



CNR: KAHC010517732016

NC: 2026:KHC:53271
RFA No. 709 of 2016

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE H.T. NARENDRA PRASAD

REGULAR FIRST APPEAL NO. 709 OF 2016 (INJ)

BETWEEN:

SYED SHAMEER HUSSAIN
S/O MOHAMMED HUSSAIN
AGED ABOUT 40 YEARS
#33/1, VI MAIN, PILLAPPA BLOCK
GANGANAGAR
BANGALORE-560 032.

...APPELLANT

(BY SRI. M. VINAYA KEERTHY, ADVOCATE)

AND:

P.R. HARIKRISHNAN
S/O LATE P T RAMDOSS
AGED ABOUT 59 YEARS
AL GHUSAIR, DUBAI, UAE.

...RESPONDENT

(BY SRI. BHARATH KUMAR V., ADVOCATE)

THIS RFA IS FILED UNDER SECTION 96 R/W ORDER 41 OF CPC., AGAINST THE JUDGMENT AND DECREE DATED 04.04.2015 PASSED IN O.S NO.8017/2011 ON THE FILE OF THE XLIV ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU, DECREETING THE SUIT FOR PERMANENT INJUNCTION.

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

CORAM: HON'BLE MR. JUSTICE H.T. NARENDRA PRASAD

Digitally Signed by NARENDRA PRASAD
HAREKOPPA THIMMANNA GOWDA





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ORAL JUDGMENT

1. This appeal is filed under Section 96 read with Order XLI Rule 1 of CPC, by the appellant-defendant challenging the judgment and decree dated 04.04.2015 passed by the XLIV Additional City Civil and Sessions Judge, Bengaluru (hereinafter referred to as 'Trial Court' for short) in O.S.No.8017/2011, whereby the suit filed by the respondent-plaintiff came to be decreed.

2. For the sake of convenience, the parties are referred to by their ranking before the trial court.

3. The case of the plaintiff, in brief, is that he is the absolute owner and in possession and enjoyment of the suit schedule property, which he had purchased under a registered sale deed. The plaintiff is residing at Dubai, UAE, and visits India almost every year and, whenever he visits Bengaluru, he used to visit the suit schedule property in the usual course. On 29.08.2011, as usual, when he visited the suit schedule property, he noticed certain persons cleaning the property. Thereafter, it came



to his knowledge that the defendant was attempting to interfere with the suit schedule property. The plaintiff approached the police, but no assistance was rendered to him. Hence, the plaintiff filed the suit seeking a decree of permanent injunction against the defendant.

4. On appearance, the defendant, through his counsel, filed a written statement denying the averments made in the plaint contending that the plaintiff is neither the owner nor in possession of the suit schedule property. The defendant also denied the title and possession claimed by the plaintiff. Further, the defendant contended that he had obtained the suit schedule property by way of a Gift Deed dated 31.01.2009 and that he was in possession of the property.

5. To prove the case of the plaintiff, he examined himself as PW1 and got marked Ex.P1 to Ex.P14. The defendant examined himself as DW1 and no document was marked through him.



6. On the basis of the pleadings of the parties, the Trial Court framed the following issues:

- "1. Whether plaintiff proves that he is in peaceful possession and enjoyment of schedule property?*
- 2. Whether plaintiff proves that defendant is illegally interfering in plaintiff peaceful possession and enjoyment of the schedule property?*
- 3. Whether plaintiff is entitled for the reliefs sought for?*
- 4. What Order or Decree?"*

7. On appreciation of the oral and documentary evidence, the Trial Court answered issue Nos.1 to 3 in the affirmative and decreed the suit. Being aggrieved by the same, the defendant is before this Court.

8. Learned counsel appearing for the appellant-defendant contended that the plaintiff is not the owner of the suit schedule property and was not in possession of the same as on the date of filing of the suit. It was contended that the suit schedule property had been gifted



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by the father of the defendant to the defendant under a Gift Deed dated 31.01.2009 and that, from the date of the said gift deed, the defendant has been in the lawful possession of the property. It was further contended that the Trial Court, without considering this aspect of the matter, has erred in allowing the suit.

9. None appears for the respondent-plaintiff.

10. Heard the learned counsel for the appellant-defendant. Perused the judgment and decree and the original records.

11. The point that arises for consideration is:

"Whether the judgment and decree passed by the Trial Court suffers from perversity or illegality so as to call for interference by this Court."

12. The plaintiff has filed the suit for bare injunction, claiming that he has purchased the suit schedule property under a registered Sale Deed dated 12.09.1991. He has produced the certified copy of the said sale deed as per Ex.P13. He has examined himself as PW1 to prove that he



is in possession of the suit schedule property. He has also produced Ex.P1 and Ex.P2-Khata Certificates, Ex.P5-tax paid receipt, and Ex.P6-Sanctioned plan. The plaintiff has been cross-examined by the defendant before the Trial Court, nothing worthwhile has been elicited in the cross-examination to disprove the case of the plaintiff. The case of the defendant is that the suit schedule property was gifted by one Mohammed Hussain on 31.01.2009. To prove the same, the defendant has not entered into the witness box. Despite sufficient time being granted, he has neither entered the witness box nor made himself available for the cross-examination.

13. Since the defendant has failed to prove his case, the Trial Court, considering the evidence of PW1 and the documents produced by the plaintiff, has allowed the suit and granted an injunction. There is no error or illegality in the judgment and decree passed by the Trial Court. Accordingly, the appeal is ***dismissed***.



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14. This order will not come in the way of the appellant-defendant filing a comprehensive suit before the competent civil court in accordance with law, if law permits.

All pending IAs, if an, shall stand disposed of accordingly.

Digitally Signed by NARENDRA PRASAD
HAREKOPPA THIMMANNA GOWDA

(H.T. NARENDRA PRASAD)
JUDGE

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CT:SM
List No.: 1 Sl No.: 40