

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE H.P.SANDESH

REGULAR SECOND APPEAL NO.2042 OF 2010 (DEC/INJ)

BETWEEN:

SMT. MADDURAMMA
SINCE DEAD BY LR

SMT. MUNIYAMMA
AGED ABOUT 61 YEARS
D/O LATE MADDURAMMA
R/AT VARADANAHALLI VILLAGE
KASABA HOBLI
DODDABALLAPURA TALUK-561203.

...APPELLANT

(BY SRI. H.C. SHIVARAMU, ADVOCATE)

AND:

1. SMT. MUNIVENKATAMMA
DEAD BY LR

1(a) SMT. SRIDEVI
AGED ABOUT 35 YEARS
W/O NARAYANASWAMY
VARADANAHALLI VILLAGE
VEERAPURA POST
BENGALURU RURAL DISTRICT-561203.

2. SMT. MUNIYAMMA
AGED ABOUT 44 YEARS
W/O SRI. ANJINAPPA

3. SMT. AKKAYAMMA
AGED ABOUT 47 YEARS
W/O MUNIRAJU

Digitally signed
by DEVIKA M
Location: HIGH
COURT OF
KARNATAKA

RESPONDENT NOS.2 AND 3 ARE
RESIDENTS OF VARADANAHALLI VILLAGE
KASABA HOBLI, DODDABALLAPURA TALUK.

...RESPONDENTS

(BY SRI. K.G.LAKSHMIPATHY &
SRI. P.M.VINOD KUMAR, ADVOCATES C/R2 AND R3 - ABSENT)

THIS RSA IS FILED UNDER SECTION 100 OF CPC,
AGAINST THE JUDGMENT AND DECREE DATED 11.06.2010
PASSED IN R.A.NO.89/2006 ON THE FILE OF THE PRESIDING
OFFICER, FAST TRACK COURT-II, BENGALURU RURAL
DISTRICT, BENGALURU, ALLOWING THE APPEAL AND SETTING
ASIDE THE JUDGMENT AND DECREE DATED 06.07.2006
PASSED IN O.S.NO.263/02 (OLD NO.860/00) ON THE FILE OF
THE CIVIL JUDGE (SR.DN.), DODDABALLAPURA.

THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR
JUDGMENT ON 19.09.2026 THIS DAY, THE COURT
PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE H.P.SANDESH

CAV JUDGMENT

Heard learned counsel appearing for the appellant and
inspite learned counsel for caveat respondent Nos.2 and 3 is on
record, failed to address his arguments, inspite of sufficient
opportunity being given.

2. This appear is filed by the appellant/plaintiff praying
this Court to set aside the judgment and decree passed in
R.A.No.89/2006 dated 11.06.2010 and confirm the judgment
and decree passed in O.S.No.263/2002 dated 06.07.2006.

3. The factual matrix of case of the appellant/plaintiff before the Trial Court is that suit Sy.No.2/1 of Varadanahalli Village, Kasaba Halli, Doddaballapura Taluk was originally Thoti service Inam land and plaintiff's father-in-law one Poojiga was one among the several Baravardars of the said Thoti office. After introduction of Karnataka Village Officers (Abolition) Act, 1961, the grand-father of the appellant and respondent No.1 and other Baravardars have applied for re-grant of the land and the Tahasildar re-granted the land by virtue of the order dated 28.04.1981. Thereafter, Government acquired 1 Acre of land out of the said Sy.No.1/2 (ought to have been typed as Sy.No.2/1) for formation of sites and the sites were formed. The husband of the plaintiff other 18 persons were granted site. Site bearing No.104 measuring 30 x 40 feet i.e., suit schedule property was granted to plaintiff's husband Muniswamappa. Hence, her husband was in possession and enjoyment of the suit schedule property after issuance of Hakku Pathra by changing the khatha in his name. Her husband died on 21.11.1986 and thereafter, plaintiff is in possession and enjoyment of the same. The Taluk Panchayath also sanctioned loan as per order dated 03.11.2000 to the plaintiff for construction of house in the suit schedule property. The

defendants, who are the political rivalries of the plaintiff tried to interfere with plaintiff's possession on 13.12.2000. Hence, filed the suit for declaration and permanent injunction.

4. The defendants have appeared and filed common written statement and denied that 1 acre out of Sy.No.1/2 was acquired by the Government for formation of site and one site bearing No.104 was granted in favour of plaintiff's husband Muniswamappa and denied. But, it is their contention that they are in possession and enjoyment of the suit schedule property. It is their contention that they have filed a suit in O.S.No.119/1990 when the interference was made by the plaintiff and the suit was decreed and the same has attained its penalty. It is also their contention that plaintiff also earlier filed suit in O.S.No.117/1990 and the same was dismissed. The plaintiff's possession and ownership of the property was confirmed in the earlier suit in O.S.No.119/1990. Hence, prayed the Court to dismiss the suit.

5. The Trial Court having considered both oral and documentary evidence granted the relief and the same is questioned before the First Appellate Court. The First Appellate Court reversed the judgment of the Trial Court in coming to the

conclusion that title of the appellant/plaintiff is not proved and also with regard to very acquisition of the land and formation of site also, the same is not proved and nothing is placed on record for acquisition and allotment of site. But, accepted the contention of the defendants that there was a decree in O.S.No.119/1990 against the original plaintiff-Madduramma for the relief of permanent injunction and reversed the same. Hence, the present second appeal is filed before this Court.

6. This Court having considered the grounds urged in the second appeal, vide order dated 06.04.2015, framed the following substantial questions of law, which reads as hereunder:-

- "(1) Whether lower appellate Court was justified in arriving at a conclusion that judgment and decree passed in O.S.No.119/1990 would be binding on the parties in the present suit i.e., O.S.No.263/2002?*
- (2) Whether lower appellate Court was justified in reversing the findings recorded by trial Court based on oral evidence which is contrary to the documentary evidence available on record?"*

7. Learned counsel appearing for the appellant/plaintiff in his argument also brought to notice of this Court that an application is filed under Order 41 Rule 27 of CPC before this Court, since the First Appellate Court committed an error in coming to the conclusion that no documents are produced for having acquired the property. Hence, earlier an application is filed i.e., I.A.No.1/2026, wherein it is contented that additional documents are necessary for consideration of this second appeal. Along with the application I.A.No.1/2026, only photocopies of the documents are produced and when this Court raised the query that only photocopies of the documents are produced, filed fresh application i.e., I.A.No.2/2026 and similar prayer is sought. Along with the application, the appellant/plaintiff sought for production of documents i.e., RTC in respect of Sy.No.2/1 showing the name of the appellant-father, RTC in respect of Sy.No.2/2 showing the acquisition of land at Varadanahalli Village, Doddaballapur Taluk, Gazette Notification dated 23.08.1975 published in Karnataka Gazette dated 02.09.1975 acquiring the land of the appellant-grandfather viz., Poojiga and others in respect of Sy.No.2/2 measuring 20 guntas, certified copy of the notification issued in Form No.C under Section 3 of the Karnataka Acquisition of Land

for Grant of House Sites Act, 1972 in respect of Sy.No.2/2 measuring 30 guntas, so also the proceedings of Land Acquisition Officer in LAC No. RHS 13/76-77 showing the name of grandfather of the appellant and possession of the land taken on 14.11.1975, certified copy of khatha of the property in question issued by Pattana Panchayath, Bashettyhalli, Bangalore Rural District and online copy of sketch with Bar Code in regard to acquisition of land in Sy.No.2.

8. In support of the application, I.A.No.2/2026, an affidavit is sworn to and main contention of the appellant is that defendants were not allotted site measuring 20 x 20 feet at any point of time in the area and it is only site measuring 40 x 30 feet formed in the said land and was distributed and one among the other beneficiaries is the family of the plaintiff. The counsel also brought to notice of this Court the RTC that Munishamappa, son of Poojappa and others have got the property to the extent of 31 guntas. The counsel also brought to notice of this Court records of rights to the extent of acquiring of property to the extent of 20 guntas in Sy.No.2/2 and also Gazette Notification for acquiring the land in the year 1975, wherein also the name of Poojiga and others and Poojiga is the person of branch of the appellants. The counsel also

produced Form No. C, wherein also the name of family of the appellant is found i.e., notification (declaration) under Rule 9. The counsel also submits that name of Poojiga and others is shown in the land acquisition case in LAC No.RHS 13/76-77 and so also in the award and the document of Pattana Panchayath and online sketch.

9. The counsel for the appellant/plaintiff also brought to notice of this Court that counsel representing caveat respondent Nos.2 and 3 are not appearing before the Court. Hence, these documents are sent to the counsel appearing for caveat respondent Nos.2 and 3 through registered post and the same is served. The counsel also produced the postal track and the same confirms that registered post is served. But, counsel appearing for caveat respondent Nos.2 and 3 did not choose to appear and file any objections to the application filed for production of additional documents. Hence, heard learned counsel appearing for the appellant/plaintiff.

10. Having considered the substantial questions of law framed by this Court, the same is in respect of finding of the Trial Court and the First Appellate Court based on the judgment and decree passed in O.S.No.119/1990 and whether the same

is pending between the parties and whether the lower Appellate Court was justified in reversing the finding recorded by the Trial Court. Instead of considering these substantial questions of law framed by this Court, when an application is filed before this Court producing additional documents, the point which arises for consideration before this Court are:

- (i) Whether learned counsel for the appellant has made a ground to allow the application I.A.No.2/2026 filed under Order 41 Rule 27 of CPC to receive the additional documents on record?
- (ii) What order?

Point No.(i):

11. Instead of considering the substantial questions of law, in view of subsequent development of filing these documents, it is necessary to consider whether these documents are necessary to adjudicate the issue involved between the parties. The documents produced along with the application I.A.No.1/2026 are photocopies of the documents and when this Court noticed the same, an application i.e., I.A.No.2/2026 is filed producing the original documents. But, the relief sought in both the applications are one and the same.

In support of the application I.A.No.2/2026, learned counsel for the appellant has produced certified copy of RTC in respect of Sy.No.2/1 showing the name of the appellant-father, RTC in respect of Sy.No.2/2 showing the acquisition of land at Varadanahalli Village, Doddaballapur Taluk, certified copy of Gazette notification dated 23.08.1975 published in Karnataka Gazette dated 02.09.1975 acquiring the land of the petitioner grandfather viz., Poojiga in respect of Sy.No.2/2 measuring 20 guntas. These documents clearly show that property in Sy.Nos.2/1 and 2/2 are the property of father of the appellant and so also certified copy of notification issued in Form No. C under Section 3 of the Karnataka Acquisition of Land for Grant of House Sites Act, 1972 in Sy.No.2/2 measuring 30 guntas and so also the certified copy of the proceedings of the Land Acquisition Officer, Bangalore in LAC No.RHS 13/76-77 showing the name of the grandfather of the appellant and possession of the land taken on 14.11.1975. These documents, particularly at Sl.Nos.2 to 5 are in respect of acquisition for formation of sites and distributing the same.

12. The Court has to take note that other two documents at Sl.Nos.6 and 7 produced by the appellant are certified copy of khatha of the property in question issued by

the Pattana Panchayath, Bashettyhalli, Bangalore Rural District, so also copy of the sketch in respect of Sy.No.2 is concerned and considering these documents, this Court has to take note of the reasoning given by the First Appellate Court. No doubt, the First Appellate Court comes to the conclusion that for having acquired the property, no documents are produced, specific case of the appellant/plaintiff is that the land in Sy.No.2/2 of Varadanahalli Village was acquired by the Government for formation of site and Site No.104 was allotted to the husband of the plaintiff. But, observation is made by the First Appellate Court that the plaintiff has failed to prove that Government acquired 1 acre of land in Sy.No.2 in Varadanahalli Village for formation of site and out of the said acquisition, formed site and allotted Site No.104. In order to prove the said factum, an application was filed before this Court along with documents to show that Poojiga is the family head of the plaintiff, who was allotted property and property was acquired and Gazette Notification is also produced. When such observation is made by the First Appellate Court, these documents are necessary for consideration by the First Appellate Court and also an observation is made that not produced any grant certificate for having allotted the site. But,

foundational fact is that the property belongs to the family of the plaintiff and all these documents show that in the acquisition proceedings, name of poojiga is mentioned. It is also the claim of the plaintiff that in lieu of acquisition of the property, an alternative site was given to the family and thereafter, they are in actual possession of the property and measurement of the site is also only 30 x 40 feet.

13. It is also important to note that when the suit is filed for relief of declaration and injunction and measurement is shown as 30 x 40 feet and claim of the defendants is that they also got the property to the extent of 20 x 20 feet and they have also not placed any material for having acquired title to the extent of 20 x 20 feet and description of the property in respect of both the defendants and plaintiff claim is different. No doubt, earlier suit was decreed in favour of the defendants in O.S.No.119/1990, the same is only for permanent injunction and not for declaration. The main question raised before this Court is that in the acquisition of the said property, no sites are formed measuring 20 x 20 feet. The dispute is also with regard to very identity of the property whether the suit schedule property claimed by the plaintiff is carved out of site in the acquired land and documents which have been produced are

with regard to acquisition is concerned and whether the site which the defendants are claiming i.e., 20 x 20 feet is also formed and carved out of the land acquired in 1 acre of land and the very dispute is by the defendants that no such acquisition and formation of sites and now, documents are filed before this Court and the same could be considered by the First Appellate Court.

14. But, now the documents are produced before this Court along with the application I.A.No.2/2026 and those documents are also to be considered by the First Appellate Court and not the Trial Court, since the First Appellate Court comes to the conclusion that there is no such acquisition at all and no such allotment also. Hence, the First Appellate Court has to give finding to that effect. Therefore, learned counsel for the appellant has made out a ground to allow the application I.A.No.2/2026 filed under Order 41 Rule 27 of CPC for production of additional documents to prove the foundational facts as pleaded by the plaintiff. Since, certified copy of the documents are produced along with the application before this Court, matter requires to be remitted back to the First Appellate Court to consider the issue involved between the parties with regard to identity of the property as well as

respective claims of the plaintiff and the defendants. in view of the observations made by this Court and documents produced are to be considered in respect of acquisition. Accordingly, I answer point No.(i) framed by this Court as 'affirmative' and this Court has not touched upon the substantial questions of law framed, in view of allowing I.A.No.2/2026 filed under Order 41 Rule 27 of CPC for production of additional documents and after considering these documents, the First Appellate Court can give finding with regard to claim of plaintiff and the defendants.

Point No.(ii):

15. In view of the discussion made above, I pass the following:

ORDER

- (i) The regular second appeal is ***allowed.***
- (ii) The application I.A.No.2/2026 filed under Order 41 Rule 27 of CPC is allowed.
- (iii) The judgment passed by the First Appellate Court in R.A.No.89/2006 dated 11.06.2010 is set aside.
- (iv) The matter is remitted back to the First Appellate Court in view of allowing

I.A.No.2/2026 filed under Order 41 Rule 27 of CPC for production of additional documents. The Registry is directed to send the application I.A.No.2/2026 and the documents to First Appellate Court, forthwith.

- (v) The respective parties are directed to lead additional evidence, if any with regard to identity and title of the property and both the parties are at liberty to place on record the documents in respect of their title is concerned before the First Appellate Court, if need arises.
- (vi) The First Appellate Court is directed to dispose of the appeal within a period of 6 months from the date of appearance by providing an opportunity to the parties to lead evidence in accordance with law.
- (vii) The parties and their respective counsels are directed to appear before the First Appellate Court on **16.10.2026** without expecting any notice, since the parties are represented before this Court.
- (viii) The counsels and the respective parties are directed to assist the First Appellate Court in disposal of the matter within a time bound period of six months from the above date i.e., **16.10.2026.**

- (ix) The Registry is directed to communicate this order to the First Appellate Court, forthwith to enable the First Appellate Court to take up the matter on 16.10.2026 without fail.
- (x) The respective parties are also directed to produce a copy of order before the First Appellate Court, to enable disposal of the case before the First Appellate Court.
- (xi) The Registry is directed to send the records of the respective Courts to the First Appellate Court, forthwith.

**Sd/-
(H.P.SANDESH)
JUDGE**

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