



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 7TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

REGULAR SECOND APPEAL NO. 360 OF 2020 (DEC/INJ)

BETWEEN:

VENKATAMUNIYAPPA
S/O NARAYANAPPA
AGED ABOUT 62 YEAWRS
RESIDENT OF MANGASANDRA
VILLAGE VOKKALERI HOBI,
KOLAR TALUK 563 101

...APPELLANT

(BY SRI. HEGDE RAMAKRISHNA S., ADVOCATE)

AND:

1. SADAPPA S/O MUNISHAMAPPA
SINCE DECEASED HIS LRS ARE ON RECORD
AS R2 AND R4
2. SRI. RAMESH
S/O SADAPPA
AGED ABOUT 42 YEARS
3. SRI. MUNISHAMAPPA
S/O SADAPPA
AGED ABOUT 40 YEARS
4. SRI. CHOWDAPPA
S/O. SADAPPA
AGED ABOUT 36 YEARS



ALL THE RESPONDENTS ARE RESIDENTS OF
MANGASANDRA VILLAGE
VOKKALERI HOBLI
KOLAR TALUK - 563 101

...RESPONDENTS

(BY SRI. PRAKASH R.B., ADVOCATE FOR R2 AND R4
VIDE ORDER DATED 08.06.2026,
R2 TO R4 ARE THE LRS OF DECEASED R1)

THIS RSA IS FILED UNDER SEC.100 OF CPC 1908
AGAINST THE JUDGMENT AND DECREE DATED 27.06.2019
PASSED IN RA.NO.09/2017 ON THE FILE OF THE I ADDITIONAL
DISTRICT JUDGE, KOLAR ALLOWING THE APPEAL AND
SETTING ASIDE THE JUDGMENT AND DECREE DATED
24.11.2016 PASSED IN O.S.NO.186/2013 ON THE FILE OF THE
PRINCIPAL SENIOR CIVIL JUDGE AT KOLAR.

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

CORAM: HON'BLE MR. JUSTICE V SRISHANANDA

ORAL JUDGMENT

1. Though the matter is listed for Admission, by
consent of both the parties, the same is taken up for final
disposal.



2. Heard Sri. Hegde Ramakrishna S., learned counsel for the appellant and Sri. Prakash R.B., learned counsel for the contesting respondents.

3. The present appeal is by the plaintiff challenging the Order of the First Appellate Court in reversing the judgment passed by the learned trial Judge in OS No.186 of 2013.

4. Facts of the case are as under:

4.1 A suit for declaration and injunction came to be filed in respect of three properties more fully mentioned as A, B, C in the Schedule to the plaint. According to the plaintiff, land in Sy.No.94/P34 is a gomal land measuring more than 300 acres and out of the same, plaintiff and his ancestors were in possession of 'C' Schedule property measuring 3 acres 21 guntas as 'Bagar huklum Saguvalidar' (unauthorized cultivator).

4.2 It is the case of the plaintiff that he applied for grant of the land based on his long standing possession



over the suit property and Tahsildar after holding an enquiry, granted Saguvali Chit in respect of 'A' Schedule property to the extent of 0-36 guntas.

4.3 It is further case of the plaintiff that despite the Order granting only 'A' Schedule property, plaintiff continued to be in possession of the 'B' and 'C' Schedule property and thus sought for grant of declaration as there was an interference by the defendants who are the bajudars of the plaintiff.

4.4 Pursuant to the suit summons, defendants entered appearance and denied the case of the plaintiff in *toto* and contended that they are in possession of their respective portions of the suit property and thus sought for dismissal of the suit.

4.6 learned trial Judge based on the rival contentions raised necessary issues and after recording the evidence, decreed the suit of the plaintiff.



4.7 Operative portion of the judgment of the Trial Judge reads as under:

"The suit of the plaintiff is hereby decreed with costs.

It is hereby ordered and decreed that plaintiff is the absolute owner in peaceful possession and enjoyment of the 'A', 'B' and 'C' Schedule Properties.

By means of a permanent injunction, the defendants or their authorized persons are with plaintiff's peaceful possession and enjoyment of the above schedule properties."

4.8 Being aggrieved by the same, all the defendants filed appeal before the First Appellate Court in RA No.9 of 2017.

4.9 Learned Judge in the First Appellate Court, after securing the records, heard the arguments of the parties and on re-appreciation of the material on record, allowed the appeal of the defendants and dismissed the suit of the plaintiffs in *toto*.



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

GROUND:

- *The impugned Judgments and Decrees of the first appellate Court is illegal, improper, and unjust are liable to be set aside.*
- *The first appellate Court has not properly considered and appreciated the oral and documentary evidence of the appellant/plaintiff.*
- *The findings of the First appellate Court are contrary to the facts, circumstances, evidence and law on record.*
- *The first appellate Court has failed to appreciate that the appellant is in the possession of the suit schedule properties and denied the relief injunction granted by the civil Court.*
- *The first appellate court has failed to appreciate the documentary and oral evidence of this appellant which are sufficient to prove that he is the absolute owner of the suit schedule properties and is in the possession and enjoyment of the same and dismissed the judgment and decree passed by the civil court.*



- *The first appellate court has failed to find that the Ex.P3 to Ex.20 are sufficient to prove that the appellant has been in the possession of the suit schedule properties and Ex.P-21 is sufficient to establish that the respondent is not in possession of the suit schedule property and denied the relief of the permanent injunction to the appellant without any basis.*
- *The first appellate Court rejected the relief of declaration granted by the Civil Court with respect to the Schedule "A" Property without any basis.*
- *The first appellate court failed to appreciate that the respondents failed to establish that they are in possession of the suit schedule properties.*
- *The first appellate Court found that Government was not made as party to the suit without any basis even though no relief is sought against the Government and not necessary party also.*

SUBSTANTIAL QUESTIONS OF LAW:

- i. Whether the first appellate Court is justified in rejecting the relief of declaration with respect to the suit schedule "A" property even though he has proved that he is the absolute owner and in possession of the property ?*



ii. Whether the first appellate Court is justified in rejecting the relief of injunction with respect the suit Schedule Properties disbelieving the Ex. P3 to Ex.P-32?

iii. Whether first appellate Court is justified in rejecting the relief of injunction to the appellant even when the possession of the appellant is established?

iv. Whether the first appellate Court is justified in dismissing the Judgment and decree passed by the Civil Court dated 24.211.2016 in O.S No. 186/2013 ?.

6. Sri Ramakrishna Hegde, learned counsel for the appellant reiterating the grounds urged in the appeal memorandum would contend that the learned Judge in the First Appellate Court made much out of non-production of the original Saguvali Chit and other related revenue documents and dismissed the suit of the plaintiff, which has resulted in miscarriage of justice and sought for allowing the appeal.

7. Sri. Hegde would also emphasize that the records original records are not available in the office of the Thasildar. Therefore he could not produce the original



Saguvali Chit and certified copy of the Saguvali chit and original Saguvali Chit has been lost in the house of the appellant and thus sought for allowing the appeal.

8. Per contra, the counsel for the contesting respondent would contend that even assuming that the case of the plaintiff is to be accepted, when the plaintiff applied for grant of entire land of 'C' Schedule property measuring 3 acres 21 guntas, what has been granted by the Thashildar, if accepted, only for the sake of arguments, is only 'A' schedule property and not the entire property of 3 acres 21 guntas.

9. Counsel for respondent would also emphasize that after the grant in the year 1994, in respect of 'A' schedule property which is also disputed by the defendants, plaintiff cannot maintain a suit for declaration and injunction in respect of 'B' and 'C' schedule properties in entirety, solely on the ground that he continued to be possession of all the suit properties even after grant order



was made in respect of 'A' schedule property alone and thus sought for dismissal of the appeal.

10. However, during the course of arguments, counsel for the respondents, Sri. R.B. Prakash has filed a memo which reads as under :

"I, the undersigned counsel appearing for the respondents submit that we have no objection to decree the suit insofar as 'A' Schedule property is concerned to meet the ends of justice."

11. Admittedly, defendants are bajudars of the plaintiff on the Western side of 'A' schedule property. Therefore, the memo assumes significance.

12. In the light of the memo that has been filed and in the light of the grant order that has been passed by the Thasildar in the year 1994 in LND.RUO.39/1993-94 granting 0-36 quntas of land in Sy.No.94/P/P34 of Mangassandra Village, Vokkaleri Hobli, Kolar Taluk, dismissal of the suit by the learned Judge in the First Appellate Court in entirety needs interference.



13. Thus, a case is made out for allowing the appeal in part decreeing the suit in part in respect of 'A' schedule property alone.

14. Accordingly, following order:

ORDER

(i) Appeal allowed in part in modification of the judgment and decree passed by the Trial Judge in OS No.186/2013, which was set-aside by the learned Judge in the First Appellate Court in RA No.09/2017, suit of the plaintiff is decreed as under:

(a) Plaintiff is declared as owner and is entitled for an order of injunction in respect of 'A' schedule property alone.

(ii) Office to pass modified decree.

(iii) No order as to costs.



In view of disposal of the appeal on merits pending
IAs are consigned to records.

Sd/-
(V SRISHANANDA)
JUDGE

SNC
List No.: 1 SI No.: 46