



CNR: KAHC010380622022

NC: 2026:KHC:48957
MSA No. 79 of 2022
C/W MSA No. 78 of 2022

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 9TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MS. JUSTICE JYOTI M

MISCELLANEOUS SECOND APPEAL NO. 79 OF 2022 (RO)

C/W

MISCELLANEOUS SECOND APPEAL NO. 78 OF 2022 (RO)

IN MSA No.79/2022

BETWEEN:

1. SRI. JAGANNATHA REDDY,
SINCE DEAD BY HIS LRS

SMT. SUNANDAMMA,
W/O. LATE JAGANNATHA REDDY,
AGED ABOUT 64 YEARS,
R/AT NANJUNDESHWARA NILAYA,
BIDARAHALLI, VIGRONAGAR POST,
BENGALURU EAST-560041.

2. J.PRAVEEN REDDY,
S/O. LATE JAGANNATHA REDDY,
AGED ABOUT 41 YEARS,
R/AT NANJUNDESHWARA NILAYA,
BIDARAHALLI, VIGRONAGAR POST,
BENGALURU EAST-560041.

...APPELLANTS

(BY SRI. K.N.NITISH, ADVOCATE FOR
SRI. K.V.NARASIMHAN, ADVOCATE)



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AND:

1. SMT. VENKATAMMA
SINCE DEAD BY HER LRS

SMT. NARAYANAMMA,
D/O. LATE ASHWATHAPPA,
AGED ABOUT 59 YEARS,
R/AT GOPINDYAVARAPALLI VILLAGE,
LEPAKSHI MANDALAM,
HINDUPUR TALUK, ANANTHAPUR,
ANDHRA PRADESH-570101.

2. CHENNAPPA @ CHINNAPPA
SINCE DEAD BY HIS LRS

SMT. LAKSHMAMMA
W/O. LATE CHENNAPPA,
MAJOR IN AGE
R/AT GOPINDYAVARAPALLI VILLAGE,
LEPAKSHI MANDALAM,
HINDUPUR TALUK, ANANTHAPUR,
ANDHRA PRADESH-570101.

3. SMT. MAMATHA,
W/O. S.NARAYANASWAMY,
AGED ABOUT 46 YEARS,
R/AT DODDAGUBBI VILLAGE,
BIDARAHALLI HOBLI,
BENGALURU EAST TALUK,
BENGALURU-562213.

...RESPONDENTS

(BY SRI. V.SHIVAKUMAR, ADVOCATE FOR R3;
R1 AND R2 ARE SERVED AND UNREPRESENTED)



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BETWEEN:

1. SRI. JAGANNATHA REDDY,
SINCE DEAD BY HIS LRS

SMT. SUNANDAMMA,
W/O. LATE JAGANNATHA REDDY,
AGED ABOUT 64 YEARS,
R/AT NANJUNDESHWARA NILAYA,
BIDARAHALLI, VIGRONAGAR POST,
BENGALURU EAST-560041.

2. J.PRAVEEN REDDY,
S/O. LATE JAGANNATHA REDDY,
AGED ABOUT 41 YEARS,
R/AT NANJUNDESHWARA NILAYA,
BIDARAHALLI, VIGRONAGAR POST,
BENGALURU EAST-560041.

...APPELLANTS

(BY SRI. K.N.NITISH, ADVOCATE FOR
SRI. K.V.NARASIMHAN, ADVOCATE)

AND:

SMT. MAMATHA,
W/O. S.NARAYANASWAMY,
AGED ABOUT 46 YEARS,
R/AT DODDAGUBBI VILLAGE,
BIDARAHALLI,
BENGALURU EAST TALUK,
BENGALURU-562213.

...RESPONDENT

(BY SRI. V.SHIVAKUMAR, ADVOCATE)



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THESE MISCELLANEOUS SECOND APPEALS ARE FILED UNDER ORDER 43 RULE 1(u) OF THE CODE OF CIVIL PROCEDURE.

THESE MISCELLANEOUS SECOND APPEALS HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 01.09.2026, THIS DAY, AN JUDGMENT IS PRONOUNCED AS UNDER:

CAV JUDGMENT

IN MSA No.79/2022

Sri. K. N. Nitish, counsel on behalf of Sri. K. V. Narasimhan, for the appellants, and Sri. V. Shivakumar, counsel for respondent No. 3, appeared in person.

2. The present appeal is filed challenging the Judgment and Decree dated 26.07.2022 passed by the Prl. Judge, Family Court at Chikkaballapura in R.A.No.28/2018.

3. For convenience, the parties are referred to as per their status and ranking before the Trial Court.

4. The short facts are as follows.

The plaintiff filed a suit for specific performance in O.S. No. 159/2007. The Trial Court passed an order of temporary



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injunction on 05.04.2007, restraining the alienation of the suit property. However, the vendors sold the property to one Mamata on 30.05.2007. Hence, the plaintiff filed an application, I. A. No. 12, for impleading, which the Trial Court rejected. The purchaser, Smt. Mamatha, filed an application in I. A. No. 17 for impleading, which was allowed. Accordingly, a writ petition was filed before this Court, and this Court allowed the writ and held that the principles of res judicata apply even to interlocutory applications, and Smt. Mamatha was not permitted to come on record. A review petition was filed, and the same was also dismissed. The SLP was filed, and the Apex Court disposed of it, observing that the purchaser may file an appeal. The Appellate Court remanded the matter to the Trial Court. Under these circumstances, the present appeal is filed on several grounds as outlined in the memorandum of appeal.

5. Counsel for the respective parties presented several contentions.

Submissions of counsel for the Appellants: Counsel for the appellants submits that the order of remand is untenable. He contends that the High Court has already



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determined the impleading applicant's status and held that, as a lis pendens purchaser, the decree binds her. It is argued that the issue of impleading the purchaser/ third respondent has already attained finality; hence, her presence was neither necessary nor proper for the effective adjudication of the suit. It is vehemently contended that the Appellate Court failed to appreciate the High Court's order rejecting the impleading application and the review petition order. In such circumstances, there was no necessity for a remand. In addition to other grounds, he submits that the appeal may be allowed.

Submissions of counsel for Respondent No.3: On the other hand, counsel for respondent No.3 argues that the vendor, Venkatamma, executed an agreement of sale in favor of Mamatha on 09.12.1996. Subsequently, during the pendency of the suit, the vendor executed a sale deed on 30.05.2007. He further submits that the matter was carried up to the Supreme Court, which granted liberty to the applicant to assail the Judgment and Decree of the Trial Court before the Appellate Court. On that basis, the Appellate Court has rightly remanded



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the matter. In addition to other grounds, he submits that the appeal may be dismissed.

Counsel for the appellants relied on the following decisions in both appeals.

1. *SURJIT AND OTHERS VS HARBANS SINGH, AIR 1996 SC 135.*
2. *SYEDA RAHIMUNNISA VS MALAN BI (DEAD) BY LRS. AND ANOTHER, AIR 2016 SC 4653.*
3. *MUNICIPAL CORPORATION, HYDERABAD VS SUNDER SINGH, (2008) 8 SCC 485.*

6. Heard arguments and carefully perused the papers.

7. This vide order dated:19.06.2026 had formulated the following substantial questions of law.

- (i) Whether the First Appellate Court is justified in remanding the matter to the Trail Court directing the affording of opportunity to respondent No.3 notwithstanding the fact that she is a pendente lite purchaser and application filed by her seeking impleading had been dismissed?



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(ii) When the application seeking to implead herself had been dismissed by this Court and the same has attained finality, whether the Appellate Court is justified in remanding the matter, which was not even sought by the third respondent?

8. The facts are sufficiently stated and do not require repetition. The issue falls within a narrow compass and relates to the remand order. The plaintiff initiated O.S.No.159/2007 to seek specific performance of a sale agreement dated 23.06.1997, with a sale price of Rs.72,075/-. The plaintiff paid an initial advance of Rs.55,000/-, and the remaining amount was payable at registration. The suit was filed in 2007, and the contract did not specify any timeframe as an essential term. The Trial Court issued an interim order, granting a temporary injunction to prevent alienation. During the suit's proceedings, defendant Venkatamma sold the property to Mamatha. This led the plaintiff to attempt to add Mamatha as a party. Mamatha objected, but the court rejected her application, stating that she was a lis pendens purchaser and would be bound by any decree.



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The impleading applicant submitted another application, I.A. No. 17, to come on record. The plaintiff submitted detailed objections to I.A. No. 17, arguing that the earlier application in I.A. No. 12 had already been rejected on its merits. Therefore, filing another impleading application was not justified. Nevertheless, the Trial Court permitted the application. A writ petition was filed in this Court challenging that order, and this Court accepted the petition, ruling that res judicata applies even to interlocutory applications. An appeal to review this decision was subsequently filed and was rejected.

The proposed impleading applicant filed an SLP challenging both the review order and the order issued in the writ petition before the Supreme Court on 28.05.2018. The Supreme Court dismissed the petition on 20.07.2018, noting that the suit had already been disposed of and that the purchaser could still file an appeal. It is relevant to notice that at the time of the Supreme Court's disposal, the purchaser Mamatha had already submitted an appeal in R. A. No.28/2018 (filed on 23.03.2018), However, the Appellate Court sent the matter back to the Trial Court, noting that the Trial Court's



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decree was issued without the purchaser, the aggrieved party, being able to pray or participate. This reasoning is flawed for three reasons. First, by the time the Supreme Court resolved the case, an appeal had already been filed. Second, the High Court determined that the lis pendens purchaser was bound by the decree. Third, the purchaser's application to be added as a party had already been denied, indicating her non-participation.

The purchaser claimed she had approached the court, arguing that she filed an appeal due to the liberty granted by the Apex Court. However, this argument is unconvincing because, by the time the apex court disposed of the case, she had already filed an appeal with the Appellate Court. Consequently, the Appellate Court should not have remitted the matter. The order of remand is therefore unjustified, and the Appellate Court is directed to decide the appeal based on its merits, in accordance with the law.

9. In view of the above, the order of the Appellate Court remanding the matter is set aside. The Judgment and Decree dated:26.07.2022 passed by the Court of Prl. Judge, Family Court, at Chikkaballapura in R.A.No.28/2018 is set



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aside. The appeal in R.A.No.28/2018 shall proceed in accordance with law, and the rights of the parties shall be determined therein.

10. The substantial questions of law are answered. The Appellate Court is directed to consider the appeal on the merits and dispose of the appeals in accordance with the law as expeditiously as possible.

IN MSA No.78/2022

Sri. K. N. Nitish, counsel for the appellants, and Sri. V. Shivakumar, counsel for the respondent, appeared in person.

2. The present appeal is filed challenging the Judgment and Decree dated 26.07.2022 passed by the Prl. Judge, Family Court at Chikkaballapura in R.A.No.137/2018.

3. For convenience, the parties are referred to as per their status and ranking before the Trial Court.

4. The short facts are as follows.



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The plaintiff filed a suit in O.S.No.73/2017 (O.S.No.164/2023). The defendants filed an application to reject the plaint. The Trial Court allowed the application and, consequently, rejected the plaint vide Judgment and Decree dated 12.10.2018. The plaintiff filed an appeal in R.A. No.137/2018, and the Appellate Court remitted the matter to the Trial Court. Under these circumstances, the present appeal is filed on several grounds as outlined in the memorandum of appeal.

5. Counsel for the respective parties presented several contentions.

Submissions of Counsel for the Appellants: Counsel for the appellants contended that the Appellate Court erred in remanding the matter. It was urged that the plaintiff had instituted O.S. No.73/2017 seeking declaration and injunction, wherein the defendants filed an application under Order VII Rule 11 CPC. The Trial Court, upon consideration of the material record, rejected the plaint. Counsel further submitted that the plaintiff had preferred R.A.No.28/2018. It was emphasized that the plaintiff, being a lis pendens purchaser, is



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bound by the decree and has suffered a finding to that effect. Consequently, initiation of O.S.No.73/2017 amounted to abuse of process of law. Therefore, the Appellate Court, noting the pendency of R.A.No.28/2018, ought not to have remanded the matter. Urging other contentions, it is submitted that the appeal may be allowed.

Submissions of Counsel for the Respondent:

Conversely, counsel for the respondent argued that the plaintiff rightly instituted O.S. No.73/2017 and that the Appellate Court, while considering the pendency of R.A. No. 28/2018, correctly exercised its discretion in remanding the case. Urging additional contentions, it is submitted that the appeal is devoid of merit and is liable to be dismissed.

6. The Court heard arguments and carefully perused the papers.

7. This vide order dated:19.06.2026 had formulated the following substantial question of law.

- (i) Whether the First Appellate Court is justified in remanding the matter to the Trail Court directing the



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affording of opportunity to respondent No.3 notwithstanding the fact that respondent was a pendente lite purchaser and her suit for declaration of title was not maintainable?

8. The facts are stated, and repetition is unnecessary. The issue relates to the remand order. The Appellate Court, while noting the pendency of R.A. No.28/2018, ought not to have remanded the matter, as the lis was already under consideration in the Appellate proceedings.

The Trial Court, upon considering the application under Order VII Rule 11 CPC, rejected the plaint in O.S. No.73/2017. In the earlier proceedings, this Court categorically held that the purchaser/plaintiff, being a lis pendens purchaser, is bound by the decree. Once such a finding has been recorded, the plaintiff cannot circumvent it by instituting a fresh suit. The principle of lis pendens under Section 52 of the Transfer of Property Act binds subsequent purchasers to the outcome of the litigation.

The Appellate Court, in remanding the matter, overlooked the fact that the plaintiff had already suffered an adverse finding and remand in such circumstances would result in



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parallel proceedings and multiplicity of litigation, which the law seeks to prevent. The Appellate Court needed to determine whether the rejection of the plaint was justified and appropriate. Therefore, the Appellate Court's discretion to remand the case is not sustainable.

9. In view of the above, the order of the Appellate Court remanding the matter is set aside. The Judgment and Decree dated:26.07.2022 passed by the Court of Prl. Judge, Family Court, at Chikkaballapura in R.A.No.137/2018 is set aside. The appeal in R.A.No.137/2018 shall proceed in accordance with law, and the rights of the parties shall be determined therein.

10. The substantial question of law is answered. The Appellate Court is directed to consider the appeal on the merits and dispose of the appeals in accordance with the law as expeditiously as possible.

11. Resultantly, both the ***appeals are allowed.***



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Because of disposal of the appeals, interim order granted
if any stands discharged and pending interlocutory applications
if any are disposed of.

SD/-
(JYOTI M)
JUDGE

MRP
List No.: 1 Sl No.: 1