



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF JUNE, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

REGULAR SECOND APPEAL NO. 748 OF 2017 (INJ)

BETWEEN:

SRI. PARASHURAMAIAH,
S/O DODDELLAIAH,
AGED 63 YEARS,
R/O BELUR MAJARE HOSAPALYA,
KADABA HOBLI,
GUBBI TQ.
TUMKUR DISTRICT - 572 216.

...APPELLANT

(BY SRI. M B CHANDRA CHOODA., ADVOCATE)

AND:

1. SRI. YELLAPPA,
S/O CHIKKAELLAIAH,
AGED 73 YEARS,
2. SRI.RAMAIAH,
S/O CHIKKAELLAIAH,
AGED 68 YEARS,
3. SRI.NANJAPPA,
S/O CHIKKAELLAIAH,
AGED 63 YEARS,

ALL ARE R/AT BELUR MAJRE,
HOSAPALYA,

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signed by
MALATESH
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Location:
HIGH
COURT OF
KARNATAKA



KADABA HOBLI,
GUBBI TALUK - 572 216.

...RESPONDENTS

(R2, R3 - SERVED;
APPEAL STANDS DISMISSED AS ABATED IN RESPECT OF R1
VIDE ORDER DATED 11.06.2026)

THIS RSA IS FILED UNDER SEC.100 OF CPC., AGAINST
THE JUDGMENT AND DECREE DATED 7.09.2016 PASSED IN RA
NO.10/2014 ON THE FILE OF THE SENIOR CIVIL JUDGE, GUBBI,
DISMISSING THE APPEAL AND CONFIRMING THE JUDGMENT
AND DECREE DATED 20.1.2014 PASSED IN OS NO.209/2007
ON THE FILE OF THE 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 M.B.Chandra Chooda, learned counsel for
the appellant.

2. Unsuccessful plaintiff is the appellant in this second
appeal challenging the dismissal of the suit in O.S.No.209/2007
dated 20.01.2014 which was confirmed in RA No.10/2014
dated 07.09.2016.



3. A suit for permanent injunction came to be filed in respect of the following immovable property (hereinafter referred to as suit property) by the plaintiff:

SCHEDULE

"Land bearing Survey No.27, measuring 3 Acre 20 guntas, out of which 1 acre 7 guntas situated at Belur village kadaba Hobli gubbi taluk bounded by:

East - Land of Kariyanna

West - Kallur Road

North - Land of Kempayerraiah

South - Land of Ramaiah."

4. Plaintiff contended that defendants are the sons of Chikkayellaiah and he is the son of Doddayellaiah. It is his case that plaintiff is in possession of the suit property pursuant to the agreement to sell executed by Doddayellaiah on 18.05.1989 in the presence of witnesses and thereafter defendants, without there being any semblance of right, tried to interfere with the suit property and therefore the suit was necessitated.

5. Pursuant to the suit summons, all the defendants appeared through their advocate and resisted the suit claim by



contending that the suit property bearing Sy.No.26 totally measures 3 acres 25 guntas, including 4 guntas of kharab, which was purchased by their father Chikkayellaiah and katha of the property stands in the name of Chikkayellaiah. It is their further case that, after death of Chikkayellaiah, defendants partitioned the property *interse* and each one of them has got one acre seventeen guntas of land and they are in enjoyment of the suit property of their respective shares.

6. It is also contended that defendant Nos.1 and 2 executed a mortgage deed in favour of Kempanna to an extent of one acre seventeen guntas each in Sy.No.26 of their respective shares and it is third defendant who executed a deed of mortgage in favour of Doddayellaiah, who is the father of the plaintiff, for an amount of ₹1,000 in the year 1989 and thereafter, he got released the property from mortgage by returning the amount on the same day and Doddayellaiah delivered the possession of the property and therefore, suit is not maintainable.

7. Based on the rival contentions, the learned Trial Judge raised necessary issues and after due trial, dismissed the



suit of the plaintiff, holding that plaintiff failed to prove the execution of the document that is an agreement to sell and he was put in possession of the suit property as part performance of the agreement to sell.

8. Being aggrieved by the same, the plaintiff filed an appeal before the First Appellate Court in R.A.No.10/2014.

9. Learned Judge in the First Appellate Court, after securing the records, heard the arguments of the parties and on re-appreciation of the material on record, dismissed the appeal filed by the plaintiff, *inter alia*, holding in paragraph Nos. 19 to 21 as under:

"19. Further the plaintiff claiming his possession on the basis of Ex.P.1. The said document is not registered document as required under the provision of Registration Act and the plaintiff has not filed suit for specific performance of contract of sale agreement but he has filed the suit for bare injunction which is not maintainable. It is a settled law that when any person claiming any right over any property on the basis of agreement of sale it is proper to file the suit for specific performance of contract. But admittedly the plaintiff has filed this suit for bare injunction and not made use of efficacious remedy available under specific relief Act to file a suit for specific performance of contract of sale agreement. Other than Ex P.1 and 2 the plaintiff has not produced any document before the court to prove the plaintiff case and moreover the date of agreement of sale is on 18.05.1989 and the



date of filing this suit by the plaintiff is during 2007. So the plaintiff has filed the suit after lapse of 18 years and the plaintiff has not made any efforts to issue notice to the defendants calling upon them to execute the registered sale deed in his favour in respect of suit property within 3 years from the date of agreement. Hence the suit of plaintiff is hopelessly barred by law of limitation. So it appears that in order to avoid all this facts regarding the question of law, it appears that the plaintiff filed suit for bare injunction against the defendants which is not at all maintainable. Hence until and unless the agreement of sale was acted upon by the plaintiff's father or by the plaintiff, the plaintiff is not at all entitled for any relief.

20. Though the defendants have contended in their written statement regarding the mortgage of property in favour of plaintiffs father by defendant No.3 and thereafter defendant No.3 released the mortgage by repaying the mortgage amount to Doddayallaiah but it is not essential for the defendants to prove all those aspects. Because it is the plaintiff who approached the court seeking the relief of permanent injunction. First of all he has to prove his lawful possession in respect of suit property as on the date of filing of suit but admittedly Ex.P.1 and 2 does not speak about the plaintiff's lawful possession in respect of suit property. Hence the question of interference by the defendants does not arise. Hence the plaintiff failed to establish his case.

21. Hence the trial court has properly considered the pleading and evidence of parties and rightly came to the conclusion and rightly dismissed the suit of plaintiff. In fact the appreciation of pleadings as well as oral and documentary evidence of the parties by the trial court is proper and correct. Hence it does not require any interference by this court. Hence I answer this point in Negative."



10. Being further aggrieved by the same, the plaintiff has filed the present appeal.

11. Sri M.B.Chandrachooda, learned counsel for the appellant, reiterating the grounds urged in the appeal memorandum, would contend that the findings recorded by both the Courts that plaintiff failed to prove the suit agreement is incorrect having regard to the material evidence placed on record.

12. He would further contend that when the plaintiff is put in possession of the suit property as part performance of the contract of agreement to sell, suit for bearing injunction was definitely maintainable before the Trial Court and therefore, dismissal of the suit by both the Courts has resulted in miscarriage of justice and sought for admitting the appeal on following substantial questions of law:

1. *"Whether the Courts below were justified in dismissing the suit of the plaintiff ignoring Ex.P1 executed by the defendants and the possession has been delivered and as on that day there was no necessity for registration of the said agreement?"*
2. *Whether the Courts were justified in dismissing the suit of the plaintiff holding that, the plaintiff ought to have filed the suit for Specific Performance, having not filed the suit for injunction is not maintainable?"*



3. *Whether the Courts below were justified in dismissing the suit of the plaintiff ignoring the lawful possession of the plaintiff as on the date of filing of the suit in respect of the schedule property?*
4. *Whether the assessment of the oral and documentary evidence by the Courts below is legally justifiable?"*

13. Respondents are served with the notice of the appeal and remained absent.

14. As such, this Court perused the material on record meticulously. On such perusal of the material law on record, it is noticed that plaintiff has failed to prove the suit agreement that it is an agreement to sell. There is a specific contention taken by the defendants that it is the third defendant who mortgage the suit property measuring 1 acre 7 guntas to father of the plaintiff, namely Doddayellaiah, by taking some more ₹1,000 and after payment of the said ₹1,000 on the same day, there was a release of the mortgage, which was evidenced before the notary and thus, there is no agreement to sell at all.

15. When such is the factual aspects of the matter, it was incumbent on the plaintiff to seek for specific enforcement of the alleged agreement to sell.



16. Having failed to do so, the bare suit for injunction dismissed by both the Courts by assigning the cogent and convincing reasons needs no interference as no question of law is involved to be adjudicated in the present appeal having regard to the scope of Section 100 of the CPC.

17. Thus, none of the substantial questions of law would merit further consideration. Accordingly, following order:

ORDER

Admission is ***declined***.

Appeal is ***dismissed***.

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