



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF JUNE, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

REGULAR SECOND APPEAL NO.979 OF 2026(EVI)

BETWEEN:

C. ERAPPA
S/O ANGADI CHENNAPPA,
AGED ABOUT 58 YEARS
PROP : ANUPAMA COFFEE BAR,
STATE BANK OF MYSORE ROAD,
CHITRADURGA – 577 501

...APPELLANT

(BY SRI. C R SUBRAMANYA, ADVOCATE)

AND:

1. MINTU JAIN
W/O SRI V. SRENIK KUMAR,
AGED ABOUT 48 YEARS
2. RAJESH KUMAR JAIN
S/O SRI A VASTIMAL
AGED ABOUT 52 YEARS

BOTH ARE R/AT VANIGOTRA NILAYA,
OLD SHANDY MAIDEN,
NEELKANTESWARA BADAVANE,
CHITRADURGA – 577 501

...RESPONDENTS

(BY SRI M.T.JAGAN MOHAN, ADVOCATE FOR C/R1 AND R2)

THIS RSA IS FILED UNDER SECTION 100 OF CIVIL PROCEDURE CODE, AGAINST THE JUDGMENT AND DECREE DATED 24.03.2026 PASSED IN RA NO.61/2024 ON THE FILE OF II ADDITIONAL SENIOR CIVIL JUDGE AND JMFC, CHITRADURGA, DISMISSING THE APPEAL AND CONFIRMING THE JUDGMENT AND DECREE DATED 6.07.2024 PASSED IN OS

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NO.411/2016 ON THE FILE OF III ADDITIONAL CIVIL JUDGE
AND JMFC, CHITRADURGA.

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 C.R. Subramanya, learned counsel for the
appellant and Sri M.T. Jagan Mohan, learned counsel for
respondent Nos.1 and 2.

2. The appellant is the defendant No.1 in
O.S.No.411/2016 who suffered an order of decree of
ejectment, confirmed in R.A.No.61/2024.

3. Having heard the arguments of the parties, this
Court noted that substantial questions of law raised in the
appeal do not merit for further consideration.

4. Further, jural relationship is no doubt disputed by
the defendant. However, no contra title is pleaded by the
defendant.

5. It is settled principles of law and requires no
emphasis that if the defendant questions title of the landlord,



he must first vacate the property and then contest the suit with regard to the title of the landlord.

6. As such, there is no justification in admitting the appeal for further consideration as no question of law is involved and factual aspects cannot be decided by this Court in the second appeal, having regard to scope of Section 100 of Code of Civil Procedure. Accordingly appeal needs to be dismissed.

7. At this stage, Sri C.R.Subramanya, learned counsel for the appellant would submit that since the defendant is in occupation and running a small hotel in a small place, reasonable time may be granted to vacate and hand over the premises.

8. Perused the decree of the Trial Court which has granted three months time to vacate the suit schedule premises and First Appellate Court did not interfere with the judgment and decree passed by the learned Trial Judge while dismissing the appeal.

9. Further, plaintiff has not filed any second appeal against the rejection of the mesne profits.



10. Taking note of these aspects of the matter, if six months time is granted to the defendant to voluntarily vacate and hand over the suit schedule property to the plaintiff that would meet the ends of justice.

11. Further, since the claim of mesne profits is dismissed by the Trial Court, confirmed by the First Appellate Court, only for the period of six months i.e. from June 2026 to end of December 2026, appellant/defendent shall pay rent of Rs.7,500/- per month as and when it accrues.

12. Accordingly, the following:

ORDER

- (i) Regular Second Appeal is ***dismissed***.
- (ii) Time is granted to the appellant/defendant till 31.12.2026 to vacate and hand over the suit schedule premises to the plaintiff without driving the plaintiff to execution petition and to pay sum of Rs.7,500/- per month till 31.12.2026 i.e., six months rent from June 2026 to December 2026.

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

MR, List No.: 1 SI No.: 78