



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 1ST DAY OF JULY, 2026

PRESENT

THE HON'BLE MR. JUSTICE D K SINGH

AND

THE HON'BLE MR. JUSTICE T.M.NADAF

REGULAR FIRST APPEAL NO. 1536 OF 2016 (DEC)

BETWEEN:

MR. V. RAMAMURTHY,
S/O LATE SRI.VENKATACHALAPATHI SETTY,
AGED ABOUT 76 YEARS,
R/AT NO.186/33, 14TH CROSS,
5TH MAIN, VYALIKAVAL,
BANGALORE - 560 003.

...APPELLANT

(BY SRI. R.S. RAVI, SENIOR ADVOCATE FOR
SRI. M.MURALI BABU, ADVOCATE)

AND:

1. MR. K. LAYAPPA,
S/O G.KANNAN,
AGED ABOUT 39 YEARS,
R/AT NO.430, CHURCH ROAD,
SHANTHINAGAR,
BANGALORE - 560 027.
2. MR. D.P. NAVEEN,
S/O SRI.D.N.PRASANNA KUMAR,
AGED ABOUT 39 YEARS,
R/AT NO.24, 9TH MAIN,
SAMPANGIRAMANAGAR,
BANGALORE - 560 027.
3. MRS. JAYALAKSHMI S.,
W/O. P. GOPAL,
AGED ABOUT 56 YEARS,

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by
REKHA R
Location: High
Court of
Karnataka



4. MR. S.N. NAGARAJA RAO,
S/O. S. NARAYANARAO,
AGED ABOUT 54 YEARS,
5. MR. DARSHAN,
FATHER NOT KNOWN,
AGED ABOUT 31 YEARS,
6. MR. GOPIKRISHNA,
S/O JAYANNA,
AGED ABOUT 41 YEARS,
7. MR. LOHITH,
S/O CHANNABASAPPA,
AGED ABOUT 43 YEARS,
8. MR. NISHANTH,
FATHER NOT KNOWN,
AGED ABOUT 49 YEARS,

RESPONDENT NOS. 3-8,
R/AT NO.47, 2ND CROSS,
UTTARAHALLI VILLAGE,
UTTARAHALLI HOBLI,
BANGALORE SOUTH TALUK.

...RESPONDENTS

(BY SRI. A SAMPATH., ADVOCATE FOR R1,
VIDE ORDER DATED 10.11.2016
NOTICE TO R2 TO R8 DISPENSED WITH)

THIS RFA IS FILED UNDER SECTION 96 OF CPC.,1908,
AGAINST THE JUDGMENT AND DECREE DATED:12.08.2016
PASSED IN OS NO.8480/2015 ON THE FILE OF THE LXIII
ADDL. CITY CIVIL AND SESSIONS JUDGE, BENGALURU (CCH
64), PARTLY DECREETING THE SUIT FOR DECLARATION AND
ETC.,



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

CORAM: HON'BLE MR. JUSTICE D K SINGH
and
HON'BLE MR. JUSTICE T.M.NADAF

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE T.M.NADAF)

This Regular First Appeal under Section 96 of CPC is by defendant No.2, assailing the Judgment and Decree dated 12.08.2016, passed by the LXIII Addl. City Civil & Sessions Judge, Bangalore City (CCH-64)¹ in O.S.No.8480/2015.

2. The Trial Court under the impugned Judgment and Decree, partly decreed the suit declaring the plaintiff as the owner of the suit schedule property and that the Sale Deed dated 11.08.2014 executed by defendant No.1 in favor of defendant No.2 in respect of suit schedule property as null and void and not binding on the plaintiff. Further directed defendant No.1 and 2 to handover the

¹ 'the Trial Court,' for short



original title deeds of the suit schedule property to the plaintiff and defendants 3 to 8 to handover the physical possession of the suit schedule property to the plaintiff, however rejected the relief of permanent injunction sought by the plaintiff.

3. The parties are referred to as per their ranking before the Trial Court.

4. Facts germane to file the present appeal are as under:

4.1 The plaintiff filed a suit in O.S.No.8480/2015 seeking following reliefs:

- i) Declare that the plaintiff is the absolute owner of the suit schedule property.*
- ii) Declare that the sale deed dated 11.08.2024 executed by defendant No.1 in favour of defendant No.2 registered in the office of Sub Registrar, Banashankari as document No.5815/2014-15 and stored in CD bearing No.BSKD 280 is null and void and not binding upon the plaintiff.*
- iii) Direct the defendants 1 and 2 to deliver the original documents of title in respect of the suit schedule property.*



- iv) *Direct the Defendants or any person or person claiming through or them to deliver vacant physical possession of the suit schedule property or alternatively direct the defendant No.3 to 8 to attorn their tenancy in favour of the plaintiff and pay the admitted rents in future to the plaintiff.*
- v) *Restrain the defendants 1 and 2 or any person or person claiming through or under them from interfering with the peaceful possession and enjoyment of the suit schedule property by the plaintiff.*
- vi) *Cost of the suit.*
- vii) *Pass such other relief or reliefs as this Hon'ble Court deems fit to grant in the facts and circumstances of the case and so as to meet the ends of justice and equity.*

4.2 The Suit Schedule Property is described as under:

SCHEDULE

All that piece and parcel of the property bearing site No.47, old khata No.47, present BBMP Khata No."398/352/247" situate on 2nd Cross, Uttarahalli Village, now BBMP Ward No.184, Uttarahalli Hobli, Bengaluru South Taluk comprising of houses in the ground and first floor measuring East-West:45 feet and North-South:40 feet, totally measuring 1,800 sq.ft., and bounded on:

<i>East by</i>	<i>:</i>	<i>Road</i>
<i>West by</i>	<i>:</i>	<i>Site No.46</i>
<i>North by</i>	<i>:</i>	<i>Site No.42</i>
<i>South by</i>	<i>:</i>	<i>Site No.52</i>



AS PER THE PLAINTIFF:

4.3 Originally defendant No.1 was the absolute owner of the Suit Schedule Property². Defendant No.1 purchased the SSP from his vendor under registered Sale Deed dated 22.07.2010. Subsequent to the purchase, the katha was transferred in his name. Defendant No.1 thereafter, constructed residential housing complex consisting of ground and first floor and leased out the same to the tenants. Defendant No.2 is one of such tenants in the SSP.

4.4 The plaintiff purchased the SSP from defendant No.1 under registered Sale Deed dated 30.07.2014 for valuable consideration of Rs.48,50,000/-. Defendant No.1 at the time of execution of Sale Deed delivered all the original title deeds to the plaintiff, however taken back the same from the plaintiff on the pretext that, they are required to transfer katha in plaintiff's name. The plaintiff under bonafide impression

² hereinafter referred to as, 'the SSP'



reposing confidence on defendant No.1, handed over original documents, since he has already purchased the property by paying valid consideration. Thereafter, on enquiry, defendant No.1 on several occasions went on avoiding the plaintiff and neither returned the original documents nor taken any steps to change the katha in respect of the SSP. This made the plaintiff to suspect the bonafides of defendant No.1, which came to be true, when he applied for Encumbrance Certificate of the SSP. To his aghast and dismay, he found that defendant No.1 fraudulently transferred the SSP in favor of defendant No.2 under registered Sale Deed dated 11.08.2014.

4.5 The plaintiff further contended that defendant No.1 having conveyed the property under registered Sale Deed in favor of the plaintiff, left with no right, title and interest over the property to further convey the same in favor of defendant No.2. Noticing the



fraudulent transfer, the plaintiff issued legal notice to defendant Nos.1 and 2, calling upon him to cancel the Sale Deed dated 11.08.2014 and not to interfere with plaintiff's possession over the SSP. The notice issued was served on defendant No.2 and not on defendant No.1 and defendant Nos.3 to 8 - who are the tenants under occupation in the SSP.

4.6 It is further contended that, defendant No.2 falsely representing himself as the owner of the SSP, collecting rents from defendants 3 to 8, without having any right, title or interest over the SSP. The plaintiff in these circumstances, was constrained to file the present suit seeking the reliefs, which we have already extracted above.

4.7 In response to notice, none of the defendants appeared and all were pleased *ex-parte*.



4.8 The plaintiff in order to prove his case, examined himself as PW.1 and produced nine documents and got them marked as Ex.P1 to P9.

4.9 The Trial Court framed following points for consideration:

"Point No.1: Whether the plaintiff proves that he is the absolute owner of the suit schedule property as contended by him in the plaint?

Point No.2: Whether plaintiff further proves that the sale deed executed by defendant No.1 in favour of defendant No.2 in respect of suit schedule property on 11.08.2014 is null and void and not binding on the plaintiff?

Point No.3: Whether plaintiff is entitled for directions to defendant No.1 and 2 to deliver the original documents in respect of the suit schedule property to the plaintiff?

Point No.4: Whether plaintiff is entitled for directions to defendants 3 to 8 to deliver the vacant physical possession of the suit schedule property to the plaintiff?

Point No.5: Whether plaintiff is entitled for the relief of permanent injunction as sought?

Point No.6: What order?"

4.10 The Trial Court after appreciating the arguments and evidence, both oral and documentary, answered



Point Nos.1 to 4 in the Affirmative in favor of the plaintiff and Point No.5 in the Negative - negating the relief of permanent injunction, and partly decreed the suit, as under:

ORDER

1. *Suit of the plaintiff is decreed partly with costs of the suit.*
2. *Plaintiff is declared as owner of the suit schedule property shown in the plaint.*
3. *Sale deed executed by defendant No.1 in favour of defendant No.2 in respect of suit schedule property on 11.08.2014 is declared as null and void and not binding on the plaintiff.*
4. *Defendant No.1 and 2 are directed to hand over the original title deeds of the suit schedule property to the plaintiff.*
5. *Defendant No.3 to 8 are directed to hand over the physical possession of the suit schedule property to the plaintiff.*
6. *Relief of permanent injunction sought by the plaintiff is rejected.*
7. *Draw decree accordingly.*

4.11 The Trial Court has held that the plaintiff produced the original Sale Deed (Ex.P1) executed by defendant



No.1 in his favor in respect of the SSP. In that view of the matter, the subsequent Sale Deed executed by defendant No.1 in favor of defendant No.2 is null and void and *non-est* in law and not binding on the plaintiff. Though the defendants were issued with notice, they failed to appear and contest the matter. Considering the effect of the document produced, the Trial Court partly decreed the suit. It is this Judgment and Decree passed by the Trial Court, is called in question in this appeal by defendant No.2.

5. Heard, Sri.R.S.Ravi, learned Senior counsel assisted by Sri.M.Murali Babu, learned counsel appearing for appellant/ defendant No.2 and Sri.A.Sampath, learned counsel appearing for respondent No.1/ plaintiff.

6. Sri.R.S.Ravi, learned Senior counsel appearing for defendant No.2 submits that the plaintiff and defendant No.1 were close friends and in order to defraud defendant No.2, they created Sale Deed dated 30.07.2014 and



thereafter, sold the property in favor of defendant No.2 on 11.08.2014 and put him in possession of the SSP and handed over all the original documents. Thereafter, defendant No.2 got entered his name in the katha of BBMP and regularly paying property tax. Ex.P5 which is application seeking for katha is just an application and does not confer any right on the plaintiff. The BBMP transferred katha in the name of defendant No.2 and issued endorsement, declining to transfer katha in the name of plaintiff, which is not challenged. Defendant No.2 got transferred electricity connection from BESCO in his name and there is no notice served on defendant No.2. In that view of the matter, the Judgment and Decree passed *ex-parte* required to be set-aside, granting him an opportunity to contest the matter.

7. Mainly, learned Senior counsel argued on three points i.e., fraud, violation of legal mandate and non-application of mind by the Trial Court. Learned Senior counsel further submits that even in cases where



defendants fail to appear, in those circumstances, the obligation on the Court is heavily casted and guarded. The plaintiff has to prove his case with corroborative and cogent evidence to stake a claim of title in a declaration suit and proof with the touchstone of preponderance of probabilities. The Trial Court has failed to consider this aspect of the matter and decreed the suit only on the basis that there is no contest to the case of the plaintiff. With this, learned Senior counsel sought to allow the appeal.

8. The said contentions were opposed by Sri.A.Sampath, learned counsel appearing for the plaintiff. Learned counsel submits that though fraud is pleaded, however the said contention is unsustainable in law. Firstly, there is no defence statement on record. Even if it is construed for the sake of argument as it is, defendant No.2 himself has stated that defendant No.1 executed Sale Deed in his favor and handed over all the original documents. In these circumstances, the contention of



fraud has no legs to stand. In fact defendants 1 and 2 hand in glow, caused fraud on the plaintiff. Admittedly, the Sale Deed is executed in favor of the plaintiff by defendant No.1 at the earlier point of time. Once there is a Sale Deed executed in respect of the SSP, all right, title and interest shifts from the vendor to the purchaser. In that an eventuality, the vendor no more vested with right, title and interest or possession over the SSP. In that view of the matter, there is no right available to him to convey the SSP, subsequently in favor of other person. In these circumstances, the contentions raised by defendant No.2 strengthens the case of the plaintiff that defendant No.1 on the pretext of changing the katha, got the original documents back and thereafter created conveyance by means of second Sale Deed in favor of defendant No.2 and handed over the entire property documents to him, despite payment of valid consideration by the plaintiff. Hence, the stand now taken helps and strengthens the case of the plaintiff, rather defendant No.2. Therefore, the



Judgment and Decree passed by the Trial Court does not suffer from any infirmity and requires no interference and accordingly, sought to dismiss the suit.

9. Having considered the rival submissions, we have perused the entire appeal paper as well as the Trial Court record.

10. Before advertng to the contentions of either parties, it is apt to place certain undisputed facts.

11. Defendant No.1 is the absolute owner of the SSP and purchased the same under registered Sale Deed dated 22.07.2010 from its earlier owner. Secondly, defendant No.1 conveyed the entire SSP in favor of plaintiff under registered Sale Deed dated 30.07.2014. Thereafter, surprisingly within 15 days, he has conveyed the very same property in favor of defendant No.2 on 11.08.2014.

12. The issue involved in the case rests on legal principle '**Nemo Dat Quod Non Habet**', no one can pass



better title than what he has. Once there is a sale deed executed by defendant No.1 in favor of the plaintiff, there remains nothing with him to convey further. In that view of the matter, the subsequent Sale Deed by defendant No.1 in favor of defendant No.2 is hit by the above principle and the Sale Deed is not valid in the eye of law and *non-est*, since the same is conveyed by a person having no interest in law over the property.

13. Further, the contention of non-service of notice is also not acceptable, as defendant No.2 is residing in one portion of the property and collecting rents from other tenants i.e., defendant Nos.3 to 8. The address shown is one and the same. Though this defence is taken, however there is no much canvass made on the same by learned Senior counsel. That apart, defendant No.1 is not in appeal and accepted the decree. Claim of defendant No.2 in these circumstances is nothing but a chance litigation, which cannot be permitted in law.



14. We are completely in agreement with the Judgment and Decree passed by the Trial Court. However, during the pendency of the appeal, in order to workout equity, on 08.04.2026 and 30.06.2026, we have afforded an opportunity to the parties to settle the matter. The orders passed on 08.04.2026 and 30.06.2026, reads as under:

08.04.2026

"ORAL ORDER ON I.A.No.2/2026

I.A.No.2/2026 is filed praying to recall the order dated 09.02.2026, whereby the appeal came to be dismissed for non prosecution.

Considering the averments made in support of the application, the order dated 09.02.2026 is recalled and the appeal is restored to its file.I.A.No.2/2026 is allowed.

Learned counsel for the appellant submits that appellant is residing in a small portion of the property in question wherein twelve tenements are there and he will approach the respondent seeking to convey in his favour the said tenement, where the appellant is residing.



The parties shall explore the possibility of settlement in respect of the residential portion, which is being occupied by the appellant.

The respondent is entitled to execute the decree insofar as the other 11 tenements of the suit schedule property is concerned.

Post this appeal on 16.04.2026."

30.06.2026

"ORAL ORDER

Mr.A.Sampath, learned counsel for respondent No.1 submits that if the appellant makes payment of Rs.1.5 Crores to the respondent No.1 who is present in person, he will give up the claim in respect of the property in question in favour of the appellant.

Post this appeal on 01.07.2026 at 2.30 p.m."

15. However, defendant No.2 is reluctant to come forward to settle the matter, contending that he has paid sale consideration. Defendant No.2 might have paid the sale consideration, but to a person who has no right, title and interest in the SSP to convey the property as the same has already been conveyed earlier under registered Sale Deed. The sale deed clearly shows that the plaintiff



has paid entire sale consideration and even said to be put in possession of the SSP. Though a request for permanent injunction is rejected considering that they are the tenants residing i.e., 12 tenements including defendant No.2, but the same will not come in the way of declaration of title in favor of the plaintiff under the registered Sale Deed. In that view of the matter, we find no merit in the appeal. Accordingly, the appeal sans merit and ***dismissed***.

16. In view of dismissal of the appeal, pending interlocutory applications, if any, stand disposed of.

**Sd/-
(D K SINGH)
JUDGE**

**Sd/-
(T.M.NADAF)
JUDGE**

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