



CNR: KAHC010367952026

NC: 2026:KHC:40312
RSA No. 987 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31ST DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

REGULAR SECOND APPEAL NO. 987 OF 2026 (SP)

BETWEEN:

AIYYANNA
SON OF LATE THIMMEGOWDA,
SINCE DECEASED BY HIS LRS

SMT. LAKSHMMAMMA,
WIFE OF LATE AIYYANNA
SINCE DECEASED BY LRS

1. SMT. VENKATARATHINAMMA,
D/O LATE AIYYANNA,
AGED ABOUT 65 YEARS,
2. SRI. A. SRINIVASAMURTHY,
S/O LATE AIYYANNA,
AGED ABOUT 53 YEARS,
3. SRI. A HANUMANTHAKRISHNA,
SON OF LATE AIYYANNA,
AGED ABOUT 51 YEARS,
1 TO 3 ARE RESIDING AT
NO. 2063, IJOOR CIRCLE,
RAMANAGARA TOWN,
RAMANAGARA DISTRICT - 562 159.

...APPELLANTS

(BY SRI. SHRINIWAS M. KULKARNI, ADVOCATE)

AND:

1. SMT. M. C. SHASHI REKHA
WIFE OF LATE T. RAMAIAH,

Digitally
signed by
MALATESH
K C

Location:
HIGH
COURT OF
KARNATAKA



NC: 2026:KHC:40312
RSA No. 987 of 2026

CNR: KAHC010367952026

AGED ABOUT 55 YEARS,
R/.AT NO. 313/-C, 1ST FLOOR,
RWF-WEST COLONY, YELAHANKA,
BENGALURU
REPRESENTED BY HER
POWER OF ATTORNEY HOLDER:
SRI. LINGE GOWDA,
S/O KASI GOWDA,
AGED ABOUT 56 YEARS,
R/AT VONTIMANE, GUNGARAHALLI
KOOTAGAL HOBLI, THIMMASANDRA POST,
RAMANAGAR TALUK,
RAMANAGARA DISTRICT - 562 159.

2. SMT. MOHAN KUMARI
D/O LATE AIYYANNA,
AGED ABOUT 56 YEARS,
R/AT NO. 2063, IJOOR CIRCLE,
RAMANAGARA TOWN,
RAMANAGARA DISTRICT - 562 159.

...RESPONDENTS

(BY SRI. SUMUKH GOWDA M.J, ADVOCATE FOR
SRI. M.C. JAYAKIRTHI, ADVOCATE FOR C/R1)

THIS RSA FILED U/S. 100 OF CPC AGAINST THE
JUDGMENT AND DECREE DATED 28.04.2026, PASSED IN RA
NO. 24/2021 ON THE FILE OF THE I ADDITIONAL SENIOR
CIVIL JUDGE AND JMFC, RAMANAGARA, DISMISSING THE
APPEAL AND CONFIRMING THE JUDGMENT AND DECREE
DATED 29.07.2019 PASSED IN OS NO. 176/2009 ON THE FILE
OF THE ADDITIONAL CIVIL JUDGE AND JMFC, RAMANAGARA.

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



CNR: KAHC010367952026

CORAM: HON'BLE MR. JUSTICE V SRISHANANDA

ORAL JUDGMENT

1. Heard Sri.Shrinivas M. Kulkarni, learned counsel for the appellants and Sri.Sumukh Gowda M. J., learned counsel appearing on behalf of Sri.M.C.Jayakirthi, learned counsel for the respondents.

2. Defendants' second appeal challenging the decreeing of the suit in O.S.No.176/2009 dated for specific enforcement of the agreement to sell dated 13.06.2006 which was confirmed by the First Appellate Court in RA No.24/2021 28.04.2026.

3. Facts of the case are as under:

3.1. A suit for specific enforcement of the contract of agreement to sell dated 13.06.2006 came to be filed in O.S.No.176/2009 by contending that defendants are the owners of the following property and wanted to sell the same (hereinafter referred to as suit property):



CNR: KAHC010367952026

NC: 2026:KHC:40312
RSA No. 987 of 2026

"All that piece and parcel of the vacant property bearing Khaneshumari No.1371/2062A situated at Ijoor 1st stage, Magadi Road, Ramanagara Town, measuring an extent of East to West 60 feet and North to South 20 feet with RCC and ACC sheet roofed building in it and bounded on the:

East: Conservancy lane

West: Conservancy lane

North: Property of Linge Gowda K

South: Property of Siddoji Rao."

3.2. Plaintiff was interested in purchasing the same. Therefore, an agreement came into existence fixing the sale consideration in respect of the suit property in a sum of Rs.4,80,000/-. A sum of Rs.2,50,000/- was paid as advance sale consideration and a registered agreement to sell came to be executed on 13.06.2006.

3.3. As per the agreement, husband of the plaintiff was ready and willing to perform his portion of the contract but unfortunately, he died on 02.01.2008. Thereafter, it is the plaintiff who succeeded to the interest of her husband –



CNR: KAHC010367952026

Ramaiah who was the purchaser as per the agreement to sell marked at Ex.P.2 and got issued a legal notice on 06.06.2009.

3.4. Despite service of notice, there was no compliance to the callings of the legal notice nor reply. Therefore, suit came to be necessitated.

4. Suit was initially decided *ex parte* as defendants failed to appear before the Trial Court despite service of suit summons.

5. Later on, an appeal came to be filed by the defendants in MA No.6/2011 and *ex parte* decree was set aside and matter was retried before the Trial Court.

6. In the written statement, defendants contended that agreement though styled as agreement to sell, it is a loan transaction and in that regard they placed a photo copy of another agreement marked at Ex.D.1 to substantiate that it is a loan transaction and therefore, suit is to be dismissed.

7. Learned Trial Judge after recording the evidence of the parties, heard the arguments of the parties in detail and on



CNR: KAHC010367952026

appreciation of the material on record, decreed the suit of the plaintiff as prayed for.

8. Being aggrieved by the decreeing of the suit, defendants filed an appeal before the First Appellate Court in RA No.24/2021.

9. Learned Judge in the First Appellate Court after securing the records, heard the arguments of the parties in detail and on reappreciation of the material evidence on record, dismissed the appeal of the defendants and confirmed the decree passed by the learned Trial Judge.

10. Being further aggrieved by the same, defendants are before this Court, in this appeal on following grounds and substantial questions of law:

GROUND

- *The lower Appellate Court committed an error in law in confirming the Judgment and decree passed by the trial court.*



CNR: KAHC010367952026

- *The lower Appellate Court committed a gross error in not reading the evidence and the cross examination of PW-1 properly and this has resulted in miscarriage of Justice calling for interference by this Hon'ble Court.*
- *The trial Court erred in not considering the case of the Defendants/Appellants herein in the proper perspective. It has erred in not considering the crucial fact that the Agreement of sale produced at Exhibit D-1 clearly established the fact that there was only a loan transaction between the parties and there was neither any intention nor any agreement for sale of the suit schedule property.*
- *The trial court erred in disbelieving that the original of the Exhibit D-1 was with the Plaintiff when the Plaintiff did not take any stand in respect of the same and further that the said document being marked as an exhibit was required to be looked into while passing of the Judgment.*
- *Both the courts below have not considered the crucial aspect as to whether an Agreement could be considered to be for the sale of a property when the time given therein was three years for the registration of the sale deed. It plainly showed that that it was a Loan Agreement and nothing else.*
- *The trial court has erred in saying that the Defendants had accepted the execution of the sale*



CNR: KAHC010367952026

agreement, which is contrary to the stand taken by the defendants. This assumption of the trial court was without any basis and the judgment passed upon such an assumption is highly erroneous and deserves to be set aside.

- *The trial court as well as the first Appellate court have not appreciated the fact that the evidence of PW-2 the deed writer was contrary to the evidence given by the Plaintiff's GPA Holder and therefore the suit of the Plaintiff was liable to be dismissed.*

SUBSTANTIAL QUESTIONS OF LAW

- i. Whether the lower Court committed a serious/grave error in coming to the conclusion that the Defendants had accepted the execution of the Sale Agreement while in fact they had not done so and they had outrightly denied any such Sale agreement being executed by them.*
- ii. Whether the trial Court and the lower Appellate Court committed a gross error in holding that the suit was liable to be decrees as prayed for.*
- iii. Whether the first Appellate Court was in error in not considering the Appeal in the proper perspective and dismissing the Appeal without assigning any reasons to the conclusions arrived at by it.*



CNR: KAHC010367952026

- iv. Whether the lower Appellate court should have allowed the Appellant on the inconsistencies and answers in the cross examination of PW-1 and PW-2.*
- v. Whether it could be justified that the Judgement and Decree of the Trial court and the Lower Appellate court below is not perverse, arbitrary, unreasonable and illegal from the pleading and evidence on record."*

11. Learned counsel for the appellants reiterating the grounds urged in the appeal memorandum would contend that both the Courts did not accept the probative value of Ex.P.1 though it is a photocopy in not properly recording the finding that the suit agreement is not an agreement to sell but it is the loan transaction.

12. He would further emphasize that the learned Judge in the First Appellate Court except discussing the probative value of Ex.D.1, did not take into consideration and reappreciate other material evidence on record resulting in miscarriage of justice and sought for admitting the appeal on the aforesaid substantial questions of law.

13. Per contra, learned counsel for the respondents supports the impugned judgments.



CNR: KAHC010367952026

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

15. On such perusal of the material on record, admittedly, suit agreement marked at Ex.P.2 is a registered sale agreement. There is no bar for a person to establish that the intention of the parties in a registered document is not with which the document came into existence. It is that party who is required to place such necessary evidence on record to establish that intention of the parties is not what is written in the document.

16. In this regard, Ex.P.2 though styled as agreement to sell, it is the case of the defendant that it is the loan agreement.

17. To establish the same, except the self-serving testimony of D.W.1, there is no other material on record. Ex.D.1 is admittedly the photograph.

18. Before placing Ex.D.1 on record, no foundation is laid down for raising the secondary evidence as is required under 65 of the Indian Evidence Act. It is to be further noted



CNR: KAHC010367952026

that, no witnesses are examined to establish that the suit agreement is not an agreement to sell but as per Ex.D.1, it is the loan transaction.

19. Pertinently, before instituting the suit, a legal notice was issued on 06.06.2009.

20. Defendants though served with the notice, did not care to reply the notice nor complied the callings of the notice. It was first occasion for the defendants to refute that the suit agreement is not an agreement to sell but it is only a loan transaction.

21. It is also pertinent to note that suit came to be decreed *ex parte* and later on, matter was retried when defendants approached the First Appellate Court and got *ex parte* decree set aside.

22. If it is the loan transaction as is contended by the defendants, nothing prevented the defendants to deposit the entire loan amount with accrued interest on the first date of appearance before the Trial Court. No such attempt is made by the defendants either.



CNR: KAHC010367952026

23. Pertinently, it is the husband of the plaintiff who was the purchaser of the property who died and later on his wife prosecuted the matter.

24. Under such circumstances, taking note of the fact that Ex.P.2 is a registered document and defendant having failed to establish that it is a loan transaction, decreeing of the suit by the Trial Court confirmed by the First Appellate Court needs no interference by this Court having regard to scope of Section 100 of Code of Civil Procedure.

25. Accordingly, the following:

ORDER

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

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

KAV
List No.: 1 Sl No.: 56