IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE ANANT RAMANATH HEGDE

REGULAR FIRST APPEAL NO. 1517 OF 2018 (DEC/INJ)

BETWEEN:

SRI R K KODANDRAMU,
AGED ABOUT 52 YEARS,
S/O SRI RAMBA KANNAIAH,
R/AT NO.21, 8TH CROSS,
YELLAPPA GARDEN C A ROAD,
MALLESWARAM, BANGALORE-560 003.

...APPELLANT

(BY SRI A SAMPATH, ADVOCATE)

AND:

1. SMT LAKSHMAMMA
   AGED ABOUT 69 YEARS,
   W/O LATE NARASIMHAIAH,

2. SMT ANURADHA
   AGED ABOUT 48 YEARS,
   D/O LATE NARASIMHAIAH

3. SMT VIJAYA
   AGED ABOUT 46 YEARS,
   D/O LATE NARASIMHAIAH

4. SRI JAYARAM
   AGED ABOUT 43 YEARS,
   S/O LATE NARASIMHAIAH

5. SRI NARASIMHA MURTHY
   AGED ABOUT 41 YEARS,
   S/O LATE NARASIMHAIAH

6. KUM VANAJA
   AGED ABOUT 38 YEARS,

Digitally signed by BELUR RANGADHAMA NANDINI
Location: HIGH COURT OF KARNATAKA

D/O LATE NARASIMHAIAH

7. KUM BINDU
AGED ABOUT 32 YEARS,
D/O LATE NARASIMHAIAH
ALL ARE RESIDING AT NO.17/A,
NARASIMHAIAH COLONY ROAD,
LOTTEGOLLAHALLI VILLAGE,
RMV II STAGE SANJAY NAGAR
BANGALORE-560 094,
REPRESETNED BY THEIR GPA HOLDER

8. SRI NARASIMHA MURTHY,
AGED ABOUT 39 YEARS,
S/O LATE NARASIMAIAH,
R/AT NO.17, LOTTEGOLLAHALLI
NARASIMAIAH COLONY, 2ND STAGE,
RMV II STAGE, BANGALORE-560 094.

9. SRI R SHEKAR,
S/O LATE RAJU,
AGED ABOUT 52 YEARS,
R/AT NO.28 1ST MAIN ROAD,
2ND CROSS, DEVINAGAR,
LOTTEGOLLAHALLI, BANGALORE-560094.

…RESPONDENTS

(BY SRI KUMAR S J, ADVOCATE FOR C/R9,
SRI G CHANDRASHEKARAIAH, ADV. FOR R1, R2 & R4 TO R6,
R3, R7 AND R8 ARE SERVED BUT UNREPRESENTED)

THIS RFA IS FILED UNDER SEC.96 OF CPC., AGAINST THE JUDGMENT AND DECREE DATED 13.07.2018 PASSED IN OS.NO.11279/2006 ON THE FILE OF THE 24thADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGLAURU CITY, DISMISSING THE SUIT FOR DECLARATION AND PERMANENT INJUNCTION.

THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 05TH MARCH, 2026 AND COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE ANANT RAMANATH HEGDE

CAV JUDGMENT

This first appeal is under Section 96 of the Code of Civil Procedure, 1908. The plaintiff whose suit in O.S No.11279/2006 for declaration and injunction is dismissed in terms of the judgment and decree dated 13.07.2018 is in appeal.

2. The suit is filed in respect of immovable property described as site bearing No.1, V.P.Khata No.109 and 109/A, having Assessment No.3/3, situated at Lottegollahalli Village, Kasaba Hobli, Bangalore North Taluk, measuring East-West: 10+25/2 feet and North-South: 40 feet, totally measuring 700 square feet with a shed and a compound wall built around it.

The boundaries are described as under:

East : Property No.2
West : Road
North : Road
South : Road and property belongs to M. Anjanamurthy

3. The plaintiff seeks declaration that the registered sale deed dated 11.10.2004 executed by defendants No.1 to 7 in favour of defendant No.8-GPA Holder of defendant No.9 is illegal and not binding on the plaintiff.

4. In addition, the plaintiff also seeks declaration of title to declare him as the owner in possession of the suit schedule property. The plaintiff also sought injunction against the defendants from interfering with his peaceful possession and enjoyment of suit schedule properties and a restraint order against defendant No.9 from alienating the suit schedule properties.

5. This case was heard along with RFAs No.1514/2018, 1515/2018, 1516/2018, 1518/2018, 1519/2018 and 1520/2018. During the hearing, the counsel appearing for both sides submitted that, certain transactions evidenced in the registered sale deeds filed in RFA No.1514/2018 arising from O.S No.11276/2006 are not in dispute. Thus, while narrating the facts of the case, the Court has also taken note of the transactions

evidenced in O.S No.11276/2006, as the parties to the proceeding are claiming right over the sites formed in Sy.No.3/3 in all the cases referred to above.

6. The property bearing Survey No.3/3 measuring 1 acre 13 guntas in Lottegollahalli Village originally belonged to Hanumanthappa. Said Hanumanthappa had two wives namely, Byamma and Thayamma. It appears that both marriages are valid and from both wives, Hanumanthappa had children and among them, a son from first wife Byamma was named as Narasimhaiah and a son from second wife Thayamma was also named as Narasimhaiah.

7. The plaintiff claims that there was an oral partition in the family during lifetime of Hanumanthappa and in the said oral partition, Narasimhaiah son of Hanumanthappa from first wife Byamma was allotted 1 acre 13 guntas of land in Survey No.3/3. The plaintiff claims that said 1 acre 13 guntas of land in Survey No.3/3 was later sold by Narasimhaiah-son of Byamma to

Muniswamappa under a registered sale deed dated 11.12.1956.

8. The plaintiff claims that Muniswamappa sold Survey No.3/3 measuring 1 acre 13 guntas to one Ranganayakamma under a registered sale deed dated 07.03.1957 and Ranganayakamma in turn sold the land to Narasimhaiah, the son from second wife Thayamma under a registered sale deed dated 07.08.1963.

9. The plaintiff also contends that, Narasimhaiah son of second wife Thayamma sold the entire 1 acre 13 guntas in Sy.No.3/3 to Tirupathappa under a registered sale deed dated 08.08.1963 and said Tirupathappa formed several sites in 1 acre 13 guntas and retained few sites and sold few sites.

10. The plaintiff claims that, after the demise of Tirupathappa, his two sons T.Venkatesh and T.Rangaswamy succeeded to the estate of Tirupathappa and the aforementioned two sons executed a power of attorney in favour of Srinivasa Murthy. The power of

attorney holder Srinivasa Murthy, sold the suit property to the plaintiff on 18.08.2006.

11. Thus, the plaintiff claims title and possession over the aforementioned properties and further alleges that the registered sale deed dated 11.10.2004 executed by defendants No.1 to 7 in favour of defendant No. 9 is not binding on the plaintiff.

12. It is the contention of the plaintiff that, defendants No.1 to 7, who are the legal representatives of deceased Narasimhaiah from the second wife did not have any right, title and interest over the properties as Narasimhaiah-the son from second wife Thayamma had sold 1 acre 13 guntas in Sy.No.3/3 to Tirupathappa.

13. Defendants No.1 to 7, the vendors of defendant No.9 the purchaser, contested the suit.

14. The defendants/vendors contended that, Tirupathappa though purchased 1 acre 13 guntas in Sy.No.3/3 did not own and possess the suit property. Tirupathappa had sold all the sites formed by him.

Defendants No.1 to 7 inherited certain sites formed by Narasimhaiah, the son from the second wife of Hanumanthappa, in 1 acre 2 guntas in Sy.No.3/3, and 37 guntas in Sy. No.3/2. And the sale transaction in favour of defendant No. 9 is prior to the sale in favour of the plaintiff and prayed for dismissal of the suit.

15. Defendant No.9 also took a similar stand.

16. The Trial Court framed the following issues:

"1. Whether the plaintiff proves that he is the owner of the suit schedule property?

2. Whether the plaintiff proves that the sale deed dated 11.10.2004 executed by defendant No.1 to defendant No.7 through GPA holder defendant No.8 in favour of defendant No.9 is null & void & not binding on the plaintiff?

3. Whether the plaintiff proves that he is in lawful possession of the suit schedule property on the date of the suit?

4. Whether the plaintiff proves interference alleged?

5. Whether the plaintiff is entitled for the relief of permanent injunction as sought in the plaint?

6. Whether the suit is properly valued and Court fee paid is sufficient?

7. What order or decree?"

17. In addition, the following additional issue is also framed:

Whether plaintiff is entitled for relief of declaration as prayed?"

18. The Trial Court has held that the plaintiff has failed to establish his title and his vendors' title and dismissed the suit. The Trial Court also held that the power of attorney is not proved.

19. The learned counsel appearing for the plaintiff/ appellant urged that, the Trial Court did not consider the case in proper perspective.

20. It is also urged that the suit being one for declaration of title and injunction, where the plaintiff and the contesting defendants claimed title over the property, it was incumbent upon the defendants to establish their title based on the evidence led, applying the test of preponderance of probability.

21. In addition, it is urged that the records produced by the plaintiff would demonstrate that the properties were acquired by Tirupathappa and later inherited by his two children T. Rangaswamy and T. Venkatesh. The plaintiff having acquired title of the property through the sale deed executed by power of attorney holder of T. Rangaswamy viz., Srinivas Murthy, and also children of T.Venkatesh has not only established possession of the property but also established the title.

22. It is further urged by the learned counsel appearing for the plaintiff/appellant that, the defendants have not produced any records to show the formation of sites and layout by Narasimhaiah, the son from the second wife Thayamma. That being the position, the Trial Court could not have dismissed the suit of the plaintiff on the ground that the plaintiff has not produced the documents relating to formation of layout by Tirupathappa.

23. Learned counsel appearing for the respondents would urge that, the plaintiff approached the Trial Court seeking a declaration of title and the burden lies on the

plaintiff to prove his case and the Trial Court has rightly held that the plaintiff has not established the title over the properties and consequently, dismissed the suit.

24. Learned counsel appearing for the respondents would also urge that the sale deed in favour of defendant No.9 is earlier to the sale deed executed in favour of the plaintiff. And the said sale deed in favour of defendant No.9 is executed by the legal representatives of deceased Narasimhaiah, the son from the second wife-Thayamma, who had purchased the property bearing Sy.No.3/3 measuring 1 acre 02 guntas from Byrappa under a registered sale deed dated 11.12.1956 (Ex.P4).

25. It is also urged that, 37 guntas in Survey No.3/2 and 31 guntas in Survey No.3/3 were sold to one Lingamma and she reconveyed the aforementioned properties to Narasimhaiah, the son from the second wife. The said transaction is evidenced in registered sale deed dated 07.04.1965 and would urge that the Trial Court is justified in dismissing the suit (Ex. D1).

26. The Court has considered the contentions raised at the Bar and perused the records.

27. The following points arise for consideration:

(a) Whether the plaintiff/appellant establishes title and possession over the suit property based on the registered sale deed dated 18.08.2006?

(b) Whether the defendant No. 9/respondent No.9 establishes title and possession over the suit property based on the registered sale deed dated 11.10.2004?

(c) Whether the Trial Court is justified in dismissing the suit?

28. Records would reveal that, certain transactions covered by the registered sale deeds are not in dispute. The registered sale deed dated 24.09.1947, executed by Narasimhaiah, where he is shown to be the resident of Nagashettyhalli, pertains to 1 acre 2 guntas in Survey No.3/3. The said document marked as Exhibit-P12 reveals that Seetappa as the purchaser. Said Seetappa reconveyed the same property on 21.04.1950 in favour of

Narasimhaiah, resident of Nagashettyhalli as can be seen from Exhibit-P13.

29. Subsequently, Narasimhaiah conveyed entire extent of 1 acre 2 guntas in Sy.No.3/3 in favour of Byrappa under a registered sale deed dated 28.05.1951, marked as Exhibit-P14.

30. It is further seen that, under a registered sale deed dated 12.05.1955, Narasimhaiah, the son of Hanumanthappa through his first wife - Byamma, purchased 11 guntas of land from his father, Hanumanthappa, and the children born through father's second wife - Thayamma. The said document is marked as Exhibit P.15.

31. Under another registered sale deed dated 11.12.1956 at Exhibit P16, Narasimhaiah purchased 1 acre 2 guntas of land in Survey No.3/3 from the previous owner, Byrappa. In the said document, the purchaser is described as a resident of Nagashettyhalli.

32. Significantly, on the very same day, another registered sale deed, marked as Exhibit P4, came to be executed, wherein the vendor Narasimhaiah is described as the elder son of Hanumanthappa, and an extent of 1 acre and 13 guntas of land is conveyed in favour of Muniswamappa.

33. A comparative reading of these contemporaneous transactions lead to a reasonable inference that, the vendor in the sale deed dated 11.12.1956 (Exhibit P4) is Narasimhaiah, son of Hanumanthappa through his first wife Byamma, whereas the purchaser under the sale deed of the same date (marked as Exhibit P.16) is Narasimhaiah, son of Hanumanthappa through his second wife Thayamma.

34. It is also relevant to note that, the extent of 1 acre 13 guntas purchased by Muniswamappa under the registered sale deed dated 11.12.1956 was subsequently conveyed to Ranganayakamma under two registered sale deeds dated 07.03.1957 and 17.07.1958 marked as Exhibits - P5 and P17 respectively. Though the extent of

the land in the two sale deeds referred to above add up to 1 acre 13½ guntas, same will not have any bearing on the final outcome of the suit as Muniswamappa who had purchased 1 acre 13 guntas from Narasimhaiah can convey only 1 acre 13 guntas through Ranganayakamma and Ranganayakamma in turn has sold only 1 acre 13 guntas to Narasimhaiah, the son from second wife under registered sale deed dated 07.08.1963. The said document is marked at Exhibit-P6.

35. Later, on 08.08.1963 Narasimhaiah-the son from second wife Thayamma, sold 1 acre 13 guntas to Tirupathappa. In the said sale deed at Exhibit-P7, it is mentioned that seller is the son from the second wife of Hanumantappa.

36. Thus, it can be noticed that, the Survey No.3/3 was subject matter of several transactions starting from 1947 onwards. It is also evident that the transactions in respect of Survey No.3/3 referred to two different chunks of lands, one measuring 1 acre 2 guntas and another measuring 1 acre 13 guntas.

37. The land measuring 1 acre 2 guntas was purchased by Narasimhaiah, the son from the second wife-Thayamma under the sale deed executed by Byrappa on 11.12.1956. This portion of land was retained by Narasimhaiah, the son from the second wife. The another chunk of land measuring 1 acre 13 guntas was initially sold by Narasimhaiah, the son from the first wife and property was sold to Muniswamappa. As already noticed, Muniswamappa sold the same to Ranganayakamma and later, said property measuring 1 acre 13 guntas was purchased by Narasimhaiah, the son from the second wife and later sold to Tirupathappa who purchased under a registered sale deed dated 08.08.1963.

38. Admittedly, the plaintiff is claiming that the suit site falls within 1 acre 13 guntas of land purchased by Tirupathappa. The defendants essentially claimed that Tirupathappa sold all the sites during his lifetime and his children did not inherit any sites in Survey No.3/3 and the plaintiff cannot claim any right under the sale deed executed by children of Tirupathappa.

39. The defendants also claim that the properties sold to defendant No.9 by defendants No.1 to 7 under the sale deed which is under challenge, are the sites formed in Survey No.3/3 measuring 1 acre 2 guntas or Survey No.3/2 measuring 27 guntas which belong to Narasimhaiah the son from second wife Thayamma.

40. The Trial Court has observed that, the plaintiff has not produced the records to show that, as on the date of the suit or as on the date of the execution of the sale deed in favour of the plaintiff, the property was standing in the name of the plaintiff or his vendors respectively. The encumbrance certificate as on the date of the execution of the sale deed was also not in the name of the plaintiff's vendors. The khata was not standing in the name of the plaintiff's vendors. In addition, the Trial Court has also noticed that no documents are produced to hold that the plaintiff's vendors namely T.Rangaswamy and T.Venkatesh, the children of Tirupathappa inherited the properties after the demise of Tirupathappa.

41. The plaintiff claims that Tirupathappa had formed sites in Sy.No.3/3 measuring 1 acre and 13 guntas. This contention that the Tirupathappa formed sites is not in dispute. The plaintiff's claim that Tirupathappa sold certain sites and retained some is disputed by the defendants. The defendants contend that the Tirupathappa sold all the sites formed by him and when he died, his children did not inherit any sites in Sy.No.3/3.

42. The plaintiff has also not produced any records relating to formation of layout by Tirupathappa which could have thrown light as to how many sites were formed by Tirupathappa. The plaintiff has also not produced the sale deeds said to have been executed by Tirupathappa in respect of sites formed in Survey No.3/3 measuring 1 acre 13 guntas. Had the plaintiff revealed as to how many sites have been formed, sold and retained by Tirupathappa, the Court would have been in a position to ascertain as to whether Tirupathappa had retained any sites, which eventually would be inherited by his two children namely T.Rangaswamy and T.Venkatesh. However, it is not done.

43. In addition, it is required to be noticed that the records viz., encumbrance certificate, khata certificates and extracts and tax paid receipts, water and electricity bills marked at Exhibits-D.2 to D.12, would indicate that the suit site was standing in the name of defendants No.1 to 7, when they executed the sale deed in the name of defendant No.9, and after the execution of the sale deed, the khatha was changed in the name of the purchasers namely defendant No.9.

44. Though the learned counsel for the plaintiff/appellant is right in holding that the Trial Court disbelieved the power of attorney on an untenable ground that the signature in the power of attorney is not marked and identified, which could not have been a ground to ignore the power of attorney. The Court is of the view that, there is a valid ground to reject the power of attorney as the recital in the power of attorney read with the evidence of the power of attorney holder-PW.2 would indicate that, the said power of attorney was a power of attorney coupled with interest where through power of attorney, the

title is said to have been conveyed to the power of attorney holder.

45. The power of attorney holder in his cross-examination states that, when the power of attorney was executed he paid the consideration amount to T.Rangaswamy and T.Venkatesh. In addition, he further claims that he has conveyed the title to the purchaser and he has retained the consideration amount. If that is the evidence, the Court is of the view that the power of attorney required registration and same is not registered.

46. The Court is concurring with the view of the Trial Court which has recorded a finding that, the plaintiff has failed to establish the title of his vendors.

47. Though the learned counsel for the plaintiff/appellant has urged that, even the defendants have failed to produce the plan of the layout said to have been formed by Narasimhaiah, the son from the second wife, on preponderance of probability, the Court is of the view that, there are materials to hold that the property

records stood in the names of the defendants No.1 to 7 when the sale deed was executed by defendants No.1 to 7 in favour of defendant No.9.

48. Learned counsel for the appellant referring to paragraph No.15 of the written statement filed defendants No.1 to 5 would submit that in the said paragraph No.15, defendants No.1 to 5 have admitted the title of the plaintiff's vendor over site No.1 and they claimed that site No.1 was transferred to their predecessor-in-title Narasimhaiah as a consideration for developing the sites. This transfer is not established and when the transfer is not established, the plaintiff's title from the legal representatives of deceased Tirupathappa stand established.

49. The Court is of the view that the written statement in paragraph No.5 would at the first-blush indicate that defendants No.1 to 5 have admitted the title of Tirupathappa over site No.1. However, it is well-settled principle that the pleading cannot be read selectively. The

pleadings have to be read as whole by taking into consideration all the averments in the pleading.

50. In paragraph No.14 of the written statement, defendants No.1 to 5 have taken a stand that Tirupathappa and his predecessor Narasimhaiah jointly formed layout in a portion of the property belonging to Narasimhaiah in Sy. Nos.3/2 and 3/3 along with a portion of the property in Sy.No.3/3 in the name of Tirupathappa and formed 38 sites and it is stated that Tirupathappa has sold all the sites fallen to his share by way of sale deeds and no site has been retained by him and his sons have not inherited any right over the suit schedule property and accordingly, plaintiff does not acquire any title over the property under the registered sale deed dated 18.08.2006.

51. In addition to that, it is also required to be noticed that in the evidence of DW.2, the stand taken in paragraph No.15 of the written statement is not reiterated.

52. In paragraph No.11 of the evidence, DW.2 has stated the suit property is sold to third party under the

registered sale deed and property bearing No.1 was not standing in the name of Tirupathappa at the time of his death. Thus, the sale deed could not have been executed by Tirupathappa's successors in favour of the plaintiff. It is relevant to notice that no records are produced to show that site No.1 was held by Tirupathappa at the time of his death and inherited by his children after his death or partitioned by Tirupathappa's children after his demise.

53. This being the position, merely because a stand is taken in the written statement that Tirupathappa transferred the property to Narasimhaiah and failure to establish the stand by default do not confer any title in favour of the plaintiff.

54. It is relevant to notice that PW.2 holder has stated that on 06.03.1991 the properties in the names of children of Tirupathappa were partitioned, however, no records are produced to establish the alleged partition and allotment of Sy.No.3/3 in favour of children of Tirupathappa.

55. The plaintiff has produced the judgment passed by the Civil Courts in respect of some property. The said judgment is of no consequence as the present defendants/respondents or their predecessors were not parties to the said proceeding. Thus, the said judgment does not operate against or bind the defendants. It is also noticed that the judgment is not pertaining to the suit property.

56. Hence, the following:

ORDER

The appeal is ***dismissed.***

Sd/-

(ANANT RAMANATH HEGDE)
JUDGE

BRN/CHS/GVP