



CNR: KAHC010561232018

NC: 2026:KHC:36492
RSA No. 523 of 2018

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 14TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

REGULAR SECOND APPEAL NO. 523 OF 2018 (INJ)

BETWEEN:

SRI. JAYARAMAIAH,
S/O LATE HANUMAPPA,
AGED ABOUT 66 YEARS,
R/O KOLAVANAHALLI VILLAGE,
SRIRAMPURA POST, NANDI HOBLI,
CHICKBALLAPUR TALUK - 562 101,
CHICKBALLAPUR DISTRICT.

SINCE DEAD BY LR'S

- a. SMT.RATHNAMMA K.S.,
W/O LATE JAYARAMAIAH K.H.,
AGED ABOUT 70 YEARS,
- b. SRI.MURTHY KUMAR J.,
S/O LATE JAYARAMAIAH K.H.,
AGED ABOUT 50 YEARS,
- c. J.VISHWANATH,
S/O LATE JAYARAMAIAH K.H.,
AGED ABOUT 38 YEARS,
- d. J.SUDHA @ SUDHAMANI,
D/O LATE JAYARAMAIAH K.H.,
AGED ABOUT 55 YEARS,

Digitally signed
by
SHARADAVANI
B
Location: High
Court of
Karnataka





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APPLICANTS 1 TO 4 ARE
R/O KOLAVANAHALLI VILLAGE,
SRIRAMPURA POST, NANDI HOBLI,
CHICKBALLAPUR - 562 101.

- e. KALAVATHI,
D/O LATE JAYARAMAIAH K.H.,
AGED ABOUT 51 YEARS,
R/O THANISANDRA MAIN ROAD,
NEAR ASHWATHKATE,
VTC BENGALURU NORTH,
BENGALURU - 560 077.

...APPELLANTS

(BY SRI. JAI PRAKASH REDDY M., ADVOCATE FOR A1(A TO E))

AND:

SRI. MUNIYAPPA,
S/O LATE SULALAPPA,
AGED ABOUT 76 YEARS,
R/O KOLAVANAHALLI VILLAGE,
SRIRAMPURA POST, NANDI HOBLI,
CHICKKABALLAPUR TALUK - 562 101,
CHICKKABALLAPUR DISTRICT.

...RESPONDENT

(BY SRI.K.N.NITHISH, ADVOCATE FOR
SRI.K.V.NARASIMHAN, ADVOCATE)

THIS RSA IS FILED UNDER SECTION 100 OF CPC,
AGAINST THE JUDGMENT AND DECREE DATED 28.10.2017
PASSED IN R.A.NO.10/2016 ON THE FILE OF THE 1st
ADDITIONAL SENIOR CIVIL JUDGE AND JMFC,
CHICKBALLAPUR, DISMISSING THE APPEAL AND CONFIRMING
THE JUDGMENT AND DECREE DATED 30.10.2015 PASSED IN



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O.S.NO.179/1995 ON THE FILE OF THE PRINCIPAL CIVIL JUDGE AND JMFC, CHIKKABALLAPUR.

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

CORAM: HON'BLE MR. JUSTICE V SRISHANANDA

ORAL JUDGMENT

1. Heard Sri. Jai Prakash Reddy, learned counsel for the appellants and Sri. K.N. Nithin for Sri. K.V. Narasimhan, learned counsel for the respondent.

2. The present second appeal is by the plaintiff challenging the decreeing of the suit in part in O.S. No.179/1995, confirmed in R.A.No.10/2016.

3. Facts of the case are as under :

3.1 A suit in O.S. No.179/1995 was filed by the appellant herein in respect of the following property with a prayer for grant of permanent injunction.



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SCHEDULE

Out of survey No. 153 measuring to an extent of 2 acres and out of survey No.78 to an extent of 10 guntas, which form a compact block situated at Kolavanahlli Village, Nandi Hobli, Chikkaballapur Taluk, both the survey Nos. are commonly bounded on the

*East by: Road,
West by: Munibachappa's land
North by : Hanumanthappa's land
South by : Munimarappa's land*

3.2 Suit on contest came to be decreed in part. The operative portion of the judgment reads as under:

"The suit of the plaintiff is hereby partly decreed.

The defendant is men and agents are restrained from interfering with Plaintiff's possession and enjoyment of 2 acres of land in SY.No.153 (part of the suit schedule property only) permanently.

Under the circumstances of the case, no order as to costs."

3.3. Plaintiff being not satisfied with decreeing the suit in part, filed an appeal in R.A. No.10/2016.

3.4. Learned Judge in the First Appellate Court after securing the records noted the pending proceedings before



this Court in W.P. No.14764/2012, concurred with the decreeing the suit in part and dismissed the appeal.

4. Being further aggrieved by the same, plaintiff has filed the present second appeal on following grounds:

- *The Judgment and Decree passed by the lower appellate court is illegal and arbitrary and without jurisdiction.*
- *The courts below have failed to see that the suit schedule property was in possession of the vendor of appellants vendor i.e. much prior to the respondent filing application for grant of the land and the same was registered in favor of the appellant. Hence the appellant is in possession of the suit schedule property. Hence the impugned Judgment and decree are illegal and arbitrary.*
- *The courts below have failed to see that the appellant is the owner of the land bearing Sy. No.153 measuring 2 acres and the land bearing Sy. No.78 is situated on the southern side of the land bearing Sy. No.153 and the respondent is not owner of any adjacent land. Hence the courts below ought to come to the conclusion that the appellant is in possession of the land bearing Sy. No.78 measuring 10 guntas.*
- *The courts below have failed to see that the said the appellant is in possession of the suit schedule property as*



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owner of adjacent land. That during the life time of the vendor of appellants vendor, then the vendor of appellant and now the vendor is in possession of the entire suit schedule property. Hence the appellant has clearly established that he is in peaceful possession and enjoyment of the entire suit schedule property.

- *The Courts below have failed to see that as no proper and sufficient opportunity is provided to the appellant, it was not possible for the appellants to bring real facts to the notice of the Hon'ble court. Hence there was miscarriage of justice.*
- *The courts below have not properly appreciated the oral and documentary evidence produced by the appellants, hence erred in passing the impugned judgments.*
- *That now by virtue of the order dated 15-11-2017 in W.P. No.22986/2012 and connected case's, the order of the Karnataka Appellate Tribunal in R.P. No.10, 11, 12/2005 is quashed and directed the assistant commissioner to consider the applications of all the parties together for grant of the land. Hence the appellant is entitled for Decree of Permanent Injunction. Hence without considering all the aspects and without properly appreciating the facts, oral and documentary evidence and the legal propositions has passed the impugned judgment which is not sustainable in the eye of law.*



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5. Sri. Jai Prakash Reddy, learned counsel for the appellants reiterating the grounds urged in the appeal memorandum would contend that both the Courts have not properly appreciated the scope and ambit of the prayer made in the suit and decreeing the suit in part has resulted in miscarriage of justice and sought for admission of the appeal on the following substantial questions of law:

(a) Whether the courts below are justified in passing the Judgment and Decree based on an order passed by the Karnataka Appellate Tribunal, when the same was under challenge before the Hon'ble High Court of Karnataka?

(b) Whether the courts below are justified in not considering that the appellant is in possession of the suit schedule property much prior to the alleged order of grant in favor of the respondent?

(c) Whether the courts below are justified in not considering the registered sale deed on the strength of which the appellant is claiming possession of the suit schedule property, for passing the Judgment and Decree ?

(d) whether the courts below are justified in considering the document i.e. order of the Karnataka



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Appellate Tribunal in passing the judgment and decree before it has attained finality?

(e) Whether the courts below are justified in passing the judgment and decree without affording proper and sufficient opportunity to the appellants to bring true and correct facts to the notice of the Hon'ble Court.

6. Per contra, Sri. K.N. Nithish, opposes the appeal grounds and supports the impugned judgment.

7. Sri. Nithish would submit that if the granting authority has improperly granted the land to the defendant as is contented by the plaintiff, forum lies elsewhere for which already the plaintiff has taken recourse to the writ jurisdiction. Till said proceedings are decided, the validity of grant made in favour of the defendant cannot be re-agitated before the Civil Court that too by filing a suit for bare injunction and sought for dismissal of the appeal.

8. Having heard the arguments of both sides, this Court perused the material on record meticulously.



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9. On such perusal of the material on record, it is noticed that grievance of the plaintiff is rejection of his application for grant of land and granting the land in favour of the defendant.

10. Plaintiff contended that defendant has suppressed the material facts and though he is not entitled for any grant, had the benefit of grant of land. Therefore it is the plaintiff who was in possession of the land which could not have been granted in favour of defendant and thus sought for decreeing suit in *toto*.

11. Admittedly, the application filed by the plaintiff seeking grant of land is rejected whereas application seeking grant of land by defendant is allowed and defendant is granted the land which is in occupation of the defendant.

12. In respect of the same, parties have already approached this Court in W.P. No.14764/2012. The Order



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passed by the learned single Judge W.P. No.14764/2012 is now subject matter of the writ appeal in WA No.14/2018.

13. Thus, the grievances of the plaintiff needs to be worked out in the pending writ appeal and grant made to the defendant cannot be questioned before the Civil Court, that too by filing a suit for bare injunction.

14. Moreover, Civil Courts are not expected to find out the validity of the grant of land, as it is the exclusive arena of the revenue course.

15. Thus, decreeing the suit in part by the learned trial Judge confirmed by the First Appellate Court needs no interference that too in the second appeal having regard to scope of Section 100 of the Code of Civil Procedure. There is no merit in the substantial questions of law raised in the appeal memorandum.



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16. As such, following order:

ORDER

- (i) Admission declined.
- (ii) Regular Second Appeal is ***dismissed***.
- (iii) It is made clear that the parties are bound by the judgment that would be passed in pending writ appeal. Needless to emphasize that parties are bound by the judgment.

**Sd/-
(V SRISHANANDA)
JUDGE**

SNC
List No.: 1 Sl No.: 70