



IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 10TH DAY OF JULY, 2026
BEFORE
THE HON'BLE MR. JUSTICE HANCHATE SANJEEVKUMAR
REGULAR FIRST APPEAL NO.1773 OF 2021 (SP)

BETWEEN:

1. SMT. ANITHA,
W/O R. NAGARAJ,
AGED ABOUT 43 YEARS,
2. SRI. NAGARAJ R.,
S/O RUPLA NAIK,
AGED ABOUT 54 YEARS,

BOTH ARE RESIDING AT
NO.11, 14TH A CROSS,
10TH MAIN, MALLESHWARAM,
BENGALURU – 560 003.

...APPELLANTS

(BY SRI. B.M.HALASWAMY, ADVOCATE)

AND:

1. SMT. M. JAYAMMA,
W/O G. S. NARAYANAPPA,
AGED ABOUT 60 YEARS,
RESIDING AT NO.99,
BALAJI NILAYA, 5TH MAIN ROAD,
BHUVANESHWARI NAGAR,
BENGALURU – 560 057.

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Location:
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COURT OF
KARNATAKA



2. SRI. DODDA MUNIRAJA,
S/O LATE CHIKKAMADDURAPPA,
AGED ABOUT 39 YEARS,
3. SRI. CHIKKA MUNIRAJU,
S/O LATE CHIKKAMADDURAPPA,
AGED ABOUT 36 YEARS,
4. SRI. M. SRINIVASA,
S/O LATE PPUTTAMARAPPA,
AGED ABOUT 42 YEARS,
5. SRI. HANUMANTHAPPA,
S/O LATE MARIYAPPA,
AGED ABOUT 29 YEARS,

RESPONDENT NOS.2 TO 5 ARE
RESIDING AT
BAGALAKUNTE VILLAGE,
NAGASANDRA POST,
YESHWANTHPURA HOBLI,
BENGALURU NORTH TALUK,
BENGALURU – 560 073.

...RESPONDENTS

(BY SRI. SEENAPPA K., ADVOCATE FOR R1;
V/O DATED 24/06/2026 – NOTICE TO R2 TO R5 IS D/W)

THIS REGULAR FIRST APPEAL IS FILED UNDER SECTION
96 READ WITH ORDER XLI RULE-1 OF CPC, 1908 AGAINST THE
JUDGMENT AND DECREE DATED 01.12.2011 PASSED IN
OS.No.7635/2007 ON THE FILE OF THE XI ADDITIONAL CITY
CIVIL JUDGE, BANGALORE CITY AND ETC.,

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



CORAM: HON'BLE MR. JUSTICE HANCHATE SANJEEVKUMAR

ORAL JUDGMENT

Though the appeal is listed for orders, with the consent of both the learned counsel appearing on behalf of the parties, the matter is taken up for final disposal.

2. This Regular First Appeal is filed by the appellants/defendant Nos.5 and 6 calling question the judgment and decree dated 01.12.2011 passed in O.S.No.7635/2007 by the XI Additional City Civil Judge, Bengaluru City¹, thereby, the suit filed for specific performance of contract was decreed.

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

4. Upon the suit instituted by the plaintiff for specific performance of contract was decreed placing the

¹ hereinafter referred to as 'the Trial Court' for short



defendants *ex-parte*; therefore, appellants/defendant Nos.5 and 6 have preferred this present appeal.

5. There is delay of 2945 days in filing the appeal. The learned counsel appearing on behalf of the appellants/defendant Nos.5 and 6 submitted that, by mentioning the wrong address in the cause title, an attempt was made by the plaintiff to serve notice on the wrong address; therefore, notices did not reach the defendants. In these circumstances, the Trial Court held that the defendants were placed *ex-parte*, but it was submitted that the defendants had not received any notice at all. Hence, prays to remand the case to the Trial Court for fresh disposal enabling the defendants to contest the suit.

6. On the other hand, learned counsel appearing on behalf of the respondent/plaintiff submitted that the appellants/defendant Nos.5 and 6 had participated in the execution proceedings way back in the year 2012 and



knew that the judgment and decree had been passed. Therefore, prays that the delay cannot be condoned and prays to dismiss the appeal.

7. Considering the fact that the defendants remained *ex-parte*, the judgment and decree passed by the Trial Court is found to be one-sided. It is the claim of defendant Nos.5 and 6 that they had purchased the suit schedule property through registered sale deed dated 12.10.2006, but on 02.08.2007, the plaintiff/respondent No.1 attempted to put up a compound wall around the suit schedule property. Whatever it may be, these are the facts that can be considered during the trial and at this stage, there should not be any comment on it. However, the judgment and decree passed by the Trial Court was *ex-parte*; hence, the Court is of the opinion that the delay of 2945 days in filing the appeal should be condoned and also the case should be remanded to the Trial Court after setting aside the *ex-parte* judgment and decree passed by the Trial Court. Thus, the appeal is liable to be allowed.



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

ORDER

- i. The Regular First Appeal is ***allowed***.
- ii. The *ex-parte* judgment and decree dated 01.12.2011 passed in O.S.No.7635/2007 by the XI Additional City Civil Judge, Bengaluru City, is hereby set aside.
- iii. The matter is remanded to the Trial Court for fresh consideration in accordance with law.
- iv. The delay of 2945 days in filing the appeal is hereby condoned.
- v. All contentions are left open.
- vi. Both the parties are directed to appear before the Trial Court on 29.07.2026 without expecting notice from the Trial Court.



- vii. The Trial Court is directed to dispose of the suit as early as possible and to issue notice to defendant Nos.1 to 4/respondent Nos.2 to 5.
- viii. No order as to costs.

In view of disposal of the appeal, pending IA's, if any, shall stand disposed of.

Sd/-
(HANCHATE SANJEEVKUMAR)
JUDGE

SRA
List No.: 1 Sl No.: 16