



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

DATED THIS THE 04<sup>TH</sup> DAY OF MARCH, 2026

BEFORE

**THE HON'BLE MR. JUSTICE E.S. INDIRESH**

**REGULAR SECOND APPEAL NO.1060 OF 2009 (INJ)**

**C/W**

**REGULAR SECOND APPEAL NO.1059 OF 2009**

**IN RSA No.1060/2009**

**BETWEEN:**

1. SRI.VENKATAPPA @ VENKATESHAPPA  
DECEASED BY LRS.
  - 1(a). NARAYANAMMA  
D/O LATE VENKATAPPA @ VENKATESHAPPA  
AGED ABOUT 52 YEARS.
  - 1(b). RAMANJINAMMA  
D/O LATE VENKATAPPA @ VENKATESHAPPA  
AGED ABOUT 45 YEARS.
  - 1(c). MUNIYAPPA  
S/O LATE VENKATAPPA @ VENKATESHAPPA  
AGED ABOUT 45 YEARS.
- APPELLANTS 1(a) TO 1(c) ARE  
R/AT GAJALADINNE VILLAGE,  
KASABA HOBLI,  
KOLAR TALUK AND DISTRICT.
2. SMT. LAKSHMAMMA  
W/O SRI. VENKATAPPA @ VENKATESHAPPA,  
AGED ABOUT 51 YEARS,  
R/AT GAJALADINNE VILLAGE,  
KASABA HOBLI, KOLAR TALUK,  
KOLAR DISTRICT - 563 101.

...APPELLANTS

(BY SRI. MURALI N., ADVOCATE)



**AND:**

1. NANDI NARAYANAPPA  
SINCE DECEASED REP. BY LRS.
- 1(a). SMT. MUNIVENKATAMMA  
W/O LATE NANDI NARAYANAPPA,  
AGED ABOUT 65 YEARS.
- 1(b). SMT. BATHEMMA  
W/O LATE NANDI NARAYANAPPA,  
AGED ABOUT 38 YEARS.
- 1(c). SMT. LAKSHMIDEVI  
D/O LATE NANDI NARAYANAPPA,  
W/O SEENAPPA,  
AGED ABOUT 36 YEARS.  
  
RESPONDANTS 1(a) TO 1(c) ARE  
R/AT GAJALADINNE VILLAGE,  
KASABA HOBLI, KOLAR TALUK,  
KOLAR DISTRICT.
- 1(d). SMT. RATHNAMMA @ PUTTI  
D/O LATE NANDI NARAYANAPPA,  
W/O VENKATARAVANAPPA (KSRTC DRIVER),  
AGED ABOUT 34 YEARS,  
R/O PEMMASHETTIHALLI VILLAGE,  
VAKKALERI HOBLI, KOLAR TALUK,  
KOLAR DISTRICT.
- 1(e). SMT. KALAVATHI  
D/O LATE NANDI NARAYANAPPA,  
W/O ANJINAPPA,  
AGED ABOUT 32 YEARS,  
R/O HOSAHALLI VILLAGE,  
MULABAGAL TALUK,  
KOLAR DISTRICT.
- 1(f). SMT. ROOPA  
D/O LATE NANDI NARAYANAPPA,  
W/O PRABHAKAR,  
AGED ABOUT 30 YEARS,



R/O SOLURU VILLAGE,  
HOSAKOTE TALUK,  
BENGALURU RURAL DISTRICT.

1(g). SRI. BABU  
S/O LATE NANDI NARAYANAPPA,  
AGED ABOUT 37 YEARS.

1(h). SRI. SOMASHEKHAR  
S/O LATE NANDI NARAYANAPPA,  
AGED ABOUT 30 YEARS.

1(j). SRI. GOPALA  
S/O LATE NANDI NARAYANAPPA,  
AGED ABOUT 25 YEARS.

RESPONDENTS 1(g) TO 1(j) ARE  
R/AT GAJALADINNE VILLAGE,  
KASABA HOBLI, KOLAR TALUK,  
KOLAR DISTRICT.

1(k). SMT. SUMITHRAMMA  
D/O LATE NANDI NARAYANAPPA,  
W/O THIPPANNA,  
AGED ABOUT 37 YEARS,  
R/O KADLIPURA VILLAGE,  
MULBAGAL TALUK,  
KOLAR DISTRICT.

1(l). SMT. MANJULA  
D/O LATE NANDI NARAYANAPPA,  
W/O RAMACHANDRAPPA,  
AGE: MAJOR,  
R/O MADAMUTTANAHALLI VILLAGE,  
BETHAMANGALA HOBLI, BANGARPET TALUK ,  
KOLAR DISTRICT.

...RESPONDENTS

(BY SRI. N SRINIVAS, ADVOCATE FOR R1(a) TO R1(d)  
AND R1(f) TO R1(k);  
V/O DATED 03.10.2017, NOTICE TO R1(e) IS HELD  
SUFFICIENT)



NC: 2026:KHC:13326  
RSA No.1060 of 2009  
C/W  
RSA NO.1059 OF 2009

THIS REGULAR SECOND APPEAL IS FILED UNDER SECTION 100 OF THE CODE OF CIVIL PROCEDURE AGAINST THE JUDGEMENT AND DECREE DATED 01<sup>ST</sup> JUNE, 2009 PASSED IN REGULAR APPEAL NO.159 OF 2007 ON THE FILE THE PRINCIPAL DISTRICT JUDGE, KOLAR, ALLOWING THE APPEAL AND SETTING ASIDE THE JUDGEMENT AND DECREE DATED 07<sup>TH</sup> FEBRUARY, 2007 PASSED IN ORIGINAL SUIT NO.250 OF 2003 ON THE FILE OF THE ADDITIONAL CIVIL JUDGE (JR.DN) AND JMFC., KOLAR.

**IN RSA NO.1059/2009**

**BETWEEN:**

SMT. LAKSHMAMMA  
W/O VENKATESHAPPA  
AGED ABOUT 51 YEARS,  
R/AT GAJALADINNE VILLAGE,  
KASABA HOBLI, KOLAR TALUK,  
KOLAR DISTRICT.

...APPELLANT

(BY SRI. MURALI N., ADVOCATE)

**AND:**

1. NANDI NARAYANAPPA  
SINCE DECEASED REP. BY LRS.
- 1(a). SMT. MUNIVENKATAMMA  
W/O LATE NANDI NARAYANAPPA,  
AGED ABOUT 65 YEARS.
- 1(b). SMT. BATHEMMA  
W/O LATE NANDI NARAYANAPPA,  
AGED ABOUT 38 YEARS.
- 1(c). SMT. LAKSHMIDEVI  
D/O LATE NANDI NARAYANAPPA,



W/O SEENAPPA,  
AGED ABOUT 36 YEARS.

RESPONDANTS 1(a) TO 1(c) ARE  
R/AT GAJALADINNE VILLAGE,  
KASABA HOBLI, KOLAR TALUK,  
KOLAR DISTRICT.

- 1(d). SMT. RATHNAMMA @ PUTTI  
D/O LATE NANDI NARAYANAPPA,  
W/O VENKATARAVANAPPA (KSRTC DRIVER),  
AGED ABOUT 34 YEARS,  
R/O PEMMASHETTIHALLI VILLAGE,  
VAKKALERI HOBLI, KOLAR TALUK,  
KOLAR DISTRICT.
- 1(e). SMT. KALAVATHI  
D/O LATE NANDI NARAYANAPPA,  
W/O ANJINAPPA,  
AGED ABOUT 32 YEARS,  
R/O HOSAHALLI VILLAGE,  
MULABAGAL TALUK,  
KOLAR DISTRICT.
- 1(f). SMT. ROOPA  
D/O LATE NANDI NARAYANAPPA,  
W/O PRABHAKAR,  
AGED ABOUT 30 YEARS,  
R/O SOLURU VILLAGE, HOSAKOTE TALUK,  
BENGALURU RURAL DISTRICT.
- 1(g). SRI. BABU  
S/O LATE NANDI NARAYANAPPA,  
AGED ABOUT 37 YEARS.
- 1(h). SRI. SOMASHEKHAR  
S/O LATE NANDI NARAYANAPPA,  
AGED ABOUT 30 YEARS.
- 1(j). SRI. GOPALA  
S/O LATE NANDI NARAYANAPPA,  
AGED ABOUT 25 YEARS.



RESPONDENTS 1(g) TO 1(j) ARE  
R/AT GAJALADINNE VILLAGE,  
KASABA HOBLI, KOLAR TALUK,  
KOLAR DISTRICT.

- 1(k). SMT. SUMITHRAMMA  
D/O LATE NANDI NARAYANAPPA,  
W/O THIPPANNA,  
AGED ABOUT 37 YEARS,  
R/O KADLIPURA VILLAGE,  
MULBAGAL TALUK,  
KOLAR DISTRICT.
- 1(l). SMT. MANJULA  
D/O LATE NANDI NARAYANAPPA,  
W/O RAMACHANDRAPPA,  
AGE: MAJOR,  
R/O MADAMUTTANAHALLI VILLAGE,  
BETHAMANGALA HOBLI,  
BANGARPET TALUK ,  
KOLAR DISTRICT.

...RESPONDENTS

(BY SRI. N. SRINIVAS, ADVOCATE FOR R1(a) TO R1(k))

THIS REGULAR SECOND APPEAL IS FILED UNDER SECTION 100 OF THE CODE OF CIVIL PROCEDURE AGAINST THE JUDGEMENT AND DECREE DATED 01<sup>ST</sup> JUNE, 2009 PASSED IN REGULAR APPEAL NO.87 OF 2008 ON THE FILE THE PRINCIPAL DISTRICT JUDGE, KOLAR, ALLOWING THE APPEAL AND SETTING ASIDE THE JUDGEMENT AND DECREE DATED 07<sup>TH</sup> FEBRUARY, 2007 PASSED IN ORIGINAL SUIT NO.168 OF 2003 ON THE FILE OF THE ADDITIONAL CIVIL JUDGE (JR.DN) AND JMFC., KOLAR.



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

CORAM: HON'BLE MR. JUSTICE E.S. INDIRESH

**ORAL JUDGMENT**

Regular Second Appeal No.1060 of 2009 is filed by the defendants in Original Suit No.250 of 2003 on the file of Additional Civil Judge (Jr.Dn.) and JMFC., Kolar (for short, hereinafter referred to as '*Trial Court*') challenging the judgment and decree dated 01<sup>st</sup> June, 2009 passed in Regular Appeal No.159 of 2007 on the file of the Principal District Judge, Kolar (for short, hereinafter referred to as '*First Appellate Court*'), wherein, the judgment and decree dated 07<sup>th</sup> February, 2007 passed in Original Suit No.250 of 2003 by the Trial Court came to be set-aside and consequently, the suit of the plaintiff was decreed.

2. Regular Second Appeal No.1059 of 2009 is filed by the plaintiff in Original Suit No.168 of 2003, challenging the judgment and decree dated 01<sup>st</sup> June, 2009 passed in Regular Appeal No.87 of 2008 by the First Appellate Court, wherein the judgment and decree dated 07<sup>th</sup> February, 2007 passed in Original Suit No.168 of 2003 came to be set-aside and consequently, the suit of the plaintiff was dismissed.



3. Since, the parties in these appeals are common and seeking relief of permanent injunction against each other, appeals are clubbed, heard and disposed of by a common judgment and decree.

4. The relevant facts for adjudication of Regular Second Appeal No.1059 of 2009 are as follows:

4.1. The plaintiff-Lakshamma filed Original No.168 of 2003 seeking relief of permanent injunction against the defendants *viz.*, Nandi Narayanappa and Munivenkatamma. It is the case of the plaintiff that the suit schedule property was granted in favour of the plaintiff during the year-1997 and as the defendants are trying to interfere with the peaceful possession, she filed Original Suit No.168 of 2003.

4.2. After service of the notice, defendants appeared through their counsel and filed written statement denying the averments made in the plaint. It is the specific case of the defendants that the suit schedule property was granted in favour of the defendant No.1-Nandi Narayanappa by the then B.D.O. on 29<sup>th</sup> September, 1997 and accordingly, they sought for dismissal of the suit.



4.3. Based on the pleadings on record, the Trial Court framed issues for its consideration.

4.4. In order to establish their case, plaintiff examined herself as PW1 and examined two other witnesses as PW2 and PW3 and got marked 4 documents as Exhibits P1 to P4. On the other hand, defendant No.1 examined himself as DW1 and examined one more witness as DW2 and got marked 4 documents as Exhibits D1 to D4.

4.5. The Trial Court, after considering the material on record, by its judgment and decree dated 07<sup>th</sup> February, 2007 decreed the suit and as such, restrained the defendants from interfering with the peaceful possession of the plaintiff over the suit schedule property. Being aggrieved by the same, defendant No.1 preferred Regular Appeal No.87 of 2008 before the First Appellate Court and same was resisted by the plaintiff. The First Appellate Court, after re-appreciating the material on record, by its judgment and decree dated 01<sup>st</sup> June, 2009 allowed the appeal and consequently set-aside the judgment and decree dated 07<sup>th</sup> February, 2007 passed by the Trial Court



in Original Suit No.168 of 2003. Being aggrieved by the same, the plaintiff preferred Regular Second Appeal No.1059 of 2009.

5. The relevant facts for adjudication of Regular Second Appeal No.1060 of 2009 are as follows:

5.1. The plaintiff-Nandi Narayanappa filed Original Suit No.250 of 2003 against the defendants viz., Venkatappa and Lakshmamma seeking relief of permanent injunction over the suit schedule property stating that the suit schedule property was granted to the plaintiff by the then B.D.O. during 1979 and as the defendants are trying to interfere with the peaceful possession, he filed Original Suit No.250 of 2003 seeking relief of permanent injunction.

5.2. After service of notice, defendants entered appearance and filed written statement denying the averments made in the plaint. In the written statement, defendants contended that the suit schedule property is granted in favour of the defendants during the year-1979 and therefore, sought for dismissal of the suit.

5.3. The Trial Court, based on the pleadings on record, framed issues for its consideration.



5.4. In order to establish their case, plaintiff himself examined as PW1 and examined 2 other witnesses as PW2 and PW3 and got marked 4 documents as Exhibits P1 to P4. On the other hand, defendant No.2 examined herself as DW1 and examined 2 other witnesses as DW2 and DW3 and got marked 12 documents as exhibits D1 to D12.

5.5. The Trial Court, after considering the material on record, by its judgment and decree dated 07<sup>th</sup> February, 2007 dismissed the suit. Being aggrieved by the same, the plaintiff preferred Regular Appeal No.87 of 2008 before the First Appellate Court. The First Appellate Court, after re-appreciating the material on record, by its judgment and decree dated 01<sup>st</sup> June, 2009, allowed the appeal and consequently decreed the Original Suit No.250 of 2003. Being aggrieved by the same, defendants preferred the Regular Second Appeal No.1060 of 2009.

6. This Court, by order dated 10<sup>th</sup> December, 2012 admitted the appeals to consider the following substantial questions of law:



- a) *Was the appellate Court justified in reversing the judgment and decree of the trial Court without looking into the Ex.D1 to D10 in O.S. No.250/2003 which clearly indicates the possession of the plaintiff in O.S. No.168/2003 as on the date of the suit?*
- b) *Was the appellate Court justified in allowing the appeal when the grant certificate issued by the then B.D.O in favour of the defendants in O.S. No.168/2003 creates doubt with regard to the genuineness of the grant certificate and the signature made therein does not tally with the signature of the then B.D.O.?*
- c) *Was the appellate Court justified in reversing the judgment and decree of the trial Court when admittedly the 1<sup>st</sup> defendant in O.S. No.168/2003 has not produced any documents to prove the suit schedule property and property of the Defendant No.1 are one and the same?*
- d) *To consider any other substantial question of law which may arise for consideration while hearing the appeal?*

7. Heard Sri. Murali N., learned counsel appearing for appellants and Sri. Srinivas N., learned counsel appearing for respondents.



8. Sri. N. Murali, learned counsel appearing for appellants contended that the suit schedule property was granted in favour of appellants during the year-1997 and accordingly, they are in possession of the suit schedule property. He further submits that, the defendants in Original Suit No.250 of 2003 disputed the title of the plaintiff therein and despite the same, the First Appellate Court wrongly interfered with the judgment and decree passed by the Trial Court, dismissing the suit of the plaintiff-Nandi Narayanappa. Accordingly, he, sought for interference of this Court.

9. Per contra, Sri. N. Srinivas, learned counsel appearing for respondents invited the attention of the court to Original Hakku Patra (Exhibit P4 in O.S. No.250/2003) issued by the then B.D.O. and argued that the respondents herein are in possession of the suit schedule property. Accordingly, he sought for dismissal of appeals.

10. In the light for the submission made by learned counsel appearing for the parties, I have carefully examined the finding recorded by both the Courts below and perused the original records.



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11. The respondents herein are claiming right over the suit schedule property based on the Hakku Patra (Exhibit P4 in O.S. No.250/2003). Perusal of the said Hakku Patra as well as the finding recorded by the Trial Court at Paragraph 13 in Original Suit No.250 of 2003 would makes it clear that there is a discrepancy in respect of issuing of such Hakku Patra/Grant Certificate by then B.D.O. It is also to be noted that the appellants herein, being a defendants in Original Suit No.250 of 2003, have specifically pleaded in the written statement disputing the title of the plaintiff-Nandi Narayanappa. In that view of the matter, the plaintiff-Nandi Narayanappa ought to have converted the suit for permanent injunction into a suit for declaration in terms of law declared by Hon'ble Supreme Court in the case of **ANATHULA SUDHAKAR vs. P. BUCHI REDDY (DEAD) BY LRS AND OTHERS** reported in (2008) 4 SCC 594. Therefore, since the respondents herein, being a legal representatives of Nandi Narayanappa (Plaintiff in O.S. No.250/2003) have to prove the title in respect of the suit schedule property and on the other hand appellants herein, being a defendants in Original Suit No.250 of 2003 claiming right over the property as per grant made during the year-1997



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in their favour and that apart, the defendants have produced the Tax receipts, which are marked as Exhibits D9 to D11, which makes it clear that the defendants (appellants herein) are in possession of the suit schedule property. In that view of the matter, substantial questions of law framed by this Court favour the appellants herein. In the result, I pass the following:

**ORDER**

- i) Regular Second Appeals are ***allowed;***
- ii) Judgment and decree dated 01<sup>st</sup> June, 2009 passed in Regular Appeal Nos.159 of 2007 and 87 of 2008 on the file of the Principal District Judge, Kolar is hereby set-aside; consequently, judgment and decree dated 07<sup>th</sup> February, 2007 passed in Original Suit Nos.250 of 2003 and 168 of 2003 on the file of the Additional Civil Judge (Jr.Dn.) and JMFC., Kolar is hereby confirmed and legal representatives of the defendant No.1 in Original Suit No.168 of 2003 are restrained from interfering with the suit schedule property.

**SD/-  
(E.S. INDIRESH)  
JUDGE**

ARK  
List No.: 1 Sl No.: 53