IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 5TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAJESH RAI K

REGULAR FIRST APPEAL NO. 57 OF 2019 (PAR/INJ)

BETWEEN:

1. SYED ZIAULLA
SINCE DEAD BY HIS LR'S

1(A) SHAMSHAD BEGUM
W/O LATE SYED ZIAULLA
AGED ABOUT 56 YEARS

1(B) SYED ABBAS ALI
S/O LATE SYED ZIAULLA
AGED ABOUT 31 YEARS

1(C) AFREEN AYISHA BEGUM
D/O SYED ZIAULLA
AGED ABOUT 28 YEARS

ALL ARE RESIDING AT NO.710/63
30TH 'A' CROSS, TILAK NAGAR
BENGALURU-560 041

...APPELLANTS

(BY SRI. MOHAMED SAIFULLA KHAN, ADVOCATE)

Digitally signed by PANKAJA S
Location: HIGH COURT OF KARNATAKA

AND:

AKRAM PASHA
S/O LATE HYDER PASHA
AGED ABOUT 40 YEARS,
R/AT NO.4, 5TH CROSS,
SOMESHWARANAGAR
JAYANAGAR I BLOCK
BENGALURU-560 011

...RESPONDENT

(BY SRI. PRABHUGOUD B TUMBIGI, ADVOCATE C/R)

THIS RFA IS FILED U/S.96 OF CPC,AGAINST THE JUDGMENT AND DECREE DATED 28.11.2018 PASSED IN OS.NO.1476/2016 ON THE FILE OF THE XIX ADDL.CITY CIVIL AND SESSIONS JUDGE BANGALORE CITY DECREEING THE SUIT FOR PERMANENT INJUNCTION.

THIS APPEAL HAVING BEEN RESERVED FOR JUDGMENT ON 29.10.2026 COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT DELIVERED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE RAJESH RAI K

CAV JUDGMENT

This Regular First Appeal is filed by the appellant/defendant challenging the Judgment and Decree dated 28.11.2018 passed by the learned XIX Additional City Civil & Sessions Judge, Bengaluru City (CCH-18) (for short, "the Trial Court"), in O.S. No. 1476/2016, whereby the Trial Court decreed the suit of the plaintiff for permanent injunction.

2. For the sake of convenience, the parties are referred to as per their ranking before the Trial Court. Appellant is the defendant and respondent is the plaintiff.

3. The brief facts of the case for disposal of this appeal are that the plaintiff instituted the suit seeking permanent injunction to restrain the defendant from interfering with his lawful possession and enjoyment of the suit schedule

property, which is described as site No.4 (municipal No.6) formed out of Sy.No.18, situated at 6th Cross, Lalbagh Siddapura, Someshwaranagara, Bangaluru, measuring East to West 20 ft and North to South 54 ft. The plaintiff claimed title through a registered Sale Deed dated 24.07.2014 executed by one Mohammed Farooq and three others, who had in turn purchased it from Syed Ghouse, who acquired it from the sons of the original owner S.P.Ramanna. The plaintiff contended that he has been in peaceful possession, constructed a building, let out portions to tenants, and is paying taxes to the authorities.

4. The plaintiff further averred that on 14.01.2016, the defendant came near the property along with a Court Bailiff to take possession under the garb of a decree obtained in O.S.No.7883/1999 being executed in Ex.No.496/2009. Upon verification, the plaintiff realized that the defendant's decree pertained to a completely different property and identity, and though he resisted and filed an obstruction petition under Order XXI Rule 97 of C.P.C. in the execution proceedings, he was forced to file an independent suit for permanent injunction. Accordingly, he preferred this suit.

5. In response, the defendant filed his written statement admitting that he had instituted O.S.No.7883/1999 against one Aslam in respect of a site bearing No.1/A, formed in Sy.No.13/5, Corporation Khatha No.2, CTS No. 821/95, situated at Someshwaranagar Extension, Lalbagh Siddapura, Bangaluru, measuring East to West 20 ft and North to South 54 ft. The defendant contended that O.S.No.7883/1999 was decreed in his favour on 27.10.2007, and to execute the said decree, he initiated Ex.Case No.496/2009. He alleged that the plaintiff and his predecessors were part of chain of transfers designed to obstruct his execution proceedings.

6. During trial, the plaintiff examined himself as P.W.1 and marked documents from Ex.P-1 to Ex.P-26, while the defendant examined himself as D.W.1 and marked Ex.D-1 to Ex.D-5. The Trial Court, upon appreciation of oral and documentary evidence, decreed the suit in favour of the plaintiff. Aggrieved by the same, the defendant has preferred this appeal.

7. Heard Sri Mohamed Saifulla Khan, learned counsel for the appellant/defendant, and Sri Prabhugouda B. Tumbagi, learned counsel for the respondent/plaintiff.

8. Learned counsel for the appellant primarily contended that the Trial Court erred in decreeing a mere suit for injunction when identity and title were disputed. The learned counsel contended that the appellant had successfully prosecuted O.S.No.7883/1999 against one Aslam in respect of property bearing Site No.1/A, carved out of Sy.No.13/5 and had lawfully initiated execution proceedings in Ex.No.496/2009 to take possession. He contended that the plaintiff and his predecessors-in-title engineered an organized series of transfers and obstruction applications under Order XXI Rule 97 of C.P.C. solely to defeat the lawful execution of a binding judicial decree. He further submitted that the Trial Court erred in drawing an adverse inference against the defendant for non-production of title deeds while ignoring the established judicial record of the appellant's suit, and failed to consider that the plaintiff ought to have sought a comprehensive relief of declaration rather than a bare injunction when his title and possession were under active execution challenge.

9. *Per contra*, the learned counsel for the respondent supported the judgment of the Trial Court, arguing that the defendant's own admissions and pleadings establish that his decree relates to Sy.No.13/5, whereas the plaintiff's property is located in Sy.No.18, and the Trial Court has rightly protected his settled possession.

10. Upon evaluation of the grounds urged in the appeal memo and the rival submissions, the following points arise for consideration:

1. *Whether the plaintiff proves that he is in settled, lawful possession of the suit schedule property as on the date of the suit and the plaintiff's property in Sy.No.18 is distinct from the property claimed by the defendant in Sy.No.13/5 under O.S. No. 7883/1999 and Ex. No. 496/2009?*

2. *Whether the impugned judgment and decree granting permanent injunction warrants interference?*

11. These points are taken up together for common discussion as they are interconnected.

12. The core controversy in the present appeal revolves around the identity of the properties and the effect of the

prior execution proceedings. The appellant/defendant vehemently contends that the Trial Court failed to appreciate the execution proceedings initiated by him in Ex.No.496/2009 on the file of the City Civil Court, Bengaluru (CCH No. 7), pursuant to the judgment and decree dated 27.10.2007 passed in O.S.No.7883/1999.

13. However, a meticulous examination of the record, pleadings, and oral testimony demonstrates that the appellant's own admissions defeat his defence. In his written statement and appeal grounds, the defendant explicitly asserts that he instituted O.S.No.7883/1999 against one Aslam in respect of property bearing Site No.1/A, formed in Sy.No.13/5, Corporation Khatha No.2, CTS No. 821/95, situated at Someshwaranagar Extension, Lalbagh Siddapura, Bengaluru, measuring East to West 20 ft and North to South 54 ft, bounded by specific boundaries. He initiated Ex.No.496/2009 to execute the said decree.

14. In contrast, the plaintiff's suit schedule property is undisputedly Site No.4 formed out of Sy.No.18 measuring East to West 20 ft and North to South 54 ft, purchased under registered Sale Deed dated 24.07.2014 (Ex.P-24)

from Mohammed Farooq and others, who derived title through a continuous chain starting from the original owner S.P. Ramanna.

15. During his cross-examination, defendant - D.W.1 unequivocally admitted that site No.4 (Municipal No.6) formed in Sy.No.18 and site No.1/A formed in Sy.No.13/5 are entirely different properties. D.W.1 further admitted that O.S.No.7883/1999 was filed against one Aslam and not against the plaintiff or his predecessors-in-title, and that he had never verified the title records or khathas standing in the name of the plaintiff.

16. The admissions made by the defendant and the documentary evidence on record (Ex.P-1 to Ex.P-26) conclusively establish that the property which the defendant is seeking to execute in Ex.No.496/2009 (Sy. No. 13/5) is distinct and separate from the plaintiff's property situated in Sy. No. 18. The plaintiff has placed ample material on record, including khatha extracts, tax-paid receipts, electricity bills, and photographs (Ex.P-1 to Ex.P-18), to prove his settled lawful possession and active enjoyment of the property.

17. When the defendant attempted to execute a decree obtained against a third party in respect of a different survey number (Sy.No.13/5) to dispossess the plaintiff from his property in Sy.No.18, it constituted clear actionable interference. The Trial Court has thoroughly evaluated these aspects, taken note of the execution case details (Ex. No. 496/2009 in O.S. No.7883/1999), and rightly concluded based on the defendant's own admissions that the properties are different and that the plaintiff is in lawful possession. If at all, defendant claims ownership and possession of the property involved in the present suit, he ought to have filed a comprehensive suit for declaration in respect of property involved in the instant suit.

18. Accordingly, the points for consideration are answered in favour of the plaintiff. I find no perversity, illegality, or infirmity in the findings recorded by the Trial Court. The appeal lacks merit and is liable to be dismissed on the grounds discussed above. In the result, I proceed to pass the following:

ORDER

1. The Regular First Appeal filed by the appellant/defendant is hereby ***dismissed***.

2. The judgment and decree dated 28.11.2018 passed by the XIX Additional City Civil & Sessions Judge, Bengaluru City (CCH-18), in O.S. No. 1476/2016, is hereby confirmed.

SD/-
(RAJESH RAI K)
JUDGE

PKS/V