the plaintiff. The said writ appeal order which is relied upon by the trial Court is now produced along with application filed under Order XLI Rule 27 CPC (IA No.1/2025). The said judgment passed in the writ appeal does not pertain to Sy.No.46 and that appeal is not filed by the defendants. He further contended that in R.P.No.463/2017, copy of which is sought to be produced under I.A.No.1/2025, it is observed that the judgment is not applicable to the present case in respect of the Society and the entire acquisition of land has not been quashed. It has been questioned only in the case of Geeta Devi Shah and P.Ramaiah, only to the extent of their lands, both before this Court as well as before the Hon'ble Apex Court. The said Geeta Devi Shah and P.Ramaiah had approached this Court as early as in the year 1991-1992. Therefore, their cases were considered on merits and the acquisition was quashed insofar as their lands only. The said judgment of the Division Bench is upheld in the case of Bengaluru City Co-operative Housing Society Ltd. only



CNR: KAHC010199562020

insofar as the lands belonging to Geeta Devi Shah and P.Ramaiah were concerned. Subsequently, this Hon'ble Court in W.A.No.978/2014 has considered that the judgment passed by the Hon'ble Apex Court, a copy of which is sought to be produced at Sl.No.6 - document under I.A.No.1/2025, is not a judgment in *rem*. Therefore, the said judgment of the trial Court placing reliance on the decision passed in the W.A.No.4246/1998 so far as the parties to the suit are concerned is not proper. The plaintiffs by producing their title documents and tax paid receipts have established their lawful possession over the suit schedule property and also interference by the defendants in their possession as fence put up by the plaintiffs has been damaged by the defendants. With this he prayed to allow the appeal and decree the suit.

12. Learned counsel for respondents would contend that the defendants/respondents are the owners of Sy.No.46 measuring 1 acre 13 guntas. The acquisition proceedings have been challenged by the



CNR: KAHC010199562020

respondents/defendants in W.P.No.4946/1990 and the same has been withdrawn on 26.09.1994. In the writ petition filed by Geetha Devi Shah in W.P.No.16419/1992 order has been passed and it has been challenged by said Geeta Devi before the Division Bench in W.A.No.9913/1996 wherein the Division Bench of this Court has quashed the acquisition proceedings and it has been upheld by the Hon'ble Apex Court. The writ appeal filed by Bengaluru City Co-operative Housing Society in W.A.No.4246/1998 has been dismissed. Even the Civil Appeal No.7424-26/2002 filed by the Bengaluru City Co-operative Housing Society has also been dismissed by the Hon'ble Apex Court. Therefore, the judgments rendered by this Court and the Hon'ble Apex Court are judgment in *rem*. There is a cloud on title of the plaintiffs and plaintiffs ought to have filed suit for title and on that point he places reliance on the decision of **Anathula Sudhakar vs. P.Buchi Reddy (Dead) by Lrs and others [(2008) 4 SCC 594]**. Considering all these aspects, the trial Court



has rightly dismissed the suit of the plaintiffs. With this, he prayed for dismissal of the appeal.

13. Having heard learned counsels for the parties, the Court has perused the judgment, decree and trial Court records.

14. The following points arise for consideration:

Whether the trial Court is justified in dismissing the suit holding that the acquisition of the property belonging to defendants in Sy.No.46 by Bengaluru City Housing Co-operative Society Ltd. has been quashed and therefore, the plaintiffs who got the suit property through the said Bangalore City Housing Co-operative Society Ltd. are not in lawful possession of the suit property?

15. The defendants have admitted that their property bearing Sy.No.46 measuring 1 acre 24 guntas has been acquired for the purpose of housing Society i.e. Bengaluru City Housing Co-operative Society Ltd. It is the case of the plaintiffs that the plaintiffs' vendor Sri.Ganesh



CNR: KAHC010199562020

**NC: 2026:KHC:42570
RFA No. 1475 of 2020**

had purchased the suit schedule property from Bengaluru City Housing Co-operative Society Ltd. under sale deed dated 21.03.1996 (Ex.P2) and his name has been mutated in the khata certificate and he was in possession of the suit schedule property. The plaintiffs purchased the suit schedule property from the said Ganesh under sale deed dated 01.12.2011 and there was a rectification deed dated 20.07.2011. The said sale deed is at Ex.P1, rectification deed is at Ex.P3, possession certificate is at Ex.P5, khata patra is at Ex.P6 and khata certificate is at Ex.P7. The plaintiffs have paid property tax of suit property and tax paid receipts are at Ex.P9. The plaintiffs got entered their name in the khata and khata certificate has been issued in the name of the plaintiffs. Admittedly, the suit schedule property is a vacant site. It is the defendants' contention that the said acquisition of the properties for the Bengaluru City Housing Co-operative Society Ltd. has been quashed in W.A.No.4246/1998 and connected appeals. Reliance has been placed by the trial Court on the said



NC: 2026:KHC:42570
RFA No. 1475 of 2020

judgment even though it is not marked in the evidence. Now the appellants have produced certified copy of the said judgment in the documents sought to be produced under IA No.1/2025 filed under Order XLI Rule 27 CPC. The defendants were not parties to W.A.No.4246/1998 and connected appeals. The defendants had also challenged the acquisition proceedings in W.P.No.4946/1990 and the said writ petition has been withdrawn by the defendants, order copy of which is at Ex.P4. Subsequently in R.P.No.463/2017, this Court has held that the entire acquisition of lands in their entirety has not been quashed. They have been quashed only in the case of Geeta Devi Shah and P.Ramaiah only to the extent of their lands both by this Court as well as by the Hon'ble Apex Court. Subsequently, the Division Bench in W.A.No.978/2014 by judgment dated 15.12.2022 has held that the judgment of the Hon'ble Supreme Court is not a judgment in *rem* and the benefit of quashing is confined to



the writ petitioners who had approached the Court. In the said judgment it is observed as under:

24. In a case of similar nature, in Abhey Ram Vs.UOI (1997 5 SCC 421), relied upon by the Housing Society, the Apex Court has observed as follows:

24. "It is seen that before the Division Bench judgment was rendered, the petition of the appellants stood dismissed and the appellants had filed the special leave petition in this Court. If it were a case entirely relating to Section 6 declaration as has been quashed by the High Court, necessarily that would ensure the benefit to others also. Though they did not file any petition, except to those whose lands were taken possession of and were vested in the State under Sections 16 and 17(2) of the Act free from all encumbrances. But it is seen that the Division Bench confined the controversy to the quashing of the declaration under Section 6 in respect of the persons qua the writ petitioners before the Division Bench. Therefore, the benefit of the quashing of the declaration under Section 6 by the Division Bench does not ensure to the appellants."

(Emphasis Supplied)



CNR: KAHC010199562020

NC: 2026:KHC:42570
RFA No. 1475 of 2020

25. In the case on hand also, this Court has confined the quashing of acquisition proceedings qua the writ petitioners Smt. Geetha Devi Shah and P.Ramaiah. Therefore following the dictum in *Abhey Ram*, we hold that the judgment of Apex Court in BCC Case is not a judgment in rem and accordingly, this point is answered in the **negative**.

16. In the case on hand, the writ petition filed by the defendants challenging the acquisition proceedings has been withdrawn by them and therefore, they are not having benefit of the judgment of Division Bench rendered in W.A.No.4246/1998 and connected matters. The documents sought to be produced are relevant in order to explain the judgment in W.A.No.4246/1998, referred by the trial Court. Accordingly, I.A.No.1/2025 is allowed. There is no necessity to lead further oral evidence since these documents are judgments of Courts.

17. The defendants have not entered the witness box and therefore, the defence taken by them is not correct. The Hon'ble Apex Court has considered the same in the



judgment in the case of **Vidhyadhar v. Manikrao and another [(1999) 3 SCC 573]** wherein it is held as under:

"17. Where a party to the suit does not appear in the witness-box and states his own case on oath and does not offer himself to be cross-examined by the other side, a presumption would arise that the case set up him is not correct....."

18. The appellants/plaintiffs by producing their title documents Ex.P1 and P2 sale deeds, rectification deed and other documents i.e. khata certificate, Ex.P3, property registered extract have established that they are in lawful possession of the suit schedule property and there is alleged interference by the defendants. Considering the said aspect, the plaintiffs who are appellants herein have made out a case for grant of decree for perpetual injunction against the defendants. The trial Court has erred in dismissing the suit of the plaintiffs. Therefore, the



CNR: KAHC010199562020

NC: 2026:KHC:42570
RFA No. 1475 of 2020

above point is answered accordingly. Consequently, the suit of the plaintiff is decreed as prayed.

19. The appeal is allowed in the above terms. Draw decree accordingly.

Sd/-
(SHIVASHANKAR AMARANNAVAR)
JUDGE

DKB
List No.: 3 Sl No.: 12
Ct.sm