

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 27<sup>TH</sup> DAY OF APRIL, 2026**

**BEFORE**

**THE HON'BLE MR. JUSTICE ANANT RAMANATH HEGDE**

**REGULAR FIRST APPEAL NO. 1514 OF 2018 (DEC/INJ)**

**BETWEEN:**

1. C SAMPATHU,  
AGED ABOUT 73 YEARS,  
S/O LATE CHINNAPPA REDDY  
R/AT NO.16, 2<sup>ND</sup> FLOOR, 7<sup>TH</sup> CROSS  
4<sup>TH</sup> MAIN, V R PURAM,  
P G HALLI, BANGALORE-560 003.
2. R K LAKSHMIPATHY,  
AGED ABOUT 50 YEARS,  
S/O R KANNAIAH,  
R/AT NO.281, 8<sup>TH</sup> CROSS,  
2<sup>ND</sup> MAIN PRAKASH NAGAR  
SRIRAMPURAM P.O,  
BANGALORE-560 021.

...APPELLANTS

(BY SRI SAMPATH A,ADVOCATE)

Digitally signed  
by BELUR  
RANGADHAMA  
NANDINI

Location: HIGH  
COURT OF  
KARNATAKA

**AND:**

1. SMT LAKSHMAMMA  
AGED ABOUT 69 YEARS,  
W/O LATE NARASIMHAIAH
2. SMT ANURADHA  
AGED ABOUT 48 YEARS,  
D/O LATE NARASIMHAIAH
3. SMT VIJAYA,  
AGED ABOUT 46 YEARS,  
D/O LATE NARASIMHAIAH

4. SRI JAYARAM,  
AGED ABOUT 43 YEARS,  
S/O LATE NARASIMHAIAH
5. SRI NARASIMHA MURTHY  
AGED ABOUT 41 YEARS,  
S/O LATE NARASIMHAIAH
6. KUM VANAJA  
AGED ABOUT 38 YEARS,  
D/O LATE NARASIMHAIAH
7. KUM BINDU,  
AGED ABOUT 32 YEARS,  
D/O LATE NARASIMHAIAH

ALL ARE RESIDING AT NO.17/A,  
NARASIMHAIAH COLONY ROAD,  
LOTTEGOLLAHALLI VILLAGE,  
RMV II STAGE SANJAY NAGAR  
BANGALORE-560 094.

N VISHWANATH  
AGED ABOUT 54 YEARS,  
S/O K NARAYANAN NAIR  
R/AT NO.19, MATHA BHAVAN  
III MAIN AMARAJYOTHI LAYOUT  
SANJAY NAGAR  
BANGALORE-560 094  
SINCE DECEASED BY HIS LRS

8. SMT SATHYA @ SATHYAVATHI  
W/O LATE N VISHWANATH  
AGED ABOUT 52 YEARS,
9. SRI ABISHEK,  
S/O LATE N VISHWANATH,  
AGED ABOUT 33 YEARS,
10. POOJA,  
D/O LATE N VISHWANATH,  
AGED ABOUT 31 YEARS,  
RESP.NO. 8 TO 6 ARE RESIDING AT

NO.512 NEW BEL ROAD,  
NEAR GANESHA TEMPLE,  
DEVASANDRA BANGALORE-54.

11. SMT NANDINI,  
W/O DR L RAMAKRISHNA RAO,  
AGED ABOUT 55 YEARS,  
RESIDING AT NO.458 11<sup>TH</sup> B CROSS,  
1ST PHASE J P NAGAR,  
BANGALORE-560 078.

...RESPONDENTS

(BY SRI G B SHARATH GOWDA, ADV. FOR R8 TO R10 &  
C/R11,  
SRI G CHANDRASHEKARAIHAH, ADV. FOR R1, R2, R4,  
R5 & R6,  
R3 IS SERVED BUT UNREPRESENTED V/O/DT 17.08.2020,  
NOTICE TO R7 IS DISPENSED WITH)

THIS RFA IS FILED UNDER SEC.96 OF CPC., AGAINST  
THE JUDGMENT AND DECREE DATED 13.07.2018 PASSED  
IN OS.NO.11276/2006 ON THE FILE OF THE 24<sup>TH</sup>  
ADDITIONAL CITY CIVIL AND SESSIONS JUDGE,  
BENGALURU CITY, DISMISSING THE SUIT FOR  
DECLARATION AND PERMANENT INJUNCTION.

THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR  
JUDGMENT ON 05<sup>TH</sup> MARCH, 2026 AND COMING ON FOR  
PRONOUNCEMENT THIS DAY, THE COURT PRONOUNCED THE  
FOLLOWING:

CORAM: HON'BLE MR. JUSTICE ANANT RAMANATH HEGDE

**CAV JUDGMENT**

This first appeal is under Section 96 of the Code of Civil Procedure, 1908. The plaintiffs whose suit in O.S. No.11276/2006 for declaration and injunction is dismissed in terms of the judgment and decree dated 13.07.2018 are in appeal.

2. The suit is filed in respect of immovable properties described as sites bearing No.8 and 9, V.P.Khata No.109/A, having Assessment No.3/3, situated at Lottegollahalli Village, Kasaba Hobli, Bangalore North Taluk, measuring East-West:115 feet and North-South:46 feet, totally measuring 5290 square feet with a shed and a compound wall built around it. The boundaries are described as under:

|       |   |                      |
|-------|---|----------------------|
| East  | : | Property No.10       |
| West  | : | Property No.7        |
| North | : | Road and             |
| South | : | Sterling Apartments. |

3. The plaintiffs seek a declaration that the registered sale deed dated 16.04.2004 executed by defendants No.1 to 7 in favour of defendant No.8 is illegal and not binding on the plaintiffs and registered sale deed dated 29.04.2004 executed

by defendants No.1 to 7 in favour of defendant No.9 in respect of Sites No.8 and 9, referred to as site No.8 and 8B in the sale deed is illegal and not binding on the plaintiffs.

4. In addition, the plaintiffs also seek a declaration of title to declare them as the owners in possession of the suit schedule properties. The plaintiffs also sought injunction against the defendants from interfering with their peaceful possession and enjoyment of suit schedule properties and a restraint order from alienating the suit schedule properties.

5. It is relevant to notice that the suit was not filed against defendant No.9. However, later defendant No.9 was impleaded and came on record.

6. The property bearing Survey No.3/3 measuring 1 acre 13 guntas in Lottegollahalli Village originally belonged to Hanumanthappa. Said Hanumanthappa had two wives namely; Byamma and Thayamma. It appears that both marriages are valid and from both wives Hanumanthappa had children and among them, a son from first wife Byamma was named as Narasimhaiah and a son from second wife Thayamma was also named as Narasimhaiah.

7. The plaintiffs claim that there was an oral partition in the family during lifetime of Hanumanthappa and in the said oral partition, Narasimhaiah son of Hanumanthappa from first wife Byamma was allotted 1 acre 13 guntas of land in Survey No.3/3. Said 1 acre 13 guntas of land in Survey No.3/3 was later sold by Narasimhaiah-son of Byamma to Muniswamappa under a registered sale deed dated 11.12.1956.

8. The plaintiffs further claim that Muniswamappa sold Survey No.3/3 measuring 1 acre 13 guntas to one Ranganayakamma under a registered sale deed 07.03.1957 and Ranganayakamma in turn sold the land to Narasimhaiah, the son from second wife Thayamma under a registered sale deed dated 07.08.1963.

9. The plaintiffs assert that Narasimhaiah son of second wife Thayamma sold the entire 1 acre 13 guntas in Sy.No.3/3 to Tirupathappa under a registered sale deed dated 08.08.1963 and said Tirupathappa formed several sites in 1 acre 13 guntas and retained few sites and sold few sites.

10. Further, the plaintiffs claim that, after the demise of Tirupathappa, his two sons T.Venkatesh and T.Rangaswamy succeeded to the estate of Tirupathappa and said two sons of

Tirupathappa executed a power of attorney in favour of Srinivasa Murthy. The power of attorney holder - Srinivas Murthy, sold the suit properties to the plaintiffs on 06.12.2004.

11. Thus, the plaintiffs claim title and possession over the aforementioned properties under registered sale deed dated 06.12.2004 and further allege that the registered sale deed dated 16.04.2004 executed by defendants No.1 to 7 in favour of defendant No.8 and registered sale deed dated 29.04.2004 in favour of defendant No.9 are not binding on the plaintiffs.

12. The plaintiffs assert that, defendants No.1 to 7, who are the legal representatives of deceased Narasimhaiah from the second wife of Hanumanthappa did not have any right, title and interest over the properties as Narasimhaiah the son from second wife Thayamma had sold 1 acre 13 guntas in Sy.No.3/3 to Tirupathappa.

13. Defendants No.1 to 7, the vendors of defendants No.8 and 9, the purchasers contested the suit.

14. The defendants/vendors contended that, Tirupathappa though purchased 1 acre 13 guntas in Sy.No.3/3 on 08.08.1963 did not own and possess the suit properties and had sold all the sites formed by him. Defendants No.1 to 7

inherited certain sites formed by Narasimhaiah, the son from the second wife of Hanumanthappa, in 1 acre 2 guntas (distinct from 1 acre 13 guntas) in Sy.No.3/3, and 37 guntas in Sy.No.3/2. And the sale transaction by defendants No. 1 to 7, in favour of defendants No.8 and 9 is prior to the sale in favour of the plaintiffs and prayed for dismissal of the suit.

15. Defendants No.8 and 9 also took a similar stand.

16. The Trial Court framed the following issues:

- "1. *Whether plaintiffs prove that they are the absolute owners and in possession of the suit schedule property?*
2. *Whether the plaintiffs prove the interference of the defendants?*
3. *Whether the plaintiffs are entitled for the relief of permanent injunction as sought for?*
4. *Whether the plaintiffs prove that the sale deed dated 16.04.2004 executed by defendants No.1 to 7 in favour of defendant No.8 is illegal and void and not binding on them?*
5. *Whether the suit is properly valued and the Court fee paid is sufficient?*
6. *Whether the suit is filed within the period of limitation?*
7. *What order or decree?"*

17. In addition, the following two additional issues are also framed.

1. *Whether the plaintiffs prove that the sale deed dated 29.04.2004 executed by defendants No.1 to 7 in favour of defendant No.9 is illegal and void and not binding on them?*
2. *Whether the plaintiffs are entitled for relief of declarations as prayed for?"*

18. The Trial Court has held that the plaintiffs failed to establish their title and their vendors' title and dismissed the suit. The Trial Court also held that the power of attorney is not proved.

19. Learned Senior Counsel appearing for the plaintiffs/appellants urged that, the Trial Court did not consider the case in proper perspective. Though the suit is for declaration and injunction, defendants No.8 and 9 also claimed title over the properties through defendants No.1 to 7. The Trial Court did not consider the evidence of the defendants No.1 to 9 which would clearly establish that the defendants No.1 to 9 have not established their title over the properties.

20. It is urged that the suit being one for declaration of title and injunction, where the plaintiffs and the contesting

defendants claimed title over the properties, it was also incumbent upon the defendants to establish their title based on the evidence led, applying the test of preponderance of probability, on the basis of evidence led by the plaintiffs suit should have been decreed.

21. In addition, it is urged that the records produced by the plaintiffs would demonstrate that the properties were acquired by Tirupathappa and later inherited by his two children T.Rangaswamy and T.Venkatesh and plaintiffs having acquired title of the property through the sale deed executed by power of attorney holder of T.Venkatesh and T.Rangaswamy - Srinivas Murthy, have not only established possession of the properties but also established the title.

22. It is further urged by the learned Senior counsel appearing for the plaintiffs/appellants that, the defendants have not produced any records to show the formation of sites and layout by Narasimhaiah, the son from the second wife Thayamma. That being the position, the Trial Court could not have dismissed the suit of the plaintiffs on the ground that the plaintiffs have not produced the documents relating to formation of layout by Tirupathappa.

23. Learned counsel appearing for the respondents would urge that, the plaintiffs approached the Trial Court seeking a declaration of title and the burden lies on the plaintiffs to prove their case and the Trial Court has rightly held that the plaintiffs have not established the title over the properties and consequently dismissed the suit.

24. Learned counsel for respondents would also urge that the sale deed in favour of defendants No.8 and 9 are earlier to the sale deeds executed in favour of the plaintiffs and the said sale deeds in favour of defendants No.8 and 9 are executed by legal representatives of deceased Narasimhaiah, the son from the second wife-Thayamma, who had purchased the property bearing Sy.No.3/3 measuring 1 acre 02 guntas from Byrappa under a registered sale deed dated 11.12.1956 (Ex.P15).

25. It is also urged that, 37 guntas in Survey No.3/2 and 31 guntas in Survey No.3/3 were sold to one Lingamma and she reconveyed the aforementioned properties to Narasimhaiah, the son from the second wife. The said transaction is evidenced in registered sale deed dated 07.04.1965 and would urge that the Trial Court is justified in dismissing the suit.

26. The Court has considered the contentions raised at the Bar and perused the records.

27. The following points arise for consideration:

- (a) *Whether the plaintiffs/appellants establish title and possession over the suit properties based on the registered sale deed dated 06.12.2004.*
- (b) *Whether the defendants No.8 and 9/respondents No.8 and 9 establish title and possession over the suit properties based on the registered sale deed dated 16.04.2004 and 29.04.2004 respectively?*
- (c) *Whether the Trial Court is justified in dismissing the suit?*

28. Certain transactions covered by registered sale deeds are not in dispute. The registered sale deed dated 24.09.1947, executed by Narasimhaiah, where he is shown to be resident of Nagashettyhalli, pertains to 1 acre 2 guntas in Survey No.3/3. The said document marked as Exhibit P.11 reveals Seetappa as the purchaser. Said Seetappa reconveyed the same property on 21.04.1950 in favour of Narasimhaiah, resident of Nagashettyhalli as can be seen from Exhibit P.12.

29. Subsequently, Narasimhaiah conveyed entire extent of 1 acre 2 guntas in Sy.No.3/3 in favour of Byrappa under a registered sale deed dated 28.05.1951, marked as Exhibit P.13.

30. It is further seen that, under a registered sale deed dated 12.05.1955, Narasimhaiah, the son of Hanumanthappa through his first wife, purchased 11 guntas of land from his father, Hanumanthappa, and the children born through father's second wife. The said document is marked as Exhibit P.14.

31. Under another registered sale deed dated 11.12.1956 at Exhibit P.15, Narasimhaiah purchased 1 acre 2 guntas of land in Survey No.3/3 from the previous owner, Byrappa. In the said document, the purchaser is described as a resident of Nagashettyhalli.

32. Significantly, on the very same day, another registered sale deed, marked as Exhibit P3, came to be executed, wherein the vendor Narasimhaiah is described as the elder son of Hanumanthappa, and an extent of 1 Acre and 13 guntas of land are conveyed in favour of Muniswamappa.

33. A comparative reading of these contemporaneous transactions leads to a reasonable inference that, the vendor in the sale deed dated 11.12.1956 (Exhibit P.3) is Narasimhaiah, son of Hanumanthappa through his first wife Byamma, whereas the purchaser under the sale deed of the same date (marked as

Exhibit P15) is Narasimhaiah, son of Hanumanthappa through his second wife Thayamma.

34. It is also relevant to note that, the extent of 1 acre 13 guntas purchased by Muniswamappa under the registered sale deed dated 11.12.1956 was subsequently conveyed to Ranganayakamma under two registered sale deeds dated 07.03.1957 and 17.07.1958, marked as Exhibits P.4 and P.16 respectively. Though the extent of the land in the two sale deeds referred to above add up to 1 acre 13½ guntas, same will not have any bearing on the final outcome of the suit as Muniswamappa who had purchased 1 acre 13 guntas from Narasimhaiah can convey only 1 acre 13 guntas through Ranganayakamma and Ranganayakamma in turn has sold only 1 acre 13 guntas to Narasimhaiah, the son from second wife under registered sale deed dated 07.08.1963. The said document is marked at Exhibit-P5.

35. Later, on 08.08.1963 Narasimhaiah-the son from second wife Thayamma, sold 1 acre 13 guntas to Tirupathappa. In the said sale deed at Exhibit-P6, *seller is referred to as the son from second wife* of Hanumantappa.

36. Thus, it can be noticed that, the Survey No.3/3 was subject matter of several transactions starting from 1947 onwards. It is also evident that the transactions in respect of Survey No.3/3 referred to above fall in two different chunks of land, one measuring *1 acre 2 guntas* and another measuring *1 acre 13 guntas*.

37. The land measuring 1 acre 2 guntas was purchased by Narasimhaiah, the son from second wife-Thayamma under the sale deed executed by Byrappa on 11.12.1956. This portion of the land was retained by Narasimhaiah – the son from second wife. Another chunk of land measuring *1 acre 13 guntas* was initially sold by Narasimhaiah, the son from first wife and property was sold to Muniswamappa. As already noticed, Muniswamappa sold the same to Ranganayakamma and later, said property measuring *1 acre 13 guntas was purchased by Narasimhaiah, the son from second wife* and later, sold to Tirupathappa who purchased under a registered sale deed dated 08.08.1963.

38. Admittedly, the plaintiffs are claiming that the suit sites fall within 1 acre 13 guntas of land purchased by Tirupathappa. The defendants essentially claimed that

Tirupathappa sold all the sites during his lifetime and his children did not inherit any site in Survey No.3/3 and the plaintiffs cannot claim any right under the sale deeds executed by children of Tirupathappa.

39. The defendants also claim that the properties sold to defendants No.8 and 9 by defendants No.1 to 7 under the sale deeds which are under challenge, are the sites formed in Survey No.3/3 measuring 1 acre 2 guntas or Survey No.3/2 measuring 27 guntas which belong to Narasimhaiah the son from second wife Thayamma.

40. The Trial Court has observed that, the plaintiffs have not produced the records to show that, as on the date of the suit or as on the date of the execution of the sale deeds in favour of the plaintiffs, the properties were standing in the name of the plaintiffs or their vendors respectively. The encumbrance certificate as on the date of the execution of the sale deed was also not in the name of the plaintiffs' vendors. The khata was not standing in the name of the plaintiffs' vendors. In addition, the Trial Court has also noticed no documents are produced to hold that the plaintiffs' vendors namely T.Rangaswamy and T.Venkatesh, the children of

Tirupathappa inherited the properties after the demise of Tirupathappa.

41. In the cross examination, PW.1 claimed that he has records to show that the properties were standing in the names of the vendors of the appellants.

42. This Court has perused the records as well as the evidence.

43. The plaintiffs have not produced any materials to show that when Tirupathappa died, he held the suit properties in his name. The plaintiffs have also not produced any records to show that T.Rangaswamy and T.Venkatesh inherited the properties after the death of their father.

44. The plaintiffs claim that Tirupathappa had formed sites in Sy.No. 3/3 measuring 1 acre and 13 guntas. The contention that Tirupathappa formed sites is not in dispute. The plaintiffs' claim that Tirupathappa sold certain sites and retained some is disputed by the defendants. The defendants contend that Tirupathappa sold all the sites formed by him and when he died, his children did not inherit any sites in Sy.No.3/3.

45. The plaintiffs have also not produced any records relating to formation of layout by Tirupathappa which would have thrown light as to how many sites have been formed by Tirupathappa. The plaintiffs have also not produced the sale deeds said to have been executed by Tirupathappa in respect of certain sites formed in Survey No.3/3 measuring 1 acre 13 guntas. Had the plaintiffs revealed as to how many sites were formed, sold and retained by Tirupathappa, the Court would have been in a position to ascertain as to whether Tirupathappa had retained any sites, which eventually would be inherited by his two children namely T.Rangaswamy and T.Venkatesh. However, it is not done.

46. In addition, it is required to be noticed that the records viz., the encumbrance certificates, khata certificates and tax paid receipts marked at Exhibits.D.6 to 16, 20, 22, 24 to 37 would indicate that the suit sites were standing in the name of defendants No.1 to 7, when they executed the sale deed in the name of defendants No.8 and 9, and after the execution of the sale deeds, the khathas were changed in the names of the purchasers namely defendants No.8 and 9.

47. Apart from that, as rightly urged by the learned counsel for the contesting respondent No.9, the defendants have produced the records to show that Sites No.8 and 9 have been sold to Ganapaya Karanth and to Channakeshav Karanth by Tirupathappa on 23.04.1973 and on 25.04.1973 respectively. Both registered sale deeds are marked as Exhibit-D.5.

48. It is not the case of the plaintiffs that, Tirupathappa formed multiple sites in the layout and allotted the No.8 and 9 to different sites, and one set of sites No.8 and 9 were sold in the year 1973 and another set of sites were sold in the year 2004. That contention is not raised and even if raised, difficult to accept the said contention.

49. Since the sale deeds in respect of Sites No.8 and 9 by Tirupathappa in favour of Ganapaya Karanth and Channakeshav Karanth under two different sale deeds dated 23.04.1973 and 25.04.1973, both marked at Exhibit D.5 are not in dispute, the claim relating to acquisition of right in respect of sites No.8 and 9 from Tirupathappa again through sale deed of 2004 cannot be accepted.

50. Though the learned counsel for the plaintiffs/appellants is right in holding that the Trial Court disbelieved the power of attorney on an untenable ground that the signature in the power of attorney is not marked and identified, which could not have been a ground to ignore the power of attorney, the Court is of the view that, there is a valid ground to reject the power of attorney as the recital in the power of attorney read with the evidence of the power of attorney holder- PW2 would indicate that, the said power of attorney was a power of attorney coupled with interest where through power of attorney, the title is said to have been conveyed to the power of attorney holder.

51. The power of attorney holder in his cross-examination states that, when the power of attorney was executed, he paid the consideration amount to T.Rangaswamy and T.Venkatesh. In addition, he further claims that he has conveyed the title to the purchaser and he has retained the consideration amount. If that is the evidence, the Court is of the view that the power of attorney required registration and same is not registered.

52. The Court is concurring with the view of the Trial Court which has recorded a finding that, the plaintiffs have failed to establish the title of their vendors.

53. Though the learned counsel for the plaintiffs/appellants has urged that, even the defendants have failed to produce the layout said to have been formed by Narasimhaiah, the son from the second wife, on preponderance of probability, the Court is of the view that, there are materials to hold that the property records stood in the name of the defendants No.1 to 7 when the sale deed was executed by defendants No.1 to 7 in favour of defendants No.8 and 9.

54. It is relevant to notice that PW.2 – the power of attorney holder has stated that on 06.03.1991 the properties in the names of children of Tirupathappa were partitioned, however, no records are produced to establish the alleged partition and allotment of Sy.No.3/3 in favour of children of Tirupathappa. Thus, adverse inference needs to be drawn against the plaintiffs vendors.

55. The plaintiffs have produced the judgment passed by the Civil Courts in respect of some property. That judgment is of no consequence as the present

defendants/respondents or their predecessors were not parties to the said proceeding. Thus, the said judgment does not operate against or bind the defendants. It is also noticed that the judgment is not pertaining to the suit property.

56. Hence, the following:

**ORDER**

Appeal is ***dismissed.***

**Sd/-  
(ANANT RAMANATH HEGDE)  
JUDGE**

BRN/CHS/GVP