IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 6TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAJESH RAI K

REGULAR FIRST APPEAL NO. 759 OF 2020

BETWEEN:

1. A KUMAR
   S/O LATE ANNAMALAI
   AGED ABOUT 51 YEARS,

2. SMT POONGUDI
   W/O SRI A KUMAR
   AGED ABOUT 49 YEARS,

   BOTH ARE PRESENTLY RESIDING IN
   OLD NO.21, LATER NO.J-57
   PRESENT NO.J-11
   DR.T.C.M. ROYAN ROAD,
   CHELUVADI PALYA
   CHIKKAPETE, BANGALORE-560 053

...APPELLANTS

(BY SRI. VAGEESHA N AND
SRI. A. RAMACHANDRA, ADVOCATES)

Digitally signed by PANKAJA S
Location: HIGH COURT OF KARNATAKA

AND:

R AGILAN
S/O LATE RAJASHEKAR
AGED ABOUT 52 YEARS
RESIDING AT NO.105
KESHAVANAGAR I CROSS,
K.P AGRAHARA, MAGADI ROAD,
BANGALORE-560 023

...RESPONDENT

(BY SRI. V. RAJANNA, ADVOCATE)

THIS RFA IS FILED UNDER SECTION 96 OF CPC, AGAINST THE JUDGMENT AND DECREE DATED 28.02.2020

PASSED IN O.S.NO.4083/2018 ON THE FILE OF THE XXXVII ADDL.CITY CIVIL JUDGE, (CCH-38) BANGALORE, DECREEING THE SUIT FOR DECLARATION AND POSSESSION.

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 appellants-defendants challenging the judgment and decree dated 28.02.2020 passed by the XXXVII Additional City Civil and Sessions Judge (CCH-38), Bengaluru City (for short, "the Trial Court"), whereby the Trial Court decreed the suit of the plaintiff for declaration and possession.

2. For the sake of convenience, the parties are referred to as per their ranking before the Trial Court. The appellants are the defendants and the respondents are the plaintiffs.

3. The abridged facts of the case are as under:

The plaintiff instituted the suit against the defendants seeking a declaration of absolute title and recovery of possession, asserting that he purchased suit Schedule 'A'

property under a registered sale deed dated 30.10.2004 (Ex.P15), of which Schedule 'B' forms a part. The plaintiff claimed that in 2005, the 1st defendant was permitted to temporarily occupy the Schedule 'B' tiled-roofed house for six months at a monthly rent of Rs.200/-, which tenancy later became a point of dispute when the defendants defaulted on rent and claimed independent ownership. An earlier eviction petition, HRC No.67/2017, filed by the plaintiff was dismissed on 07.04.2018 solely due to the absence of a proved jural landlord-tenant relationship, with the Small Causes Court directing the parties to approach a civil court.

4. Consequently, the plaintiff filed the present suit. Per contra, the defendants contended that they had independently acquired the property in 1989–90 and were in peaceful possession thereof. The Trial Court, upon evaluating the oral and documentary evidence, decreed the suit in favour of the plaintiff. Aggrieved by the same, the defendants are before this Court.

5. Heard the learned counsel Sri Vageesha N. and Sri A. Ramachandra for the appellants/defendants and the learned counsel Sri V. Rajanna for the respondents/plaintiffs.

6. The primary contention of the learned counsel for the appellants/defendants is that the Trial Court totally erred in decreeing the suit without careful scrutiny of the titles of Schedule 'A' and 'B' properties. According to him, the schedule in the Sale Deed dated 30.10.2004 and the descriptions of Schedule 'A' and 'B' properties are totally different. The defendants contend that they are residing in the 'B' schedule property ever since 1989-90, i.e., prior to the acquisition of Schedule 'A' property by the plaintiff, in their independent right, thereby possessing an independent possessory title. It is further submitted that a huge banyan tree exists between Schedule 'A' and 'B' properties, bifurcating them. The plaint averment describes Schedule 'A' property as a site bearing No.3 situated at Cheluvadi Muniga Lane, Bengaluru Ward No.30, whereas Schedule 'B' property is described as bearing old No.J-20 and new No.3, Cheluvadi Muniga Lane, Dr. T.C.M. Royan Road, Cheluvadi Palya, indicating that they are distinct entities. Placing reliance on the admissions of PW.1 in cross-examination regarding the non-mentioning of Property No.J-20 in Ex.P1 and the boundaries, the learned counsel submitted that the evidence and documents clearly prove that Schedule 'A' and 'B' properties are separate. As such, the judgment and

decree passed by the Trial Court are erroneous and liable to be set aside. Accordingly, he prays to allow the appeal.

7. *Per contra*, the learned counsel for the plaintiff/respondent, supporting the impugned judgment and decree, contended that the plaintiff is the absolute owner of the property bearing No.3 measuring east to west 25 feet and north to south 15 feet out of a larger extent of 30' x 50' bifurcated by the Corporation (Schedule 'A' property), having purchased the same under a registered absolute Sale Deed dated 30.10.2004. Thereafter, a small portion measuring 15' x 15' (Schedule 'B' property) was let out to the defendants in the year 2005 at a monthly rent of Rs.200/-. When the building became dilapidated, the BBMP issued a notice dated 19.10.2010 directing demolition, prompting the plaintiff to request the defendants to vacate, which they failed to do. This led to the filing of HRC No.67/2017, which was dismissed solely on the ground that a jural relationship of landlord and tenant was not formally established, leaving the plaintiff to seek remedies before the civil court in O.S. No.4083/2018.

8. The learned counsel further submitted that the larger extent measuring 50' x 30' originally belonged to one

Anwar Khan Kaleel and was divided into four parts, one of which was purchased by the plaintiff. Apart from Schedule 'A' property, no independent property exists as claimed by the defendants. Moreover, minor discrepancies in boundaries or property numbering, such as Old Kemmannagundi Road and Dr. T.C.M. Royan Road being alternate names for the same locality, do not alter the identity of the property. Accordingly, he prays for dismissal of the appeal.

9. Having heard the learned counsel for the parties, the points arising for my consideration are:

> *1. Whether the plaintiff proved that he is the absolute owner of suit Schedule 'A' and 'B' properties and that the defendants are in unauthorized occupation of Schedule 'B' property?*
>
> *2. Whether the impugned judgment and decree suffer from any perversity or illegality warranting interference?*

10. Admittedly, the plaintiff purchased Schedule 'A' property under a sale deed dated 30.10.2004 executed by Usman Khan Kaleel @ Mustak Ahmed, marked as Ex.P1. The description of Schedule 'A' property in the sale deed reads as under:

"All that piece and parcel of the house property bearing No.3, situated at Chalvadi Muniga Lane, Bengaluru, Ward No.30, Property ID No. (PID) Sri Krishnarajendra Market, Bengaluru - 560 053, measuring east to west 25 feet and north to south 15 feet out of 30' x 50' bifurcated by the Corporation and bounded on the:

East by	*:*	*Private Property*
West by	*:*	*Cheluvadi Muniga Lane*
North by	*:*	*Remaining Portion of the property*
South	*:*	*Private property. "*

11. Since there were minor manual corrections in the boundaries of Schedule 'A' property, a rectification deed was subsequently executed on 24.08.2006 (Ex.P2), wherein the description was clarified as under:

"All that piece and parcel of the house property bearing No.3, situated at (Old Kemmanagundi Road), Dr. T.C.M. Royan Road, Cheluvadi Muniga Lane, Bengaluru, Ward No.30, Property ID No. (PID) Sri Krishnarajendra Market, Bengaluru - 560 053, measuring east to west 25 feet and north to south 15 feet out of 30ft x 50ft bifurcated by the Corporation and bounded on the:

East by	*:*	*Dr. T.C.M. Royan Road*
West by	*:*	*Remaining portion of the same property sold to Smt. D. Usha*
North by	*:*	*Remaining portion of the same*

		property sold to Smt. Pushpanamma
South	*:*	*Private property"*

12. The documentary evidence establishes that the plaintiff is the absolute owner of the property bearing No.3 situated at Old Kemmannagundi Road / Dr. T.C.M. Royan Road, Cheluvadi Muniga Lane, measuring 25 feet east-west and 15 feet north-south, and all revenue records stand mutated in his name. The records of HRC No.67/2017 reveal that the dismissal of the eviction petition was strictly on the technical ground of non-establishment of a jural landlord-tenant relationship, rather than a finding against the plaintiff's title. Furthermore, Ex.P6 demonstrates that the Assistant Executive Engineer, J.J. Nagar Sub-Division, BBMP, issued a notice to the plaintiff to demolish the dilapidated structure standing on Schedule 'A' property. Photographs at Ex.P7 and P8 corroborate that Schedule 'A' and 'B' properties form a single integrated unit, part of which has been partially demolished due to its dilapidated condition.

13. The contention of the defendants that a huge banyan tree bifurcates Schedule 'A' and 'B 'properties into distinct entities is devoid of merit. The material on record,

including photographs and the rough sketch, indicates that the banyan tree stands at a corner of the property, with its branches overhanging the structure, rather than acting as a physical boundary dividing two separate properties. The original larger extent measuring 50' x 30' belonging to Anwar Khan Kaleel was subdivided into four portions and allotted/sold to separate purchasers, with the plaintiff's portion renumbered as Property No.3 and adjacent portions as 3/1, 3/2, and 3/3.

14. Apart from placing reliance on minor discrepancies and stray admissions in the cross-examination of PW.1 regarding property numbering and road names, the defendants have failed to produce any title deeds, tax receipts, or independent documentary evidence to substantiate their plea of independent ownership or possessory title dating back to 1989–90. The evidence conclusively proves that Schedule 'B' property is an integral part and parcel of Schedule 'A' property, that the plaintiff holds absolute title thereto, and that the defendants' occupation of Schedule 'B' property is unauthorized.

15. In view of the foregoing discussion, I hold that the Trial Court has meticulously appreciated the oral and documentary evidence on record, and its findings do not suffer

from any perversity, illegality, or legal infirmity. Accordingly, points (i) and (ii) are answered in the affirmative.

ORDER

1. The Regular First Appeal is ***dismissed***.

2. The judgment and decree dated 28.02.2020 passed by the XXXVII Additional City Civil and Sessions Judge (CCH-38), Bengaluru, in O.S. No.4083/2018 is hereby affirmed.

SD/-
(RAJESH RAI K)
JUDGE

PKS/V