HC-KAR

NC: 2026:KHC:60644
CRP No. 100 of 2025

CNR: KAHC010095502025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

CIVIL REVISION PETITION NO. 100 OF 2025 (IO)

BETWEEN:

SMT. SEETHALAKSHMI,
D/O LATE VENKOBHA RAO
AGED ABOUT 68 YEARS,
HANCHARAHALLI HOBLI
BENGALKURU EAST TALUK -560 049

…PETITIONER

(BY SRI. VARADARAJAN M.S., ADVOCATE)

AND:

1. SHRI. GUNDEGOWDA
   S/O LATE G ANJINAPPA
   AGED ABOUT 51 YEARS,
   MANDUR VILLAGE
   BIDARAHALLI HOBLI
   BENGALURU EAST TALUK
   BENGALURU -560 049

2. SMT. SUDHA
   D/O LATE VENKATARATHNAIAH
   AGED ABOUT 55 YEARS

3. SMT. PUSHPA
   D/O LATE VENKATARATHNAIAH
   AGED ABOUT 53 YEARS,

4. SMT. SUMA
   D/O LATE VENKATARATHNAIAH
   AGED ABOUT 51 YEARS

Digitally signed by SUVARNA T
Location: HIGH COURT OF KARNATAKA

RESPONDENT 2,3,4 ARE
R/AT NO.33 EWS (CTTB)
BELAVATHA EXTENSION
KESARE II STAGE, RAJENDRA NAGAR
MYSORE-07

5. SMT. R.G. SEETHA,
W/O LATE V. SRINIVASAMURTHY,
AGED ABOUT 74 YEARS,

6. SRI SURESH
S/O LATE V SRINIVASA MURTHY
AGED ABOUT 47 YEARS,

7. SMT SHANTHA
D/O LATE V SRINIVASAMURTHY
AGED ABOUT 42 YEARS,

RESPONDENTS 5 TO 7 ARE
R/AT PLAN II, NHS LAYOUT
GOVINDRAJANAGAR
BENGALURU -560 079

8. THE TAHASILDAR
K R PURAM TALUK OFFICE
KRISHNARAJAPAURAM
BENGALURU EAST TALUK-560 036

…RESPONDENTS

(BY SRI. POOVAIAH M.A., ADVOCATE FOR R1
SRI.B.S.GURUDATH, ADVOCATE FOR R5 TO R7
NOTICE TO R2 TO R4 AND R8 ARE DISPSNSED WITH V/O/DATED: 16/09/2026)

THIS CRP FILED U/S. 115 OF CPC AGAINST THE SET ASIDE THE ORDER DATED 25.10.2024 PASSED ON IA NO.V IN OS. NO. 1330/13 ON THE FILE OF THE I ADDITIONAL CIVIL JUDGE, BENGALURU RURAL DISTRICT, BENGALURU, REJECTING THE IA NO. 5 FILED U/O 7 RULE 11(a) (b) AND (d) R/W SEC. 151 OF CPC FOR REJECTION OF PLAINT.

CNR: KAHC010095502025

THIS PETITION HAVING BEEN HEARD AND RESERVED ON 08.10.2026, COMING ON FOR PRONOUNCEMENT OF ORDER THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

CAV ORDER

Aggrieved by the order passed on I.A.No.5 in OS.No.1330/2013 dated 25.10.2024 by the I Additional Civil Judge, Bangalore Rural District, Bengaluru. The defendant is before this Court.

2. The respondent herein had filed a suit seeking a declaration that the plaintiff is the lawful owner and is in physical possession and enjoyment of the suit schedule property and that he has perfected his title by prescription and also sought for a permanent injunction. In the said suit, an application came to be filed under Order VII Rule 11 of CPC. It is stated that the cause of action pleaded in the plaint is imaginary and concocted one and no substantial materials were stated in the pleadings. Apart from the said fact, the plaintiff had knowledge of the proceedings, as he was the petitioner before the Deputy Commissioner under the Karnataka Land Reforms Act. The plaintiff has come on record and prosecuted

the case after the death of his father in 2004. The said case was disposed of on merits in his presence by rejecting his claim of tenancy. The plaintiff stated in the plaint that he had knowledge of the proceedings, however, this material fact has been suppressed by him. The plaintiff's contention was that he and his late father were tenants in respect of the suit schedule property and sought occupancy rights. The Land Tribunal (Special Deputy Commissioner) rejected the claim under the Karnataka Land Reforms Act. The authorities considered his claim on merits and rejected the application. Neither the plaintiff nor his late father was a tenant in respect of the suit schedule property. The plaintiff stated that the suit schedule property was not the subject matter of the tenanted land. The Land Tribunal rejected his claim of tenancy. Hence, once the plaintiff fails to establish his right under the special enactment namely, the Karnataka Land Reforms Act, he cannot maintain the civil suit to re-adjudicate the issue in question. The alleged averment in the plaint that RTC stands in their name is also negatived in view of the order passed by the competent authority under the Land Reform act. The plaintiff cannot once

again seek to re-adjudicate the same right before the Civil Court. The order of the Tribunal has attained finality.

3. The Civil Court has no jurisdiction to retry the issue once again. Admittedly, the RTC record does not confer any right whatsoever. The defendants rebutted the presumption under law before the authorities, and the plaintiff failed to prove his tenancy based on the alleged entries made in the RTC. In view of the findings recorded by the revenue authorities, the alleged possession is not proved. The allegation that the plaintiff's father entered into an agreement of sale with late Venkoba Rao dated 02.10.1985 in respect of the suit schedule property is also untenable. The recitals of the said document do not show that possession was given under the said alleged document produced by the plaintiff himself. Hence, the claim of any alleged right/possession does not arise under law. The plaintiff has also filed an amendment application, seeking to treat the suit as one for specific performance of the alleged contract, to which the defendant filed an objection, opposing the said application on the grounds of limitation, inadmissibility of the document, and other grounds. The

plaintiff's conduct clearly establishes that, in his own pleadings, he is speculating on monetary benefit by filing false and frivolous litigation, as he never had any semblance of right or possession over the suit property. The suit filed by the plaintiff is not maintainable; the court fee paid is insufficient. As such, the plaint is liable to be rejected.

4. The trial court by order impugned, had rejected the application. While rejecting the application, the court observed that the burden of proving adverse possession lies upon the person who is claiming such a defense under the Limitation Act of 1963. To prove the adverse possession, plaintiff would need to prove the date from which the property was under their adverse possession, from which the 12 years are going to be calculated. They are also required to prove the date from which the adverse possession of the property came to the knowledge of the owner. They also need to specify the date from which the possession of the property came to the knowledge of immediate neighbours. They are required to prove that the possession of the property was peaceful. It should not be possessed by coercing the owner and should be in opposition to

what the owner expects. The person making a claim also needs to prove before the court that the property owner, despite having knowledge of the possession, did not take any action against the possessor. Therefore, to prove the above aspects it needs a full-fledged trial. The trial court further observed that the suit shall not be rejected based on the allegations made by the defendants either in the written statement or application; the Court shall look into only the plaint averments and accordingly dismissed the application. Aggrieved thereby the defendant is before this court.

5. The learned counsel appearing for the petitioner submits that the trial court grossly erred in holding that the matter requires evidence, without appreciating that, when the plaint averment discloses that the plaintiff is claiming title and possession of the suit property under a sale agreement as well as in the capacity of the tenant, then there cannot be any cause of action to seek the relief of adverse possession. Trial Court failed to appreciate the plaint averments, which disclosed that the plaintiff is tracing his title and possession over the suit property to the sale agreement as well as to the tenancy rights

and that in such cases, the question of adverse possession does not arise and therefore, there was no cause of action for the suit in which the relief of adverse possession is claimed. The trial court has failed to appreciate that the bundle of facts as pleaded in the plaint did not afford any cause of action for the plaintiff to seek the relief of perfection of title by adverse possession. The trial court failed to appreciate that once the plaintiff traced his title and possession to the sale agreement and the tenancy, there can be no *animus possidendi,* i.e., an intention to possess the property adverse to the interest of the owners. Hence, the court ought to have rejected the plaint. It is submitted that the order impugned needs to be set aside and the plaint has to be rejected.

6. The learned counsel appearing for the respondents submits that trial court had rightly considered and rightly dismissed the application. It is submitted that while rejecting the plaint, the court cannot look into the case of the defendant and the document that are filed. It is submitted that the defendant had failed to show sufficient reasons to reject the plaint.

7. Having heard the learned counsel on either side, perused the material on record. At the stage of considering an application under Order VII Rule 11 of CPC, the court must meaningfully read the plaint as a whole and determine whether the facts pleaded disclose the cause of action and demonstrate the statutory bar. This exercise does not permit an assessment of the probable outcome of the suit by considering competing factual explanations, and at the same time a bare assertion of ownership or adverse possession cannot substantiate the material facts. In the case of ***Kum. Geetha, D/O Late Krishna vs Nanjundaswamy***[1]. The Supreme Court reiterated both the requirement of examining the plaint in its entirety and the prohibition against its partial rejection. The defendant's objection concerning the agreement to purchase is substantial. A person who seeks a conveyance ordinarily recognise the proposed vendor's ownership. Here, the plaintiff pleads not only the agreement and payment of a consideration but also his father's readiness and willingness, the request for conveyance in 1986 and the owner's promise to execute the sale deed. An agreement to sell does not itself transfer ownership. Further,

[1] 2023 Online SC 1407

possession continued under such an agreement does not become adverse merely because the conveyance is not executed or the owner subsequently becomes unavailable. In ***Mohan Lal Vs. Mirza Abdul Gaffar & Anr***[2] the Supreme Court explained the necessity of an independent hostile assertion where possession is referred to an agreement to purchase. Nevertheless the plaint cannot be read as alleging that the possession commenced under the agreement of 1985. Paragraph No. 3 of the plaint expressly refers possession to an alleged enforcement in 1973 and asserts its open and continuous character and the owner's knowledge. The plaintiff also asserts acquisition of title by prescription through his father's possession. Whether these averments establish the necessary hostile character and statutory duration and how the subsequent agreement affects that assertion or material on which the plaintiff bears the burden. The agreement presents a serious obstacle to the declaration sought, but that obstacle cannot be converted into a finding that the plaint, in its entirely does not disclose of a cause of action. The claim of injunction requires separate consideration. Paragraph No.11 and 12

[2] 1996 SCC (1) 639

alleges attempts by the defendants to change the revenue records, negotiate the sale, and take over the property. The plaintiff identifies an incident dated 02.08.2013, and pleads apprehended interference with his possession. These allegations must be considered together with asserted long-standing cultivation and continued possession. The plaintiff's entitlement to protection, if any, and the permissible scope of the protection remains to be decided. Protection of established possession against unlawful dispossession is distinct from a declaration of ownership and does not prevent the true owner from pursuing the available remedies in law. Thus, even if the plaintiff has difficulty establishing title by adverse possession, the allegation supporting the prayer for injunction cannot be rejected at the threshold.

8. The plaint contains both an assertion of possession and an alleged threatened interference. Whether these allegations are true is not presently open for determination. Rejection of the entire plaint cannot follow merely from the apparent weakness of the declaration claim. The disclosure of OS.No.590/2006, although relevant, does not establish that the

suit is liable for rejection. The plaintiff acknowledged that the property is included in the family partition proceedings and that his mother, brother and sister share possession. Those averments weaken his claim to exclusive ownership. The representation of the other person's interest in the property and the relief can ultimately be decided by the court. However, the mere pendency of the partition suit does not demonstrate that the claim against the original owner's successors is barred. Any question concerning necessary parties or other pending proceedings must be considered at an appropriate stage. The reference to the Form 7A application and paragraph No.10 described the tenancy proceedings as pending, whereas paragraph No.12 refers to their closure. However, there is no clarity as to those proceedings. The defendant stated that they are closed. No documents were filed along with the plaint. Hence, at this stage, the Court cannot go into that issue, as it cannot look into the defendant's case and the documents filed by him while considering an application under Order VII Rule 11 of CPC. In the light of the above discussion, the Trial Court has rightly held that the plaint cannot be rejected at this stage

and that requires evidence. In the light of the above discussion, this Court finds no reasons to interfere with the well-considered order passed by the Trial Court. Hence, this Court is passing the following:

ORDER

i. Accordingly, the CRP is ***dismissed***

ii. Pending I.As, if any, in the petition shall stand closed.

SD/-
(LALITHA KANNEGANTI)
JUDGE

TS
List No.: 1 Sl No.: 8
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