



CNR: KAHC010278272026

NC: 2026:KHC:37033
RSA No. 706 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

REGULAR SECOND APPEAL NO. 706 OF 2026 (POS)

BETWEEN:

SMT. R. BHARATHI
W/O DHARMEGOWDA,
AGED ABOUT 55 YEARS,
R/AT SHANKARIPURAM EXTENSION,
BEHIND SUB REGISTRAR OFFICE,
HASSAN - 573 201.

...APPELLANT

(BY SRI. GURURAJ R, ADVOCATE)

AND:

SMT. B.P. RAJAMMA
W/O LATE RAMAIAH,
AGED ABOUT 69 YEARS,
MOW R/AT OPP. VAKKALIGARA KALYANA MANTAPA,
SAKALESH PURA - 573 134,
KUSHALANAGARA EXTENSION,
SAKALESH PURA TALUK,
HASSAN DISTRICT.
R/AT NO.27, MUNICIPAL WARD NO.2
SHANKARIPURAM EXT.,
HASSAN DIST. - 573 201.

...RESPONDENT

(BY SRI. PRASAD, ADVOCATE (VC)
SRI. SHAMSUNDAR P, ADVOCATE FOR C/R)

THIS RSA IS FILED U/S. 100 OF CPC AGAINST THE
JUDGMENT AND DECREE DATED 02.04.2026, PASSED IN RA
NO. 61/25 ON THE FILE OF THE II ADDITIONAL SENIOR CIVIL
JUDGE AND JMFC, HASSAN, DISMISSING THE APPEAL AND
CONFIRMING THE JUDGMENT AND DECREE DATED 07.01.2025

Digitally
signed by
MALATESH
K
Location:
HIGH
COURT OF
KARNATAKA





CNR: KAHC010278272026

PASSED IN OS NO. 454/2016 ON THE FILE OF THE IV
ADDITIONAL CIVIL JUDGE AND JMFC, HASSAN.

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

CORAM: HON'BLE MR. JUSTICE V SRISHANANDA

ORAL JUDGMENT

1. Heard Sri.Gururaj R., learned counsel for the
appellant and Sri.Prasad, learned counsel appearing on behalf
of Sri.Shamsundar P., learned counsel for the respondent.

2. Parties are referred to as plaintiff and defendant for
the sake of convenience as per their original ranking before the
Trial Court.

3. Defendant in O.S.No.454/2016 is the appellant
challenging the decree granted by the Trial Court directing the
appellant to vacate and handover the suit property and also to
pay rents as per Ex.P.7 actually less Rs.20,000/- vide Ex.P.7
which was confirmed in RA No.61.2025.

4. Facts of the case are as under:

4.1. A suit in O.S.No.454/2016 was filed by contending
that defendant is the tenant in respect of the house property



CNR: KAHC010278272026

bearing No.27, SS No.975 carved out of Sy.No.143/5 Ward No.2, Hassan Town bounded on East by house of Ramakrishnegowda, West by house of Hombamma, North by house of Annappa and South by road.

4.2. To establish that defendant is a tenant, rent agreement vide Ex.P.7 was marked.

5. Pursuant to the suit summons, defendant entered appearance and filed written statement denying the rent agreement.

6. It is also contended that plaintiff has deceived the defendant and sale deed executed by defendant in favour of the plaintiff was actually loan agreement and defendant reserved the right to file the suit for cancellation of the sale deed.

7. Based on the rival contentions of the parties, necessary issues were raised.

8. Learned Trial Judge after recording the evidence of the plaintiff, heard the arguments of the parties and decreed the suit.



CNR: KAHC010278272026

9. Trial Court noted that to establish the contents of the written statement, there was no oral or documentary evidence placed on record.

10. Being aggrieved by the same, defendant filed an appeal before the First Appellate Court in RA No.61/2025.

11. Learned Judge in the First Appellate Court after securing the records, heard the arguments of the parties in detail and on reappreciation of the material on record, dismissed the appeal.

12. Being further aggrieved by the same, defendant has filed the present second appeal.

13. Learned counsel for the appellant reiterating the grounds urged in the appeal memorandum would contend that both the Courts have not properly appreciated the case of the parties and wrongly decreed the suit of the plaintiff and sought for admitting the appeal on following substantial questions of law:

- i. "Whether the judgment and decree passed by the courts below are based on sound and proper reasonings?"*



CNR: KAHC010278272026

- ii. *Whether the courts below were right in passing the impugned judgment and decree for eviction payment of alleged arrears of and rent and future damages in the absence of any fair and proper opportunity to the appellant/defendant to put forth her case?*
- iii. *Whether the courts were right in decreeing the suit for eviction and recovery of rent and damages in the absence of plaintiff/respondent proving her right, title and interest over the suit schedule property with proper oral and documentary evidence?*
- iv. *Whether the lower appellate court was right in passing the impugned judgment and decree without passing any specific order on I.A.No.3 filed under Order 41 Rule 27 of CPC for production of additional documents?*
- v. *Whether the courts below were right in decreeing the suit for eviction and recovery of arrears of rent by treating the appellant as tenant and ordering arrears of rent and damages with 8% interest in the absence of landlord and tenant relationship and without considering huge spent by appellant for amount construction?*
- vi. *Whether the courts below were right in decreeing the suit for eviction and recovery of rent and arrears in the absence of termination of tenancy was contemplated under the Transfer of Property Act?"*



CNR: KAHC010278272026

14. Per contra, learned counsel for the respondent supports the impugned judgments.

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

16. On such perusal of the material on record, there is no dispute that there is a sale deed in favour of the plaintiff executed by defendant.

17. Contents of the written statement would go to show that said sale deed was a nominal and it was loan transaction. Defendant had reserved her right to challenge the sale deed in accordance with law in the written statement itself.

18. But till today, no such proceedings have been initiated by the defendant.

19. Moreover, to substantiate the defence, there was no defence evidence placed on record.

20. Taking note of the probative value of the sale deed that has been executed and loan agreement marked vide Ex.P.7 where under defendant was to continue in possession of the property as the tenant of the property that was sold by



CNR: KAHC010278272026

NC: 2026:KHC:37033
RSA No. 706 of 2026

defendant to the plaintiff, the learned Trial Judge has rightly decreed the suit of the plaintiff.

21. First Appellate Court upheld the judgment of the Trial Court by supplying cogent and convincing reasons.

22. When two Courts have concurrently recorded a factual finding that defendant is a tenant under the plaintiff, there is no scope for this Court to admit the appeal on those factual aspects though couched in the form of substantial questions of law.

23. Hence, the following:

ORDER

- i. Admission is declined.
- ii. Appeal is ***dismissed***.

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

KAV
List No.: 1 Sl No.: 53