



CNR: KAHC010532152012

NC: 2026:KHC:53349
RFA No. 1121 of 2012

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MS. JUSTICE JYOTI M

REGULAR FIRST APPEAL NO. 1121 OF 2012 (INJ)

BETWEEN:

SMT. RADHA KUMAR,
W/O. SRI. K.N.KUMAR,
AGED MAJOR,
R/AT NO.48, 13TH CROSS,
4TH TEMPLE STREET,
MALLESWARAM,
BENGALURU-560003.

...APPELLANT

(BY SRI. R.S.RAVI, SENIOR ADVOCATE FOR
SRI. AKARSH KUMAR GOWDA, ADVOCATE)

AND:

1. SRI. NARAYANAPPA
SINCE DEAD BY LRS.

1(A) KUM. ARPITHA,
D/O. LATE NARAYANAPPA,
AGED ABOUT 28 YEARS,
R/AT NO.6, 17TH MAIN ROAD,
NEAR BASHA SHOP,
J.C.NAGAR,
MAHALAKSHMIPURAM,
BENGALURU-560086.

2. SRI. LAKSHMIKANTHA REDDY,
AGED MAJOR,
EX-MEMBER OF NAGARASABHE,
DASARAHALLI,
R/AT NARASIMHASWAMY BADAVANE,



NC: 2026:KHC:53349
RFA No. 1121 of 2012

CNR: KAHC010532152012

NEAR ALADAMARA(OLD BUS STOP CIRCLE),
LAGGERI, BENGALURU-86

3. SMT. K.USHA,
W/O. NARAYANAPPA,
SINCE DEAD BY LRS
- 3(A) KUM. ARPITHA,
D/O. LATE NARAYANAPPA,
AGED ABOUT 28 YEARS,
R/AT NO.6, 17TH MAIN ROAD,
NEAR BASHA SHOP,
J.C.NAGAR,
MAHALAKSHMIPURAM,
BENGALURU-560086.
4. SMT. KEMPAMMA,
W/O. LATE CHIKKARANGAPPA,
AGED ABOUT 66 YEARS,
R/AT NO.15/1, 2ND CROSS,
MALLESHWARAM,
BENGALURU-560003.

...RESPONDENTS

(BY SRI. SUNIL KUMAR PATEL, ADVOCATE FOR R1(A);
VIDE ORDER DATED 18.02.2014,
NOTICE TO R2 IF HELD SUFFICIENT;
VIDE ORDER DATED 24.05.2023;
R1(A) IS THE LR OF DECEASED R1 AND R3;
R4 SERVED AND UNREPRESENTED)

THIS REGULAR FIRST APPEAL IS FILED UNDER SECTION
96 OF THE CODE OF CIVIL PROCEDURE.

THIS REGULAR FIRST APPEAL HAVING BEEN HEARD AND
RESERVED FOR JUDGMENT ON 11.09.2026, THIS DAY, AN
JUDGMENT IS PRONOUNCED AS UNDER:



CNR: KAHC010532152012

NC: 2026:KHC:53349
RFA No. 1121 of 2012

CAV JUDGMENT

Sri.R.S.Ravi., Senior counsel on behalf of Sri.Akarsh Kumar Gowda., for the appellant and Sri.Sunil Kumar Patel., counsel for respondent No.1(A) appeared in person.

2. The plaint averments are as under.

It is stated that the plaintiff purchased the site bearing No.17 in Survey No.70/2, Khata No.KA 462, Ward No.30, measuring East to West 40 feet and North to South 30 feet, building 10 x 12 (15) ACC, situated at Laggere Village, Yeshwanthpura Hobli, Bengaluru. The Boundaries: East – Site No.9, West - Road, North- Site No.8, South- Site No.16 from Smt.Kempamma on 30.05.1992 through a general power of attorney, as the Government had then stopped registering revenue sites. Immediately after the purchase, she constructed a 10 x 12 house on the said site. After the construction of the house on the suit schedule property, the Government of Karnataka issued a notification stating that unauthorized constructions on the



CNR: KAHC010532152012

revenue sites would be regularized and that aggrieved persons had to submit applications with the required documents within the stipulated period. Under these circumstances, the plaintiff submitted the prescribed application with the necessary documents called for to the Tahsildar in 1994. The plaintiff states that she applied to the Nagara Sabha to transfer the khata of the suit property to her name after paying the prescribed fees. On payment of the prescribed fees, the Nagara Sabha issued the khata in her favor in 1998. It is also stated that the local authority issued a No Objection Certificate in 1997 in her favor to obtain an electricity connection. She has also paid the betterment charges for the suit schedule property and has paid up-to-date tax on the suit schedule property.

As the matter stood, the defendants are strangers to her, have no right, title, or interest in the suit schedule property, and have obstructed her possession. Hence, she was constrained to file a suit seeking a permanent injunction. After the suit was filed, during its pendency, an



CNR: KAHC010532152012

amendment was sought to seek the relief of declaration and possession. Accordingly, the plaintiff filed a comprehensive suit for declaration, possession, and injunction.

After the summons was issued, the defendants appeared and filed their written statement. The first defendant denied the plaint averments and prayed for the dismissal of the suit. The second defendant filed a detailed written statement and contended that he sold the property to the third defendant. i.e., Smt.Usha under a registered sale deed dated 29.07.2004 for valuable consideration. Thus, she became the absolute owner of the property and is in constructive possession and enjoyment of the same. On other grounds, he prayed for dismissal of the suit. The third defendant filed a detailed written statement and denied the plaint averments. She contended that she became the absolute owner of the property, as the second defendant executed a sale deed in her favor; she denied the plaintiff's right, title, and interest in the suit schedule



CNR: KAHC010532152012

property. It is also contended that the plaintiff must pay additional court fee on the market value of the schedule property which is at Rs.7,80,000/-. Urging other grounds, she prayed for the dismissal of the suit.

The 4th defendant, Smt.Kempamma filed a detailed written statement, as follows.

She submitted that Chowdappa, the father of the second defendant, owned the land bearing Survey No.70/2, measuring 2 acres 10 guntas, situated at Laggere village, Yeshwanthpura Hobli, Bengaluru, and that he had entered into an agreement of sale with Eraiah. Under the said agreement of sale, all his sons were signatories. Since Chowdappa did not come forward to execute the sale deed under the agreement to sell, the agreement holder issued a legal notice through his advocate in 1983, calling upon him and his sons to execute a registered sale deed. At this juncture, the Kempamma's husband, K.P.Chikkarangappa, approached



CNR: KAHC010532152012

Chowdappa to purchase the land bearing Survey No.70/2. Since Chowdappa and his sons had already executed an agreement to sell in favor of Eraiah, they requested K.P.Chikkarangappa to return the sale advance of Rs.10,000/- to Eraiah to cancel the sale agreement. Accordingly, her husband, paid Rs.10,000/- to Eraiah, and Eraiah executed a valid receipt on 04.05.1983 in favor of the husband of Smt.Kempamma for having received the said amount. Thereafter, Chowdappa and his sons put Smt.Kempamma's husband into possession of the land bearing Survey No.70/2 in 1983, and thereafter K.P.Chikkarangappa formed a layout and created residential sites in the said land.

As the land continued to be in the name of Chowdappa in the RTC extracts, he, along with his sons, executed a GPA in favor of Mysore Road Industrial Employees' House Building Co-operative Society and Malleshwaram Tailoring Co-operative Society, represented



CNR: KAHC010532152012

by their Secretary, for the sites formed out of the land bearing Survey No.70/2.

The society came into possession of the Sites formed on the said land; thereby, Chowdappa and his sons lost their right, title, and interest in the suit schedule property in 1983 itself. It is stated that some of the site owners who purchased the sites from the said society got their sale deeds registered at Madras.

In 1992, the Malleshwaram Tailoring Co-operative Society, represented by its secretary, executed a GPA in favor of defendant No.4 in respect of the suit schedule property, i.e., Site No.17 and also Site No.18, and accordingly, Smt.Kempamma was put in possession of the said sites. On the strength of the GPA dated 25.02.1992, she executed a GPA in favor of the plaintiff on 30.05.1992, upon receipt of Rs.35,000/-. Therefore, it is contended that the plaintiff was not the owner of the property and had only the power of attorney to deal with the property.



CNR: KAHC010532152012

NC: 2026:KHC:53349
RFA No. 1121 of 2012

On other grounds, she has prayed for the dismissal of the suit.

The Trial Court framed the issues, and the parties exhibited the documents, which were marked. The Trial Court dismissed the suit. Under these circumstances, the plaintiff has filed an appeal under Section 96 of the CPC on several grounds as outlined in the appeal memo.

3. Submissions of Counsel for the Appellant:

Senior counsel urged that the Judgment and Decree of the Trial Court are contrary to law and facts. It is contended that the plaintiff became the owner of the property in question by virtue of the power of attorney executed by Smt.Kempamma; the Trial Court erred in not declaring her as the owner. Counsel submits that the plaintiff has constructed a building measuring 10 x 12 and has paid taxes to the concerned authorities. It is further contended that the plaintiff has been living continuously in the scheduled property since 1988, and therefore, the Trial



CNR: KAHC010532152012

Court ought to have decreed the suit. Urging additional grounds, it is submitted that, viewed from any angle, the Judgment and Decree of the Trial Court are unsustainable in law; hence, the appeal deserves to be allowed. Lastly, it is further contended that the application seeking production of additional documents is filed and the same may be allowed.

Submissions of Counsel for the Respondent

No.1(A):

Conversely, counsel for respondent No.1(A) defended the Trial Court's Judgment and Decree. It is contended that Smt.Kempamma, arrayed as the fourth defendant, filed a detailed written statement narrating that the second defendant sold the property in favor of the third defendant. It is argued that the plaintiff is not the owner of the property, as she holds only a power of attorney. It is vehemently contended that the second defendant executed a registered sale deed in favor of the third



CNR: KAHC010532152012

defendant, thereby vesting ownership in her. The plaintiff cannot, in law, become the owner of the property merely by virtue of the power of attorney. Urging other contentions, counsel submits that the appeal is devoid of merit and must be dismissed. Lastly, it is submitted that the application for the production of the additional documents be dismissed.

Counsel placed reliance on the following decisions:

1. *SMT.SUMITRA BAI VS P.SIDDESH AND ANOTHER, 2013 SCC ONLINE KAR 9886.*
2. *UNION OF INDIA AND OTHERS VS VASAVI CO-OPERATIVE HOUSING SOCIETY LIMITED AND OTHERS (2014) 2 SCC 269.*
3. *RAMESH CHAND (D) THE LR'S VS SURESH CHAND AND ANOTHER, 2025 LIVELAW (SC) 862.*
4. *GOBIND SINGH AND OTHERS VS. UNION OF INDIA AND OTHERS, 2026 LIVELAW (SC) 221.*
5. *STATE OF KARNATAKA AND ANOTHER VS. K. C. SUBRAMANYA AND OTHERS, (2014) 13 SCC 468.*



CNR: KAHC010532152012

NC: 2026:KHC:53349
RFA No. 1121 of 2012

4. Heard arguments from both sides and carefully perused the records.

5. The following points arise for determination:

- 1. Whether the plaintiff has established ownership of the suit property by virtue of the power of attorney executed by Smt.Kempamma.*
- 2. Whether possession and construction by the plaintiff confer ownership rights.*
- 3. Whether the Trial Court's Judgment and Decree are sustainable in law.*
- 4. Whether the application filed under Order 41 Rule 27 of CPC be allowed.*

6. The facts are sufficiently stated and do not require repetition. The rival contentions turn upon the legal effect of the power of attorney vis-à-vis the registered sale deed in favor of the third defendant, and the trial court's findings on possession and ownership.



CNR: KAHC010532152012

NC: 2026:KHC:53349
RFA No. 1121 of 2012

On careful consideration of the rival submissions and the records, it is evident that the plaintiff rests her claim of ownership solely on the power of attorney executed by Smt.Kempamma. It is trite law that the power of attorney, by itself, does not convey title to immovable property. Ownership can be transferred only by a registered sale deed executed under the Transfer of Property Act and the Registration Act.

This Court has perused the records carefully. Ex.P1 is the irrevocable power of attorney executed by Smt.Kempamma. It is dated 30.05.1992. It is noted that Smt.Kempamma authorized the plaintiff to handle the property and build the structure. The property was not transferred to the plaintiff via the attorney; additionally, Smt.Kempamma did not hold any ownership title to the property. In her written statement, she mentioned that the society had executed a power of attorney in her favor. Therefore, the argument that the plaintiff became the owner through the GPA is unsupported. Since the plaintiff



CNR: KAHC010532152012

has not obtained valid ownership, paying the fixed property tax and having the property in her name do not support her claim.

The material on record discloses that the second defendant executed a registered sale deed in favor of the third defendant.

Ex.D1 is the sale deed. Such a registered instrument vests ownership in the vendee. The plaintiff, having only the power of attorney, cannot claim ownership rights over the property.

A considerable argument is canvassed regarding the differences between the property purchased by the plaintiff and that of the third defendant. The plaintiff has strenuously urged that the vendor, Laxmikanth Reddy, had no title to sell the suit-scheduled property, yet sold it to Smt.Usha in 2004. Senior counsel drew the Court's attention to the descriptions of the two properties. The contentions are noted with care. A perusal of the records



CNR: KAHC010532152012

reveals that the suit site and the property purchased by the third defendant under Ex.D1, i.e., the registered sale deed dated 29.07.2004, are the same, i.e., site No.17 formed in Sy.No.70/2 of Laggere village. The boundaries in the plaint schedule and the schedule in the sale deed Ex.D.1 are the same.

It is noted that by amending the plaint, the plaintiff sought a declaration and possession from the third defendant, thereby demonstrating that she is out of possession.

Even if accepted, the plaintiff's plea of possession and construction cannot override the legal requirement of title. Mere possession or payment of taxes does not confer ownership in the absence of a valid conveyance. The Trial Court, therefore, rightly held that the plaintiff is not the owner of the property.



CNR: KAHC010532152012

Viewed thus, the Judgment and Decree of the Trial Court are in consonance with settled principles of law. The appellant's contentions do not merit acceptance.

7. Lastly, let me consider the application filed under Order 41 Rule 27 of the CPC. Two applications are filed by Smt.Radha Kumar, the plaintiff/ appellant, has sworn a declaration of facts in the form of an affidavit. She stated that she is in possession of the property and that, during the pendency of the proceedings, the area of the property has been merged with the BBMP; she has obtained the khata certificate, and she has paid the tax. Therefore, she may be permitted to be produced as additional evidence. Respondent No.1(A) has filed objections to the application.

The Court has thoroughly reviewed the applications and objections. The Court has decided that mere possession of property or payment of taxes does not establish ownership without a valid conveyance.



**NC: 2026:KHC:53349
RFA No. 1121 of 2012**

CNR: KAHC010532152012

Consequently, the additional documents do not help the plaintiff to establish title. Accordingly, the applications are rejected.

8. Accordingly, the Court holds: The appeal is devoid of merit. The Trial Court's Judgment and Decree are affirmed.

9. Resultantly, the appeal stands ***dismissed***.

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

**SD/-
(JYOTI M)
JUDGE**

SS/MRP
List No.: 1 Sl No.: 1