



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 18TH DAY OF JUNE, 2026

BEFORE

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

REGULAR FIRST APPEAL NO. 596 OF 2011 (PAR/INJ)

BETWEEN:

SMT. M.A. SHAHNAZ
D/O MOHAMMAD ARIFULLA,
AGED ABOUT 30 YEARS,
R/AT NO.2, (10TH CROSS),
10TH 'A' CROSS, ANEPALYA,
BANGALROE-560031.

... APPELLANT

(BY SRI. AHMED S.N., ADVOCATE)

AND:

1. SRI RICHARD JOYCE
S/O. S.A. JOYCE,
AGED ABOUT 39 YEARS,
RESIDING AT NO.1504,
BDA QUARTERS,
AUSTIN TOWN III STAGE,
BANGALORE-560037.

2. SRI N. CHINNASWAMY
S/O. N.NALLAPURA,
AGED ABOUT 50 YEARS,
R/AT NO.156, II CROSS,
VINAYAKA NAGAR,
CHURCH STREET,
BANGALORE-560030.

... RESPONDENTS

(BY SRI. P.VENKATARAMANA, ADVOCATE FOR C/R1,
NOTICE TO R2 IS SERVED)

THIS REGULAR FIRST APPEAL, FILED U/SEC.96 OF CPC,
PRAYING SET ASIDE THE JUDGMENT AND DECREE PASSED IN
O.S.NO.15291/2007 DATED 01.01.2011 BY THE IV ADDITIONAL CITY
CIVIL AND SESSIONS JUDGE, MAYO HALL UNIT (CCH-21),



BANGALORE AND DISMISS THE SUIT WITH COSTS THROUGHOUT, IN THE INTEREST OF JUSTICE AND EQUITY AND ETC.,

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

ORAL JUDGMENT

Captioned Regular First Appeal is filed by defendant No.1 assailing the judgment and decree passed in O.S. No.15291/2001, whereunder the Trial Court has decreed the suit filed by the plaintiff and consequently restrained defendant Nos.1 and 2 from interfering with the plaintiff's peaceful possession and enjoyment of the suit schedule property, namely, a residential house bearing Property No.8 B, carved out of Sy. No.7 and presently assigned Corporation No.9, situated at 10th 'B' Cross Road, Ward No.70, Anepalya, Bengaluru.

2. For the sake of convenience and brevity, the parties are referred to in terms of their rank before the Trial Court.



3. The facts leading to the present appeal are that the plaintiff instituted a suit in O.S. No.15291/2001 against defendant Nos.1 and 2 seeking the relief of perpetual injunction in respect of the suit schedule property. The plaintiff asserted in the plaint that he had purchased the suit schedule property under a registered sale deed dated 15.10.1998 and that ever since the date of purchase, he has been in lawful and peaceful possession and enjoyment of the suit schedule property. The plaintiff further pleaded that pursuant to the purchase, the khatha of the property was mutated in his name and that he has been regularly paying property taxes to the competent authorities.

4. The plaintiff specifically alleged that defendant Nos.1 and 2, having no semblance of right, title or interest over the suit schedule property, were illegally attempting to interfere with his peaceful possession and enjoyment of the same. It was further pleaded that defendant No.1 was asserting rights over the property by contending that she



had purchased Site No.2 under a registered sale deed dated 10.05.1999 executed by late Gundappa and had also secured a rectification deed in respect of the said transaction. According to the plaintiff, relying upon the aforesaid sale deed and rectification deed, defendant Nos.1 and 2 were attempting to unlawfully interfere with the plaintiff's possession over the suit schedule property.

5. The plaintiff contended that the defendants were neither in possession of the suit schedule property nor did they possess any lawful right or title in respect thereof and, therefore, sought the relief of permanent injunction simpliciter restraining the defendants from interfering with his peaceful possession and enjoyment of the suit schedule property.

6. On service of summons, defendant No.1 entered appearance through counsel and filed a detailed written statement stoutly contesting the claim made by the plaintiff. Defendant No.1, while denying the plaint



averments, specifically contended that she has absolutely no concern with the property purchased by the plaintiff. On the contrary, defendant No.1 asserted that she had purchased Site No.2 from one Gundappa under a registered sale deed dated 10.05.1999 and that she is in lawful possession and enjoyment of the said property. Defendant No.1 further specifically pleaded that Gundappa had never alienated Site No.2 in favour of one A. Muniswamy and, therefore, A. Muniswamy had no manner of right or authority to convey the said property in favour of one Karar Husain. Proceeding on this premise, defendant No.1 contended that the said Karar Husain was never in possession of Site No.2, which was subsequently purchased by defendant No.1. Defendant No.1 also categorically denied the allegations relating to interference and specifically pleaded that neither she nor her family members had at any point of time attempted to trespass upon, encroach upon, or interfere with the suit schedule property belonging to the plaintiff.



7. Defendant No.2 also entered appearance and filed a separate written statement stoutly denying the entire averments made in the plaint. Defendant No.2 specifically questioned the genuineness and validity of the transaction under which the plaintiff claims title and possession over the suit schedule property. In particular, defendant No.2 disputed the sale deed executed in favour of the plaintiff by one A.P. Srinivasulu and Nyanamma and alleged that the General Power of Attorney said to have been executed in favour of the said vendors, on the strength of which the sale deed came to be executed, is a fabricated and concocted document. On these grounds, defendant No.2 sought dismissal of the suit.

8. The Trial Court, on the basis of the rival pleadings, framed the necessary issues for adjudication and called upon the parties to adduce oral and documentary evidence in support of their respective claims. In order to substantiate the case set up in the plaint, the plaintiff examined his father and General Power



of Attorney holder as P.W.1 and, in support of his claim, got marked as many as 67 documents. Defendant No.1, in turn, adduced evidence through her General Power of Attorney holder, who was examined as D.W.1, and also examined three independent witnesses. Defendant No.1 further relied upon documentary evidence marked as Exs.D1 to D21.

9. The Trial Court, upon appreciation of the pleadings, oral evidence and documentary evidence placed on record by the respective parties, answered Issue No.1 in the affirmative. While recording finding on Issue No.1, the Trial Court extensively adverted to the title documents relied upon by the plaintiff and also examined the rebuttal evidence tendered by defendant No.1. On such consideration, the Trial Court came to the conclusion that the plaintiff had succeeded in establishing his lawful title to the property in question and, consequently, held that the plaintiff had also established his lawful possession and enjoyment of the suit schedule property.



10. The Trial Court further recorded a finding that the defendants failed to substantiate their plea regarding possession over the property in dispute. The Trial Court also took note of the categorical admission made by defendant No.1 in the written statement to the effect that she has no concern with the property purchased by the plaintiff. Placing reliance on the said admission coupled with the documentary evidence adduced by the plaintiff, the Trial Court held that the plaintiff had succeeded in proving his lawful possession over the suit schedule property as on the date of the suit.

11. While advertng to the nature of the defence set up in the written statements and the manner in which the suit claim was resisted by the defendants, the Trial Court further held that the plaintiff has also succeeded in establishing the alleged interference by the defendants. Accordingly, Issue No.2 was also answered in the affirmative. Consequently, the suit came to be decreed restraining defendant Nos.1 and 2 from interfering with



the plaintiff's peaceful possession and enjoyment of the suit schedule property.

12. Feeling aggrieved by the judgment and decree passed in O.S. No.15291/2001, defendant No.1 has preferred the present appeal. Defendant No.2, however, has accepted the judgment and decree passed by the Trial Court and has not chosen to challenge the same.

13. Heard the learned counsel appearing for defendant No.1-appellant and the learned counsel appearing for the plaintiff-respondent. Perused the pleadings, including the averments made in the plaint and the written statements filed by the defendants, more particularly the written statement filed by defendant No.1. This Court has also meticulously examined the oral and documentary evidence placed on record by the respective parties, including the title documents relied upon by the plaintiff as well as defendant No.1.



14. This Court has specifically adverted to the registered sale deed dated 30.05.1968 executed by the vendor of defendant No.1, namely Gundappa, in favour of Muniswamy in respect of Site No.2, which is marked as Ex.P19. This Court has also examined the subsequent registered sale deed dated 19.12.1979 executed by A. Muniswamy in favour of one M. Karar Hussain, marked as Ex.P20. Further, this Court has also carefully examined the registered sale deed dated 10.05.1999 executed by the very same Gundappa in favour of defendant No.1 in respect of Site No.2, which is marked as Ex P-16, along with the rectification deed dated 04.10.2000 marked as Ex P-17.

15. In the backdrop of the rival contentions urged by the parties and having regard to the findings recorded by the Trial Court, the following point would arise for consideration:



"(i) Whether the finding recorded by the Trial Court holding that the plaintiff has succeeded in proving his lawful possession over the suit schedule property and the alleged interference by the defendants suffers from perversity or illegality warranting interference by this Court in the present appeal"

(ii) What order?"

Finding on point No.(i):

16. This Court has meticulously examined the title documents relied upon by the plaintiff as well as defendant No.1 in order to ascertain the nature of rival claims projected by the parties in respect of the suit schedule property. The plaintiff, in order to establish his lawful title and consequential possession over the suit schedule property, has relied upon the registered sale deed dated 15.10.1998 executed by his vendors, namely A.P.



Srinivasulu and B. Nyanamma, which is marked as Ex.P2. In further substantiation of his possession and enjoyment over the suit schedule property, the plaintiff has also produced several revenue and municipal records, namely tax paid receipts, khatha certificate, licence issued for construction of a residential building and the sanctioned building plan. The tax paid receipts, khatha extracts and connected municipal documents are marked at Exs.P3 to P13, the building licence is marked as Ex.P14 and the sanctioned building plan is marked as Ex.P15. These documents, on their face, indicate that pursuant to the purchase under Ex.P2, the municipal records stood transferred in the name of the plaintiff and that he was exercising acts of ownership over the suit schedule property by putting up construction after obtaining necessary sanction from the competent authority.

17. This Court also finds that the plaintiff, while asserting that defendant No.1 is attempting to interfere with his possession on the strength of a non-existent and



fictitious claim over Site No.2, has placed reliance on the earlier chain of title pertaining to the very same property. The specific case set up by the plaintiff is that defendant No.1's vendor, namely Gundappa, had already alienated Site No.2 as early as in the year 1968 and, therefore, had divested himself of all right, title and interest in the said property. Consequently, according to the plaintiff, Gundappa did not retain any subsisting saleable interest so as to once again execute a sale deed in favour of defendant No.1 under the registered sale deed dated 10.05.1999.

18. In support of the aforesaid plea, the plaintiff has produced the registered sale deed dated 30.05.1968 executed by Gundappa in favour of one A. Muniswamy in respect of Site No.2, which is marked as Ex.P19. The plaintiff has also produced the subsequent registered sale deed dated 19.12.1979 executed by the said A. Muniswamy in favour of one M. Karar Hussain, which is marked as Ex.P20. These documents are relied upon by



the plaintiff to demonstrate that the title in respect of Site No.2 had already passed from Gundappa to A. Muniswamy and thereafter to M. Karar Hussain much prior to the alleged conveyance in favour of defendant No.1.

19. On meticulous examination of the title documents relied upon by the plaintiff, coupled with the oral evidence adduced before the Trial Court, this Court is of the considered view that the plaintiff has succeeded in establishing his lawful title and peaceful possession over the suit schedule property. The evidence on record assumes greater significance in view of the admissions elicited from D.W.4, who is none other than the vendor of the plaintiff. D.W.3-Nayanamma has, in unequivocal terms, admitted the execution of the General Power of Attorney in favour of the plaintiff's father, namely Joyce, authorising him to deal with the property in question. The evidence further discloses that pursuant to the authority conferred under the said General Power of Attorney, the plaintiff's father has executed the registered sale deed



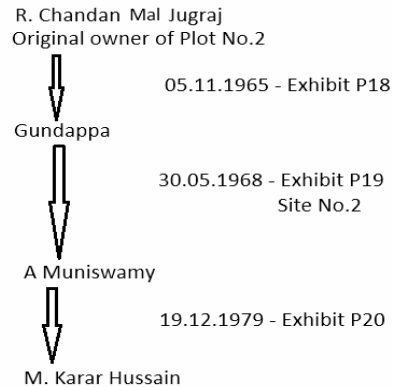
dated 15.10.1998 in favour of the plaintiff conveying Site No.8-B, which constitute the suit schedule property. Therefore, the oral evidence of D.Ws.3 and 4, read in conjunction with the registered title deeds relied upon by the plaintiff, clearly establishes the plaintiff's lawful acquisition of right, title and interest over the suit schedule property.

20. Apart from the registered title deed, the plaintiff has also produced several contemporaneous public documents such as building licence, sanctioned building plan, khatha records and tax paid receipts. These documents unmistakably indicate that the plaintiff was exercising acts of ownership over the suit schedule property and was in settled and peaceful possession of the same. The sanctioned building plan and licence issued by the competent municipal authority further reinforce the plaintiff's assertion that he had not only purchased the property but had also proceeded to put up construction thereon after obtaining due approval from the competent



authority. Therefore, the cumulative effect of the documentary evidence placed on record clearly substantiates the plaintiff's lawful and settled possession over the suit schedule property as on the date of institution of the suit.

21. Having regard to the rival claims projected by the parties and in order to appreciate the controversy in its proper perspective, this Court deems it appropriate to trace the flow of title relating to Site No.2 commencing from the original owner, namely R. Chandanmul Jograj, who had conveyed Site No.2 in favour of Gundappa under a registered sale deed dated 05.11.1965, marked as Ex.P18. Therefore, for the purpose of clarity and proper appreciation of the competing claims, the chain of title flowing from the original owner is extracted hereunder in the form of a title flow chart.



22. In the backdrop of flow chart and the cogent title documents and supporting municipal records relied upon by the plaintiff, this Court has bestowed its anxious consideration to ascertain the genesis of the present litigation between the parties. The documents marked as Exs.P19 and P20 assume considerable significance in this regard. Ex.P19 reveals that defendant No.1's vendor, namely Gundappa, who had originally acquired Site No.2 under a registered sale deed dated 05.11.1965, had subsequently alienated the said Site No.2 in favour of one A. Muniswamy under a registered sale deed dated 30.05.1968. The material on record further discloses that



the said A. Muniswamy, in turn, conveyed the very same property in favour of one M. Karar Hussain under a registered sale deed dated 19.12.1979 marked as Ex.P20. Therefore, the chain of title flowing from Exs.P19 and P20 clearly demonstrates that Gundappa had already divested himself of all right, title and interest in respect of Site No.2 several decades prior to the execution of the sale deed in favour of defendant No.1.

23. It is therefore evident that when Gundappa executed the sale deed dated 10.05.1999 in favour of defendant No.1, he had no subsisting saleable right, title or interest in respect of Site No.2. This Court finds considerable force in the contention advanced by the plaintiff that defendant No.1 has purchased a non-existent property from a person who had already alienated the same long prior thereto. In that view of the matter, this Court deems it appropriate to advert to the boundaries recited in the schedule annexed to the registered sale deed dated 30.05.1968 executed by Gundappa in favour of



A. Muniswamy, marked as Ex.P19. Equally, this Court has also carefully examined the boundaries recited in Ex.P20, namely the sale deed executed by A. Muniswamy in favour of M. Karar Hussain.

24. If the boundaries recited in Exs.P19 and P20 are juxtaposed and compared with the boundaries indicated in Ex.D2, namely the sale deed obtained by defendant No.1 from Gundappa, it becomes manifestly evident that there are substantial and material alterations in the boundary descriptions, particularly insofar as the eastern and western boundaries are concerned. The discrepancies are neither accidental nor insignificant. On the contrary, the altered boundaries clearly indicate a deliberate attempt to overlap and indirectly lay claim over the plaintiff's property. The boundaries reflected in Exs.P19 and P20 do not tally with the boundaries recited in Ex.D2, which is the very foundation of defendant No.1's claim. Therefore, this Court is of the considered view that defendant No.1, in collusion with Gundappa, has



attempted to create a semblance of title over a property which had already been alienated decades earlier.

25. Another significant aspect which clearly emerges from the documentary evidence is that the plaintiff's property and the property claimed by defendant No.1 are situated in entirely different survey numbers. The suit schedule property purchased by the plaintiff, namely Site No.8-B, forms part and parcel of Sy. No.7. On the other hand, Site No.2 originally purchased by Gundappa forms part and parcel of Sy. Nos.8/4, 9 and 10. Though the said survey numbers may be adjoining or abutting Sy. No.7, the ownership, identity and derivation of title pertaining to Sy. No.7 and Sy. Nos.8/4, 9 and 10 are wholly distinct and independent. Therefore, the very foundation of defendant No.1's claim that the property purchased by her no where corresponds to the plaintiff's property stands thoroughly discredited by the documentary evidence on record.



26. Though defendant No.1 has taken a specific plea in the written statement that she has no concern whatsoever with the plaintiff's property, the material on record clearly demonstrates that under the guise of the sale deed obtained under Ex.D2 from Gundappa, defendant No.1 has indirectly attempted to assert rights over the suit schedule property belonging to the plaintiff. Therefore, this Court is of the view that the plaintiff has not only succeeded in proving his lawful and peaceful possession over the suit schedule property, but has also convincingly established the interference caused by defendant No.1 on the strength of a fictitious and legally unsustainable title document. The finding recorded by the Trial Court holding that the plaintiff has proved both possession and interference is therefore based on proper appreciation of evidence and does not warrant interference by this Court.

27. For the reasons stated supra, this Court is of the considered view that the findings recorded by the Trial



Court holding that the plaintiff has succeeded in establishing his lawful possession over the suit schedule property and the interference caused by the defendants are based on proper appreciation of oral and documentary evidence and do not suffer from perversity, illegality or infirmity warranting interference by this Court in exercise of appellate jurisdiction. On the contrary, the material on record clearly demonstrates that defendant No.1 has set up a claim on the strength of a legally unsustainable document executed by a vendor who had already divested himself of title decades earlier and has indirectly attempted to lay claim over the plaintiff's property situated in an altogether different survey number. Accordingly, point No. (i) is answered in the '**negative**' and against defendant No.1.

Finding on point No.(ii):

28. In view of the findings recorded on the point No.(i), this Court does not find any merit in the appeal



preferred by defendant No.1. Accordingly, this Court proceeds to pass the following:

ORDER

- (i) The Regular First Appeal stands ***dismissed***.
- (ii) The judgment and decree dated 01.01.2011 passed in O.S. No.15291/2001 by the Trial Court are hereby confirmed.

**Sd/-
(SACHIN SHANKAR MAGADUM)
JUDGE**

ALB
CT:GSM
LIST NO.: 19 SL NO.: 8