



CNR: KAHC010592462022

NC: 2026:KHC:40779
RSA No. 1861 of 2022

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 3RD DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

REGULAR SECOND APPEAL NO. 1861 OF 2022

BETWEEN:

SRI M THULASIDAS K BAJAJ
S/O LATE KISHAN CHARID BAJAJ
AGED ABOUT 81 YEARS,
R/AT NO.104, KALANJALLI
APARTMENT,
K G COLONY G M PALYA
BENGALURU

...APPELLANT

(BY SRI. PRAKASH B.N., ADVOCATE)

AND:

1. THE ASSISTANT COMMISSIONER / CHIEF OFFICER
TOWN MUNICIPAL COUNCIL
NELAMANGALA TOWN
BENGALURU RURAL DISTRICT

2. M/S EVEREST BOREWELL SERVICE
R/AT NO.11012
2ND MAIN ROAD,
3RD CROSS, CHAMARAJPET
BENGALURU
REPRESENTED BY ITS PROPRIETOR

...RESPONDENTS

(BY SRI. R. KALYAN, ADVOCATE FOR R1 (VK NOT FILED)

R2 - NOTICE DISPENSED WITH)

Digitally
signed by
MALATESH
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Location:
HIGH
COURT OF
KARNATAKA



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THIS RSA IS FILED UNDER SECTION 100 OF CPC, AGAINST THE JUDGMENT AND DECREE DATED 18.08.2022 PASSED IN RA.NO.2/2017 ON THE FILE OF THE ADDL. SENIOR CIVIL JUDGE, NELAMANGALA DISMISSING THE APPEAL AND CONFIRMING THE JUDGMENT AND DECREE DATED 30.08.2016 PASSED IN O.S.NO.142/2008 ON THE FILE OF THE ADDL. CIVIL JDUGE AND JMFC, NELAMANGALA.

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. Prakash B.N., learned counsel for the appellant and Sri. R. Kalyan, learned counsel for the respondents.

2. Unsuccessful plaintiff is the appellant challenging the dismissal of the suit for bare injunction confirmed by the First Appellate Court.



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3. Facts of the case are as under ;

3.1. A suit for permanent injunction came to be filed stating that defendants are interfering with the peaceful possession and enjoyment of the suit property.

3.2. There is no dispute that the plaintiff is the owner of the suit property which was an agricultural land measuring 5-00 acres. Plaintiff applied for conversion of the land for non-agricultural purpose. One of the conditions imposed while permitting the conversion of the land usage was that the Roads, Civic amenities areas etc. are to be relinquished in favour of the City Municipal Council, Nelamangala. Without complying the said condition, plaintiff said to have developed the suit property.

3.3. It is his case that if the condition is violated by the plaintiffs, the remedy lies elsewhere and his possession or the suit property cannot be interfered and therefore approached the Trial Court for the relief of



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permanent injunction. The suit on contest came to be dismissed.

3.4. Being aggrieved by the same, plaintiff filed the appeal before the First Appellate Court. Learned Judge in the First Appellate Court after securing the records, heard the arguments of the parties and dismissed the appeal of the plaintiff.

4. Being further aggrieved by the same, plaintiff has filed the present second appeal before this Court on following grounds and substantial questions of law:

GROUND:

- *The Judgment and Decree passed by the trial court and the lower Appellate Court in R.A. No. 02 / 2017 is illegal, perverse and opposed to the law, facts and probabilities of the case.*
- *The Trial court as well as the Lower Appellate Court erred in dismissing the suit as the documents produced by the plaintiff not only establish the title of the Plaintiff but also establish the lawful possession of the Plaintiff over the Schedule Property.*



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- *The Trial court having come to the conclusion that "as per Ex.P23, 24 and 25, the Plaintiff had acquired the suit Schedule Property and was in lawful possession of the same and further Ex.P.1 also supports the claim that he was the lawful owner and possession of the suit Schedule Property till the date of conversion order", ought to have decreed the suit.*
- *The Trial court as well as the Lower Appellate Court erred in coming to the conclusion that "on bare perusal of the conversion order (Ex.P2) that it is crystal clear that the Plaintiff has relinquished his right, over the roads, civil amenity area for free of costs and as per the rules TMC has exclusive right over the roads, civic amenity area and thereby the Plaintiff has lost right of claiming that he is the absolute owner in possession of the Suit Schedule Property" completely ignoring that the clause in the conversion order does not impede or affect the title of the plaintiff in the absence of registered relinquishment deed in favour of the Defendant.*
- *The trial court and the Lower Appellate Court erred in coming to the conclusion that the Plaintiff has sold certain sites and therefore, he is not the absolute owner of the Schedule Property completely ignoring that the plaintiff is entitled to protect his rights as well as the rights of his transferees.*



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- *The Trial court and the Lower Appellate Court erred in coming to the conclusion that as per Ex.P2, the TMC has inherent right over the civil amenity area and can do anything that specific area in the interest of public at large and relinquishment deed is not need to convey the right to the TMC once again completely ignoring that the right in immovable property will not be transferred without a registered instruments as per the Section 17 of the Registration Act.*
- *The Trial court and the Lower Appellate Court failed to notice that in the cross examination of Defendant's witness has admitted that at the time of sanction of the layout plan, for CA sites, TMC will take registered relinquishment deeds and inspite of the said admission, the trial court erred in dismissing the suit.*
- *The Trial court and the Lower Appellate Court erred in coming to the conclusion that though EX.P23 to 25 shows absolute ownership of plaintiff over the suit Schedule Property, the same is taken over by Ex.P2 as EX.P2 does not divest anyone's title and it only permits conversion from agricultural to non agricultural purpose.*
- *The lower appellate court having come to the conclusion that the relinquishment deed is required for transfer of title, ought to have decreed the suit.*
- *The Lower Appellate Court erred in relying upon the condition No.12 of the conversion order to come to the*



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conclusion that the Plaintiff is not entitled to the relief without challenging condition No.12.

- *The Lower appellate court ought to have noticed that Condition No.12 is not imposed by Defendant No.1 and therefore, there is no question of challenging the same.*
- *The judgment of the Trial court and the Lower Appellate Court is otherwise bad in law and liable to be set aside.*
- *The Plaintiff seeks leave of the court to urge additional grounds at the time of hearing.*
- *The Trial Court has pronounced the judgment on 18.8.2022 and the Certified copy of the application was filed on 22.8.2022 and the copy was delivered on 15.09.2022. Therefore, there is a 15 delay in filing the appeal.*
- *The Plaintiff has valued the appeal as per the valuation slip annexed hereto.*

SUBSTANTIAL QUESTIONS OF LAW:

1. Whether the Lower Appellate Court justified in confirming the judgment of the Trial court after having come to the conclusion that the relinquishment deed is required for transfer of title?



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2. Whether the Trial court as well as Lower Appellate Court justified in dismissing the suit relying upon Clause 12 of the Conversion order (Ex.P2) on the ground that the said condition has not been challenged?

2. Whether the Trial Court and the Lower Appellate Judge is justified in dismissing the suit for injunction inspite of the fact that the Plaintiff has not only proved the title and possession over the suit Schedule Property?

5. Sri Prakash B.N., learned counsel for the appellants reiterating the grounds urged in the appeal memorandum would contend that if there is a violation of condition in the conversion order, defendant cannot interfere with the peaceful possession and enjoyment of the suit property and therefore sought for admitting the appeal on the aforesaid substantial questions of law.

6. Per contra, Sri. R. Kalyan would contend that unless the conditions are fulfilled, very conversion order itself cannot be taken advantage of by the plaintiff and therefore both the Courts were justified in directing the plaintiff to adhere to the conditions of the conversion order



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and rightly dismissed the suit of the plaintiff and sought for dismissal of the appeal.

7. Having heard the arguments of both sides, this Court does not find any dispute with regard to the title of the plaintiff in respect of the property for which he was the owner of the property.

8. Admittedly, 5-00 acres of land was held by the plaintiff and he applied for conversion of the usage of the land. When such conversion was ordered, there was a condition with regard to the relinquishment of the right of the plaintiff with regard to the roads, civic amenities areas etc. when the plaintiff did not adhere to the same, City Municipal Council as a person who is in charge of managing the layout pursuant to the Conversion order, said to have questioned the plaintiff which cannot be treated as an interference.



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9. Thus, dismissal of the suit by both the Courts is just and proper which requires no further consideration in this appeal.

10. Hence, the regular second appeal is ***dismissed***.

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

SNC
List No.: 1 Sl No.: 57