



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

REGULAR SECOND APPEAL NO. 43 OF 2021 (DEC/INJ)

BETWEEN:

SRI. B.K. CHANDRASHEKAR
S/O S.P. KANNEGOWDA,
AGED ABOUT 44 YEARS,
R/AT BOGADI VILLAGE,
KASABA HOBLI,
MYSURU - 570 002
MYSURU DISTRICT.

...APPELLANT

(BY SRI. VENKATESH R. BHAGAT, ADVOCATE)

AND:

SRI CHIKKANNA DEAD BY LRS
S/O KATTA @ UGRAPPA,

1. SMT. HONNAMMA @ GIRIJAMMA
W/O LATE CHIKKANNA,
AGED ABOUT 73 YEARS,
2. SMT. VASANTHA
D/O LATE CHIKKANNA,
AGED ABOUT 51 YEARS,
3. SMT. SARASWATHI
D/O CHIKKANNA
DEAD BY LRS
- 3(A). SRI. M. SUPREME GOWDA P
S/O PRAKASH,
AGED ABOUT 35 YEARS
- 3(B). MS. SUPRIYA
S/O PRAKASH C
AGED ABOUT 31 YEARS

Digitally
signed by
MALATESH
K



Location:
HIGH
COURT OF
KARNATAKA



BOTH RESPONDENT NO.3(A TO B) ARE
RESIDING AT VINUTHA FARM
BOGADI VILLAGE, KASABA HOBLI,
MYSURU TALUK AND DISTRICT - 570 002.

4. SRI. BABU
S/O LATE CHIKKANNA,
AGED ABOUT 47 YEARS,
5. SRI. MAHESH
S/O LATE CHIKKANNA,
AGED ABOUT 45 YEARS,
- 5(A). SMT. SUNITHA
AGED ABOUT 40 YEARS
W/O LATE P.C. MAHESH
- 5(B). KUM. LEKHANA P.M
AGED ABOUT 20 YEARS
S/O LATE P.C. MAHESH
- 5(C). SRI. DAKSHITA P.M
AGED ABOUT 18 YEARS
S/O LATE P.C. MAHESH
(A) TO (CR/AT VINUTHA FARM
BOGADI VILLAGE, KASABA HOBLI,
MYSURU TALUK AND DISTRICT - 570 002.
6. SMT. VINUTHA
D/O LATE CHIKKANNA,
AGED ABOUT 43 YEARS,

THE RESPONDENTS NO.1, 2, 5 AND 6
ARE RESIDING AT VINUTHA FARM
BOGADI VILLAGE, KASABA HOBLI,
MYSORE TALUK AND DISTRICT - 570 002.

...RESPONDENTS
(BY SRI. RAMAKRISHNA HEGDE, ADVOCATE FOR R1, R2, R3(A
TO B), R4 AND R6 AND ALSO R5(A TO C))



THIS RSA IS FILED UNDER SECTION 100 OF CPC AGAINST THE JUDGMENT AND DECREE DATED 13.07.2020 PASSED IN RA.No.170/2018 ON THE FILE OF THE II ADDITIONAL DISTRICT AND SESSIONS JUDGE, MYSURU, ALLOWING THE APPEAL AND SETTING ASIDE THE JUDGMENT AND DECREE DATED 19.06.2017 PASSED IN OS.No.285/2009 ON THE FILE OF THE II CIVIL JUDGE AND JMFC, MYUSURU.

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.
2. Plaintiff's second appeal challenging the reversal of the decree passed by the Trial Court in O.S.No.285/2009 dated 19.06.2017 which was confirmed by the First Appellate Court in RA No.170/2018 dated 13.07.2020.
3. Facts of the case are as under:
 - 3.1. A suit for declaration and permanent injunction was filed in O.S.No.285/2009 by the plaintiff against Chikkanna represented by his legal representatives and others.



3.2. In the plaint, it is contended that originally suit property belonged to Siddamma wife of late Siddalingegowda who is the grandfather of the plaintiff. Total extent of the property was measuring 72 feet East to West and 65 feet North to South.

3.3. After the death of Siddamma, entire property was succeeded by mother of the plaintiff namely Lakshmidevi wife of B.P.Kannegowda. Plaintiff became the owner of the suit property by virtue of the gift deed dated 29.09.1999 executed by Lakshmidevi in favour of the plaintiff. It is further contended that ever since the execution of the gift deed, plaintiff is in possession and enjoyment of the suit property.

3.4. It is further contended by the plaintiff that revenue entries were mutated in his name pursuant to the gift deed and he has constructed a small house with asbestos roof in the suit property.

3.5. It is also contended that plaintiff has sold a portion of house measuring East to West 45 feet and North to South 65 feet to Ramanna son of Huchaiah through a registered gift deed dated 12.06.2002 and retained remaining portion of 27



feet East to West and 65 feet North to South which is the suit property.

3.6. It is further contended that revenue entries in respect of the suit property still stand in the name of the plaintiff. Defendant without right, title or interest of the suit property started interfering with the peaceful possession and enjoyment of the suit property and thus, he was constrained to file the suit for permanent injunction against defendant in O.S.No.149/2004.

3.7. After filing of the said suit, the illegal interference was stopped but again defendant started unlawful interference. Therefore, present suit came to be filed seeking the relief of declaration and injunction.

3.8. Pursuant to the suit summons, defendant entered appearance and filed written statement by contending that suit is hit by limitation, *res judicata* and estoppel. Plaintiff filed the suit concealing the important aspects with regard to the suit property and thus, suit is to be dismissed.



3.9. It is further contended that there is a serious dispute with regard to the identity of the property as plaintiff has wrongly described the suit property.

3.10. It is the specific case of the defendant that property bearing Sy.No.29/1 situated at Bogadi village, Kasaba Hobli, Mysore Taluk measuring 1½ guntas originally belonged to Siddalingegowda who died long back leaving behind two wives namely Nanjamma and Siddamma. They were looking after the property of Siddalingegowda. Nanjamma and her son Krishnamahadevegowda, second wife – Siddamma and said Krishnamahadevegowda as guardian to his children, has sold the property bearing Sy.No.29/1 in favour of the defendant through registered sale deed dated 01.12.1978.

3.11. Property purchased by the defendant is situated in the western side measuring 1½ guntas. Thus defendant is in possession and enjoyment of the suit property right from the date of the sale deed without there being any hindrance from anybody. Defendant also contended that previous suit in O.S.No.149/2004 was dismissed on 08.09.2008 and therefore, present suit is not maintainable.



4. Based on the rival contentions of the parties, learned Trial Judge raised necessary issues and after recording the material evidence on record, decreed the suit of the plaintiff.

5. Being aggrieved by the same, legal representatives of Chikkanna filed an appeal before First Appellate Court in RA No.170/2018 who was the purchaser of the property through a registered sale deed dated 01.12.1978.

6. Learned Judge in the First Appellate Court after securing the records noted the fact that plaintiff has failed to place any title document on record and gift deed did not convey any right, title or interest as Lakshmidevi did not derive any right, title or interest from her mother - Siddamma and first wife of Siddalingegowda namely Nanjamma and Krishnamahadevegowda being the son of Nanjamma has already sold the property on 01.12.1978 in favour of the defendant through a registered sale deed and allowed the appeal and dismissed the suit.



7. Being aggrieved by the judgment of the First Appellate Court, plaintiff has filed the present appeal on following grounds:

- *That the judgment and decree challenged under this appeal is illegal arbitrary, without appreciating the evidence and law and the same is liable to be set aside.*
- *It is submitted that the lower appellate is came to a conclusion that the plaintiff mother had no title over the suit schedule property and this plaintiff had not produced any documents to establish the right and title over the suit schedule property. But the plaintiff has produced the property extract/ katha maintained by the Bogadi and the same is marked as Ex.P. 12 this fact was not considered by the appellate court, supporting to this the p.w.2 who deposed before the court below that the suit schedule property is the part of Sy. No.29/1, of the Bogadi village, and earlier it belongs to the grand father of plaintiff namely Siddalingegowda. Also this witness has identified the suit schedule property where it is situated. This piece of evidence was not considered by the appellate court and simply dismissed the suit. As such the judgment and decree is liable to be set side.*
- *It is submitted that the defendant has produced the photo graph of the suit schedule property as Ex.D.1 and admitted that the photo graph is belongs to suit*



schedule property and he denied the title and possession of the defendant, but the appellate court came to conclusion that there was a clear demarcation was not made and identified but in the schedule it is clearly stated that to the western side the property belongs to Ramanna, this fact was not noticed by the appellate court and simply dismissed the suit is not proper. As such the judgment and decree is liable to be set aside.

- *That the defendant has claimed that he had purchased the property an extent of One and half guntas in Sy. No. 29/1, Bogadi village, through Ex.D.3 from the grand mother of this plaintiff for a valuable consideration. The D.W. 1 in his cross examination stated that the Sy. No. 29 of the Bogadi village total measurement is more than 7 Acres and it belongs to one Sri. Siddalingaiah who is the grand father of this plaintiff and in that land formed the lay-out and sold the same. Out of that one and half guntas was purchased by the defendant. But there was no identification of 1 and half guntas land in Sy. No. 29 because in the Sale Deed dated 01.12.1978 i.e. Ex. D. 3 has not contained the boundaries. Therefore the property purchased by the defendant has no identification. Also the boundaries of the suit schedule property totally different than the property claimed by the defendant. Therefore the claim of the defendant over the suit schedule property is not properly identified. This fact was not considered by the appellate court.*



- *It is submitted that the D.W. 1 has stated in his cross examination the surrounding of the disputed property are originally part of the Sy. No. 29 of the Bogadi village and now the buildings are constructed. But earlier the grand father of this plaintiff was the owner of Sy. No. 29 land and his wife and son have sold the bit of land of one and half guntas in favour of defendant. But the defendant has not produced any revenue sketch, map and boundaries of the said properties for identifying his property. As per the statement of the defendant the property Sy. No. 29/1, measuring one and half guntas was a agriculture land. Now claiming the plaintiff property as his property is not correct.*
- *It is submitted that the plaintiff has urged that an extent of 45 X 65 feet out of above 72 X 65 above mentioned property sold in favour one Sri. Ramanna for a valuable consideration and this plaintiff had retained an extent of 27 X 65 ft in the very same property and the witness P.W. 2 has supported this contention and eastern side the suit schedule property is belong to Sri. Ramanna who is the purchaser of the said land. But D.W. 1 has stated in his cross examination the property sold by the plaintiff is different one and it is no way concerned to this property which is part of the gift deed substantiate the same the defendant has not produced any cogent evidence.*



- *It is submitted that the plaintiff has substantiate his title over the suit schedule property he had filed an application under Order 41 Rule 27 of the C.P.C. to produce the Sale deed dated 12.06. 2002 executed by him in favour of Sri. Ramanna to sold an extent of 45 X 65 ft. But the same was rejected simply rejected without any justification. The lower appellate court ought to have consider that application and permit to the plaintiff to produce the said document as additional evidence. Therefore non- consider the said application is a sever error in passing the judgment and decree.*
- *It is submitted that the defendant has produced the Ex. D 3 sale deed which the property purchased from One Siddamma but the defendant has fails to establish his title over that property by producing the documents how his vendors acquire the title of the said property and in the said sale deed it is observed it belongs to their family property. Therefore the defendant also fails to establish his vendor title over the said property. But the appellate court has not observe the same simply dismissed the suit."*

8. Learned counsel for the appellants reiterating the grounds urged in the appeal memorandum would contend that property earlier belonged to Siddalingegowda is not in dispute. But he had settled the property in favour of grandmother of the



plaintiff by palupatti. Thereafter, Lakshmidevi being the mother of plaintiff and daughter of Siddamma through second wife of Siddalingegowda, succeeded to the suit property after the death of Siddamma.

9. Lakshmidevi having executed the registered gift deed in favour of the plaintiff, plaintiff became the owner of the suit property and thus dismissal of the suit by the First Appellate Court has resulted in miscarriage of justice and sought for admitting on the following substantial questions of law:

"a) Whether the lower appellate court has rightly appreciated the evidence and documents placed on records in reversing the judgment and decree passed by the Trial Court?

b). Whether the lower appellate court has justified that Ex.P. 12 the document produced by the plaintiff is not evidentiary value in determining the title of the plaintiff?

c) Whether the lower appellate court has justified that the defendant had proved his title and possession of land bearing Sy. No. 29/1 measuring 1 and half guntas and the suit schedule property are one and the same?



d). Whether the lower appellate court has justified that the defendant has proved that the suit schedule property was not the part of sy. 29/1?

e) Whether the lower appellate court has justified that the Ex.D1. is not the proper piece of evidence in identifying the property in question?

f) Whether the lower appellate court has justified that the boundaries of the suit schedule property and property claimed by the defendant through Ex. D3 are different one?

g) Whether the appellate court has justified that the defendant has identified his property by proper schedule as claimed under Ex. D.3?

h) Whether the testimony of the p.w.2 is not sufficient to establish the identity of the suit schedule property?

j) Whether the appellate court has justified that application filed by the appellant under Order 41 Rule 27 is rightly considered?"

10. He would further emphasize that revenue entries stand in the name of plaintiff and sale deed executed by the plaintiff in favour of Ramanna son of Huchaiah on 12.06.2002 would also go to show that plaintiff exercised ownership over the suit property which is not questioned by the defendant.



Thus sought for admitting the appeal on aforesaid substantial questions of law.

11. Per contra, learned counsel for the respondent supports the judgment of the First Appellate Court.

12. He would further contend that when there is a sale deed executed on 01.12.1978 by Nanjamma who is the first wife, Siddamma who is the second wife and the minor son of Nanjamma namely Krishnamahadevegowda represented by guardian natural mother, there remained nothing for Siddamma to succeed to the property. Therefore, mother of the plaintiff being the daughter of Siddamma, did not inherit any right in respect of suit property.

13. Therefore, she had no competence to execute the gift deed in favour of the plaintiff and therefore, dismissal of the suit by the First Appellate Court is just and proper.

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

15. On such perusal of the material on record, it is crystal clear that suit property on earliest point of time



belonged to Siddalingegowda. Admittedly, he had two wives namely Nanjamma and Siddamma.

16. Through Nanjamma, Siddalingegowda had a son by name Krishnamahadevegowda. When Siddalingegowda died, by virtue of inheritance, it is Nanjamma and Krishnamahadevegowda who succeeded to the property and not Siddamma who is his second wife.

17. As such, Siddamma did not inherit any property so as to be further inherited by her only daughter Lakshmidevi who is the donor and mother of the plaintiff.

18. Thus, the plaintiff did not derive any right, title or interest in respect of the suit property by virtue of the gift deed executed by Lakshmidevi. Same has been rightly appreciated by the learned Judge in the First Appellate Court though not in happy words.

19. Accordingly, this Court does not find any merit in any one of the substantial questions of law so as to admit the appeal for further consideration.



20. Hence, following:

ORDER

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

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

KAV
List No.: 1 Sl No.: 70