



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19TH DAY OF JUNE, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

REGULAR SECOND APPEAL NO. 308 OF 2017 (INJ)

BETWEEN:

AGRICULTURAL PRODUCERS MARKETING
COMMITTEE
APMC YARD, SAGAR ROAD,
THIRTHAHALLI TALUK - 577 432
SHIVAMOGGA DISTRICT
REPRESENTED BY ITS SECRETARY

...APPELLANT

(BY SRI. SWAROOP T., ADVOCATE)

AND:

DATTAMURTHY
S/O VENKATESHA BHATTA,
AGED ABOUT 51 YEARS
OCC: AGRICULTURIST,
R/O KOPPALU, SANADAHOLE POST,
THIRTHAHALLI TALUK - 577 432
SHIVAMOGGA DISTRICT

...RESPONDENT

(BY SRI. K.N. MAHABALESHWARA RAO, ADVOCATE FOR R1)

THIS RSA IS FILED UNDER SEC.100 OF CPC., AGAINST
THE JUDGMENT AND DECREE DATED 11.08.2016 PASSED IN
RA NO.08/2015 ON THE FILE OF THE SENIOR CIVIL JUDGE
AND JMFC, THIRTHAHALLI. DISMISSING THE APPEAL AND
CONFIRMING THE JUDGMENT AND DECREE DATED 20.12.2014



PASSED IN OS NO.75/2009 ON THE FILE OF THE PRL. CIVIL JUDGE AND JMFC., THIRTHAHALLI.

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

CORAM: HON'BLE MR. JUSTICE V SRISHANANDA

ORAL JUDGMENT

Heard Sri. Swaroop.T., learned counsel for the appellant and Sri. K.N.Mahabaleshwara Rao., learned counsel for respondent.

2. Facts of the case are as under:

Unsuccessful plaintiff is the appellant. Suit for bare injunction came to be filed in OS. No.75/2009 in respect of the following property ('hereinafter referred to as the suit property').

The vacant land measuring about 100X80 feet out of 04 acres of land of the plaintiff's committee in Sy.No.87 and Re-survey No.128 of Yadehalli village, Kasaba Hobli, Thirthahalli Taluk bounded by:

East: Thirthahalli - Anandapura road,

West: Remaining property of the plaintiff in Sy.No.128 (Old Sy.No.87)



North: Nagara - Thirthahalli Road

*South: Remaining property of the
plaintiff and Thirthahalli Road*

3. In the suit, the plaintiff contended that defendant is interfering with the suit property belonging to the plaintiff and sought for decree of permanent injunction. Pursuant to the suit summons, written statement came to be filed contending that as on the date of suit, defendant is not the owner of the property. He had already sold the suit property and in that regard, he filed the copy of the sale deed marked as Ex.D2 in the suit.

4. Without impleading the subsequent purchaser, suit was continued against the present respondent, who was the defendant.

5. Learned Trial Judge after raising necessary issues, recorded the evidence of the parties, took note of the probative value of Ex.D2. Whereunder, suit property was sold by the defendant on 08.04.2009, which is much earlier to the filing of the suit, there was no cause of action to the suit at all and thus, rightly dismissed the suit of the plaintiff.



6. Being aggrieved by the same, appellant filed an appeal before the First Appellate Court in RA No.8/2015.

7. Learned Judge in the First Appellate Court after securing the records, heard the arguments of the parties and on reconsideration of the material evidence on record and re-appreciating the factual and legal aspects, dismissed the appeal.

8. Being further aggrieved by the same, plaintiff has filed the present second appeal on following grounds and substantial questions of law.

I. Whether the Hon'ble Courts below erred in holding that the appellant is not in possession of the suit schedule property measuring 100X80 feet out of the 4 acres of land as on date of suit?

II. Whether the Hon'ble Trial Court erred in holding that the appellant herein had not produced documents to show the 100X80 feet vacant land is included in 4 acres of land in survey no.87?

III. Whether the Hon'ble Trial Court erred in holding that the appellant has failed to prove the interference caused by the respondent on 24/04/2009 and 26/04/2009?



- IV. Whether the Hon'ble Trial Court erred in holding that, in view of compromise petition in O.S no.249/2000, the appellant herein had admitted that the respondent herein is in possession of the 100X80 feet land in survey no.87 and the said compromise was binding on the appellant herein?*
- V. Whether the Hon'ble 1st Appellate Court erred in holding that since the respondent herein had sold the suit schedule property in favor of M/s. Navadurga Enterprises, represented by its partners, the question of interference by the respondent herein does not arise?*
- VI. Whether the Hon'ble 1st Appellate Court erred in holding that the relief of permanent injunction cannot be sustained against the respondent herein since he has no right, title or interest over the suit property?*

9. Sri. T. Swaroop, learned counsel for the appellant reiterating the grounds urged in the appeal memorandum would contend that both the Courts have not properly appreciated that even in the absence of any title in the defendant, it was defendant who was interfering with the suit property.



10. Therefore, suit for bare injunction was perfectly maintainable before the trial Court, despite the fact that there was an alienation by the defendant in favour of the third party by way of sale deed dated 08.04.2009 marked in Ex.D2 and thus, sought for admitting the appeal.

11. Per contra, Sri. K.N.Mahabaleshwara Rao, learned counsel for the respondent would submit that defendant has already sold the property.

12. Therefore, the allegations made in the plaint that the defendant was interfering with the suit property is an imaginary allegation and there was no cause of action, as already the property was sold in favour of third party, who had to be impleaded in the suit by the plaintiff.

13. For the reasons best known to the plaintiff, no such attempt was made.

14. Therefore, both the Courts were justified in dismissing the suit and thus, sought for dismissal of the appeal.

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

16. On such perusal of the materials on record, it is to be noted that the defendant has brought to the notice of the



trial Court as well as the plaintiff by filing the written statement that much earlier to the filing of the suit i.e., on 08.04.2009, the suit property was sold by the defendant in favour of third party.

17. As a prudent plaintiff, subsequent purchaser should have been included, if there is an interference by the subsequent purchaser.

18. When once the defendant has sold the property, how he would interfere with the suit property is a question that was required to be considered by both the Courts. They considered the same and recorded a categorical finding that the plaintiff has failed to prove that defendant has interfered with the suit property.

19. With regard to the title is concerned, the suit was one for bare injunction, rightly both the Court did not take into consideration about the validity of the sale made by the defendant to the third party vide Ex.D2.

20. It is always open for the plaintiff to file separate suit or to amend the suit seeking declaration and injunction. No such attempt is made by the plaintiff.



21. On the contrary, even after the dismissal of the suit by the trial Court, plaintiff continued with *lis* by filing appeal especially in the teeth of finding recorded by trial judge that vide Ex.D2, all right, title and interest whatever possessed by the defendant has been transferred on to the third party.

22. Under such circumstances, this Court does not find any merit in any one of the substantial questions of law raised in the appeal. As such, the appeal does not deserve further consideration.

23. Hence, the following:

ORDER

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

Sd/-
(V SRISHANANDA)
JUDGE

BH
List No.: 1 Sl No.: 34