



CNR: KAHC010282332021

NC: 2026:KHC:41640
RFA No. 647 of 2021

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 6TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE HANCHATE SANJEEVKUMAR

REGULAR FIRST APPEAL NO. 647 OF 2021 (INJ)

BETWEEN:

1. SRI SURESH C
S/O CHIKKAIAH,
AGED ABOUT 51 YEARS,
2. SMT D KUSUMA
W/O SURESH C,
AGED ABOUT 44 YEARS
3. KUM SHANTHINI S
D/O SURESH C,
AGED ABOUT 24 YEARS,

ALL ARE R/AT NO 8/4,
14TH CROSS,
AGRAHARA DASARAHALLI,
BENGALURU – 560 079.

...APPELLANTS

(BY SRI. VASANTH KUMAR K N, ADVOCATE)

AND:

1. SRI. C. PUTTARAJU
S/O CHIKKAIAH,
AGED ABOUT 45 YEARS,
R/AT NO 9, 14TH C CROSS,
AGRAHARA DASARAHALLI,
BENGALURU – 560 079.

Digitally
signed by
THEJAS
KUMAR N
Location:
HIGH
COURT OF
KARNATAKA



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2. THE ASSISTANT EXECUTIVE ENGINEER
BENGALURU ELECTRICITY SERVICES CO LTD.,
BASAVESHWARANAGAR,
BENGALURU – 560 079.

...RESPONDENTS

(BY SMT. RENUKAMBA B P, ADVOCATE FOR R1;
SRI. H V DEVARAJU, ADVOCATE FOR R2)

THIS RFA IS FILED UNDER SECTION 96 R/W ORDER 41
RULE 1 OF CPC AGAINST THE JUDGMENT AND DECREE DATED
15.04.2021 PASSED IN OS.No.7766/2012 ON THE FILE OF THE
XVIII ADDITIONAL CITY CIVIL JUDGE, BENGALURU AND ETC.,

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

CORAM: HON'BLE MR. JUSTICE HANCHATE SANJEEVKUMAR

ORAL JUDGMENT

The Regular First Appeal is filed by the
appellants/defendants No.1 to 3 questioning the judgment
and decree dated 15.04.2021 passed in O.S No.7766/2012
by the XVIII Additional City Civil Judge at Bengaluru City
(CCH-10), whereby the suit filed for permanent injunction
is decreed.



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2. For the sake of convenience and easy reference, the parties are referred to as per their rankings before the Trial Court.

3. The plaintiff has filed suit for permanent injunction against the defendants claiming that the plaintiff had purchased the suit schedule property under registered sale deed dated 19.03.2004 and therefore, the plaintiff has become absolute owner having title over the suit property.

4. It is the case of the plaintiff that the defendants No.1 to 3 have created/concocted the document dated 19.11.1997 said to have been executed by plaintiff by forging the signatures of the plaintiff had alienated the suit property in favour of defendant No.3. Therefore, the plaintiff has filed the suit for permanent injunction. The defendant appeared and filed their written statement denying the averments made in the plaint and asserting



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that they are the owners having title over the suit property.

5. Based on the pleadings, the Trial Court has framed the following issues:

- 1. Whether the plaintiff proves that he is in possession and enjoyment of the suit schedule property?*
- 2. Whether the plaintiff proves that the defendants had interfered with his possession and enjoyment of the suit schedule property?*
- 3. Whether the plaintiff proves that he is entitled for the relief of permanent injunction as prayed?*
- 4. What order or decree?*

6. The plaintiff was examined as PW.1 and produced documents and got marked them as Exs.P1 to P24. The defendant No.1 was examined as DW.1 and one witness as DW.2 and produced documents and got marked them as Exs.D1 to D15.



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7. The Trial Court while answering the issues framed has partly decreed the suit in favour of plaintiff by granting permanent injunction against the defendants. Thereby, the appellants were restrained from interfering with the plaintiff's possession over the suit property without due course of law.

8. Being aggrieved by the judgment and decree passed by the Trial Court, the defendants No.1 to 3 / appellants have filed this appeal by raising various grounds and learned counsel for the appellants submitted that the plaintiff had earlier filed a suit for declaration and injunction in O.S No.5427/2012 before the City Civil Court, Bengaluru (CCH - 2) on 20.07.2012. The said suit is still pending.

9. Further, it is submitted that the said suit is between the same parties and in respect of the very same property as those involved in the present suit. Therefore,



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even after instituting a suit for declaration and permanent injunction in O.S No.5427/2012, the plaintiff once again filed another suit in O.S No.7766/2012 on 02.11.2012 but the suit in O.S No.7766/2012 has been partly decreed and the comprehensive suit in O.S No.5427/2012 is pending for consideration. Therefore, the defendant had filed a memo for clubbing both the suits in O.S No.5427/2012 and O.S No.7766/2012 but the Trial Court has erroneously rejected the said memo and proceeded with the trial in O.S No.7766/2012 (suit for injunction) and decreed the suit. Further, it is submitted that when O.S No.5427/2012 is pending for consideration, whatever the findings in O.S No.7766/2012 have much impact on the merits made in the suit in O.S No.5427/2012. Therefore, the learned counsel prays to set aside the judgment and decree passed in the suit, which is O.S No.7766/2012.

10. Learned counsel for respondents remained absent on several occasions; therefore, the Court heard



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the arguments of learned counsel for the appellant/defendants.

11. After hearing the arguments of learned counsel appearing on behalf of the appellants/defendants and upon perusal of the materials produced before this Court at this stage, the following points arise for my consideration:

- i) Whether, under the facts and circumstances involved in the case, when the plaintiff has filed comprehensive suit in O.S No.5427/2012 for declaration and permanent injunction, then filing another suit once again for relief of permanent injunction only in O.S No.7766/2012 and decreeing the suit in O.S No.7766/2012 is correct?*
- ii) Whether, the judgment and decree passed by the Trial Court requires interference by this Court?*



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12. Considering the arguments canvassed by the learned counsel for the appellants/defendants that in respect of the very same property and between the same parties, two suits were pending for consideration in O.S.No.5427/2012 and O.S.No.7766/2012. Therefore, this Court does not venture to consider the case on merits involved in the case. The only question to be considered in this appeal is that whether judgment and decree in O.S No.7766/2012 is correct when comprehensive suit in O.S.No.5427/2012 is pending for consideration in the suit filed for declaration and injunction.

13. Upon considering the plaint in O.S No.5427/2012 and considering the plaint and cause title of the plaint in O.S.No.7766/2012, it is evident that the parties to both the suits, namely, the plaintiff and defendants, are one and the same. Therefore, both suits are between the same parties. Also, considering the schedule property involved in two suits, the property



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involved in the dispute is of the same property, but O.S.No.5427/2012 is for declaration and permanent injunction as could be seen from the prayers made in the plaint. The prayer made in the plaint in O.S.No.7766/2012 is only for permanent injunction. The suit in O.S.No.5427/2012 was filed on 20.07.2012 for declaration and permanent injunction and O.S.No.7766/2012 was filed on 02.11.2012 for permanent injunction only.

14. When this being the scenario of filing two suits by same parties in respect of the very same properties, then the Trial Court ought to have clubbed both the suits and tried together, but without doing so, the Trial Court proceeded to consider only one suit i.e., O.S.No.7766/2012 and granted decree of permanent injunction. It is not in dispute that the comprehensive suit in O.S.No.5427/2012 seeking the relief of declaration and permanent injunction is still pending for consideration. Therefore, whatever findings and observations made in the judgment in O.S.No.7766/2012 definitely will influence on



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the consideration of the suit in O.S.No.5427/2012 on its merits; then there are certain chances that the observations and findings made in the judgment in O.S.No.7766/2012 will have bearing and will influence in deciding the suit in O.S.No.5427/2012. Therefore only on this technical aspect the judgment and decree in O.S.No.7766/2012 is liable to be set aside and O.S.No.7766/2012 is remanded to the Trial Court for fresh consideration along with O.S.No.5427/2012. Accordingly, I answer Point No.1 in the ***Negative*** and Point No.2 in the ***Affirmative***.

15. In the result, I proceed to pass the following:

ORDER

- i) The Regular First Appeal is allowed.
- ii) The judgment and decree dated 15.04.2021 passed in O.S No.7766/2012 by the XVIII Additional City Civil Judge at Bengaluru City (CCH-10), is set aside.



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- iii) The suit in O.S No.7766/2012 is remanded to the Trial Court for fresh consideration in accordance with the law and on its merits by clubbing this suit along with O.S.No.5427/2012.
- iv) The Trial Court shall club both the suits and receive evidence by both parties and decide the case on merits without being influenced by whatever observations and findings made in judgment in O.S.No.7766/2012.

The Trial Court shall dispose of the suits as expeditiously as possible. For which, both the parties in the respective suits shall co-operate for early disposal of the suits.

All contentions are left open.

No order as to costs.

Sd/-
(HANCHATE SANJEEVKUMAR)
JUDGE