



CNR: KAHC010812422025

NC: 2026:KHC:36304
RSA No. 1977 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 15TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

REGULAR SECOND APPEAL No.1977 OF 2025 (INJ)

BETWEEN:

1. SRI. KALLAPPA
S/O LATE BASAPPA,
AGED ABOUT 49 YEARS,
R/O GOVINDANAHALLY VILLAGE,
KIKKERI HOBLI,
K.R.PETE TALUK,
MANDYA DISTRICT-571401.
2. SRI PUTTARAJU @ LINGAPPA
S/O LATE KALLAPPA BILIYAPPA,
AGED ABOUT 72 YEARS,
R/O GOVINDANAHALLY VILLAGE,
KIKKERI HOBLI, K.R.PETE TALUK,
MANDYA DISTRICT-571401

...APPELLANTS

(BY SRI. RAJA L, ADVOCATE)

AND:

1. SRI. G.M.MANJUNATHA
S/O MARIBASAPPA,
AGED ABOUT 57 YEARS,
R/O GOVINDANAHALLY VILLAGE,
KIKKERI HOBLI, K.R.PETE TALUK,
MANDYA DISTRICT-571401.
2. SRI RAJU
S/O LATE BASAPPA,
AGED ABOUT 50 YEARS,
R/O GOVINDANAHALLY VILLAGE,

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Location:
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KIKKERI HOBLI,
K.R.PETE TALUK,
MANDYA DISTRICT-571401.

...RESPONDENTS

THIS RSA IS FILED UNDER SECTION 100 OF CIVIL PROCEDURE CODE, AGAINST THE JUDGMENT AND DECREE DATED 11.09.2025 PASSED IN RA NO.18/2014 ON THE FILE OF ADDITIONAL SENIOR CIVIL JUDGE AND JMFC, K.R.PETE., ALLOWING THE APPEAL AND SETTING ASIDE THE JUDGMENT AND DECREE DATED 22.09.2012 PASSED IN OS NO.134/2007 ON THE FILE OF CIVIL JUDGE AND JMFC, K.R. PETE.

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

CORAM: HON'BLE MR. JUSTICE V SRISHANANDA

ORAL JUDGMENT

Heard Sri Raja.L, learned counsel for the appellants.

2. This Court did not deem it fit to issue notice to the respondents.
3. Parties are referred to as plaintiff and defendants as per their original ranking before the Trial Court, for the sake of convenience.
4. Defendant Nos.1 and 3 in O.S.No.134/2007 on the file of the Civil Judge and JMFC, Krishnarajapete, are the appellants.



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5. The suit in O.S.No.134/2007 came to be dismissed and when the plaintiff approached the Additional Senior Civil Judge and JMFC, Krishnarajapete, challenging the dismissal of the said suit for bare injunction in R.A.No.18/2014, learned Judge in the First Appellate Court allowed the appeal setting aside the judgment and decree passed by the Trial Court.

6. Facts of the case are as under:

6.1 A suit for permanent injunction came to be filed by the plaintiff/respondent No.1 in respect of the following property hereinafter referred to as 'suit property'.

“ಕೃಷ್ಣರಾಜಪೇಟೆ ತಾಲ್ಲೂಕು, ಕಿಕ್ಕೇರಿ ಹೋಬಳಿ, ಗೋವಿಂದನಹಳ್ಳಿ ಗ್ರಾಮಕ್ಕೆ ಸೇರಿದ ಸರ್ವೆ ನಂ.೨೮೭/೫ ವಿಸ್ತೀರ್ಣ ೧ ಗುಂಟೆ ಚಕ್ಕುಬಂದಿ: ಪೂರ್ವಕ್ಕೆ: ಸಿದ್ಧಲಿಂಗಪ್ಪನವರ ಜಮೀನು, ಪಶ್ಚಿಮಕ್ಕೆ: ಕಲ್ಲಪ್ಪ ಬಿನ್ ಕಲ್ಲಪ್ಪರವರ ಜಮೀನು, ಉತ್ತರಕ್ಕೆ: ನಂಜಪ್ಪ ಉರುಘ್ ಆಪ್ಪಾಜಣ್ಣನವರ ಜಮೀನು, ದಕ್ಷಿಣಕ್ಕೆ: ಕಲ್ಲಪ್ಪ ಬಿನ್ ಕಲ್ಲಪ್ಪರವರ ಜಮೀನು.”

6.2 In the plaint it is contended that the suit property situated at Govindanahalli is the ancestral property of the plaintiff and he is enjoying the suit property as its owner. Earlier, his ancestors were enjoying the suit property as its owner. After death of the father of the plaintiff, he is in possession and enjoyment of the suit property.



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6.3 First defendant said to have purchased 13.12 guntas of land in Sy.No.288/1 situated towards the southern side of the suit property and based on the same, he started interfering with the peaceful possession and enjoyment of the suit property which necessitated the plaintiff to file the present suit.

7. Pursuant to the suit summons, defendants entered appearance and contended that the suit property is the property purchased by the defendants by way of a sale deed and revenue entries also stand in their names after the sale deed. Therefore, suit for bare junction against the true owner is not maintainable and sought for dismissal of the suit.

8. Learned Trial Judge after raising necessary issues recorded the evidence of the parties and on hearing the arguments of both sides, dismissed the suit of the plaintiff.

9. Being aggrieved by the same, plaintiff filed an appeal before the First Appellate Court in R.A No.18/2014.

10. Learned Judge in the First Appellate Court, after securing the records, heard the arguments of the parties and on re-



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appreciation of the material on record, allowed the appeal of the plaintiff *inter alia* holding in paragraphs 29 to 32 as under:

"29. According to the defendants said Sri.Veerappa is father in law of defendant No.1. Said Sri.Veerappa had executed the sale deed in favour of Sri.Basappa S/o Kallappa, who is the father of the 1st defendant with respect to suit schedule property. Hence, they are the owners in possession of the suit schedule property.

30. As already stated above 2nd defendant had examined before the trial court as DW-1. The DW-1 has furnished sale deeds as per Ex.D-2 and Ex.D-3, wherein it appears that said Sri.Veerappa had executed the sale deed with respect to properties bearing Sy. No. 288/2 and 288/1B, but suit schedule property is not subject matter of the Ex.D-2 and 3. Hence, contention of the defendants is not acceptable. The defendants have not produced any documents in order to show that their father had purchased property bearing Sy. No. 287/5 from Sri.Veerappa. The defendants have furnished manual RTC extract of the suit schedule property bearing Sy. No. 287/5, wherein it appears that originally property bearing Sy. No. 287/5 originally belongs to Sri.Channabasappa S/o Lingadevaraiah. Further on perusal of the sale deed dated 04.10.1948 it appears that sons of Sri.Lingadevaraiah had executed the sale deed in favour of Sri.Erappa.



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31. In preceding paragraph of this judgment I have stated that I will discuss on cross examination of PW-1 little later. I am of the opinion that it is correct to peruse the cross examination of PW-1 here itself for convenience sake. On perusal of the cross examination of PW-1 the learned counsel for the plaintiff has posed suggestion to PW-1 as nee Smt.Erajamma is in possession of the suit schedule property. The very suggestion of the defendants is clear that they are not in possession of the above said property. Further defendants have not furnished any documents with respect to appeal filed by them before learned Assistant Commissioner, Pandavapura. I gone through the entire judgment of the trial court, the trial court has opined that the plaintiff fails to furnish mutation register No. 45/1991-92 in order to establish his mode of acquisition of possession. It is interesting to note that, as already discussed above the defendants have furnished endorsement issued by the Tahasildar, K.R.Pete as per Ex.D-30, wherein he has given endorsement by stating that original register not available in his office. Hence, it is obvious that plaintiff could not able to furnish said documents as entire register is not available in the office of Tahasildar, K.R.Pete. The trial court did not consider this material fact. Admittedly, katha of the suit schedule property stands in the name of plaintiff since 199192. Hence, it is relevant to note here Sec.133 of Land Revenue Act read as follows.

133. Presumption regarding entries in the records.- An entry in the Record of Rights and a certified entry in the Register of Mutations [or in



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the patta book] shall be presumed to be true until the contrary is proved or a new entry is lawfully substituted therefor.

32. A plain reading of the above said provisions makes it clear that, presumptions attached to the entry made in the revenue entries. It is rebuttable presumption defendants have to rebut the presumptions available to the plaintiff by producing cogent documents. But defendants have not furnished any cogent material in order to show that entry made in the revenue records is illegal or new entry lawfully substituted. The documents furnished by the plaintiff probabalise the possession of the plaintiff over the suit schedule property. Admittedly, plaintiff has filed suit for permanent injunction. Hence, court has to look into the possession of the suit schedule property as the possession is paramount consideration in suit for permanent injunction. On perusal of the documents furnished by the plaintiff it appears that, plaintiff is in possession of the suit schedule property as on date of filing of the suit. On other hand defendants have denied the possession of the plaintiff. Hence, conduct of the defendants itself shows their interference with the possession of the plaintiff. Hence, I am of the opinion that plaintiff is entitled for relief as sought for. Hence, I hold Point No.1 to 3 in the Affirmative."

11. Being aggrieved by the same, defendant Nos.1 and 3 are before this Court in this appeal.



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12. Sri Raja L., learned counsel for the appellants/defendant Nos.1 and 3 reiterating the grounds urged in the appeal memorandum would contend that defendants are the owners of the suit property having purchased the same under the registered sale deed which finds place in the plaint averment itself.

13. Therefore, there could not have been an injunction against the true owner and thus sought for admitting the appeal on the following substantial questions of law:

- i) *"Whether the Courts below the Trial Court dismiss the Suit in the evidence clearly stated that the PW-2 Sri Somashekara in cross-examination, the Plaintiff not a possession of the property, the Defendant only possession of the Plaintiff, the first Appellate Court justifying the Judgment and Decree in favour of the Plaintiff?*
- ii) *Whether the First Appellate Court justifying the suit schedule property cannot be accepted since he is not produce the MR No.45/91-92, whether justify?*
- iii) *Whether the First Appellate Court justifying the Judgment and Decree the Suit Schedule Property, how acquiring the property, even though the Col. No.10, there is no cultivating the land in Ex.P-1 to P-*



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3, even though it is material documents for him to prove mode of acquired the suit property?

iv) Whether justify the Judgment and Decree the Plaintiff not a possession of the land in deposition of the Defendants, possession of the land admitted the facts?

v) Whether the First Appellate Court justifying there is no proving the un-registered documents on 20-03-1976 to decree of the suit is justified?"

14. In the light of the arguments put forth on behalf of the appellants, this Court perused the material on record meticulously.

15. On such perusal of the material on record, it is noticed that there is dispute as to the identity of the property. While plaintiffs are claiming that the suit property is different from the property purchased by the defendants under the registered sale deed, defendants did not choose to place such material evidence on record that the property purchased by them is in fact being enjoyed by the plaintiff, without there being any right title or interest.



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16. Thus, learned Trial Judge after taking note of the oral testimony of the plaintiff as well as the documentary evidence placed on record dismissed the suit of the plaintiff.

17. However, learned Judge in the First Appellate Court, upon re-appreciation of the material on record, decreed the suit of the plaintiff by supplementing the reasons while passing the judgment as referred to supra.

18. If the defendants are of the opinion that the property occupied by the plaintiff is their property, it is always open for the defendants to file a comprehensive suit seeking declaration and possession of the property.

19. With that observation, the following:

ORDER

- (i) Admission declined.
- (ii) Appeal ***dismissed***.

Sd/-
(V SRISHANANDA)
JUDGE

kcm
List No.: 1 Sl No.: 77