HC-KAR

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 7TH DAY OF JANUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE R DEVDAS

CIVIL REVISION PETITION NO. 709 OF 2025

BETWEEN:

1. SRI. SYED ASHRAFULLA
   AGED ABOUT 62 YEARS
   S/O.SRI.AMEER JAAN
   R/AT.NO.876, 20TH CROSS,
   5TH BLOCK, BEHIND KEB OFFICE,
   HBR LAYOUT, NAGAWARA,
   BENGALURU- 560 043.

2. SRI.SYED RAHAMATHULLA
   AGED ABOUT 64 YEARS
   S/O.SRI.AMEER JAAN
   R/AT.NO.20, 5TH MAIN,
   OPP. TO RELIANCE FRESH,
   BHUVANESWARI NAGARA,
   DASARAHALLI,
   BENGALURU 560 057.

Digitally signed by JUANITA THEJESWINI
Location: HIGH COURT OF KARNATAKA

...PETITIONERS

(BY SRI. SAMARTH S. MURTHY FOR
SRI. S.G.MUNISWAMY GOWDA., ADVOCATE)

AND:

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

R/AT.NO.63, VADDARAPALYA,
AGARA MAIN ROAD,
BENGALURU 560 043.

2. SMT.JAYAMMA
D/O.LATE THAMMAIAH
AGED ABOUT 60 YEARS
R/AT.NO.53, LAKKONDAHALLI,
HOSAKOTE TALUK,
BENGALURU 562 114.

3. SMT. UMA
D/O. LATE CHIKKAPAPAIAH,
AGED ABOUT 45 YEARS
R/AT.NO.63, VADDARAPALYA,
AGARA MAIN ROAD,
BENGALURU 560 043.

4. SRI.SREEDHAR
S/O. LATE CHIKKAPAPAIAH,
AGED ABOUT 43 YEARS
R/AT.NO.63, VADDARAPALYA,
AGARA MAIN ROAD,
BENGALURU 560 043.

5. SMT.KAMALA
W/O. LATE MURTHY,
AGED ABOUT 50 YEARS
R/AT.NO.23, VADDARAPALYA,
AGARA MAIN ROAD,
BENGALURU 560 043.

6. SRI. SHANKAR
S/O. LATE MURTHY,
AGED ABOUT 32 YEARS

R/AT.NO.23, VADDARAPALYA,
AGARA MAIN ROAD,
BENGALURU 560 043.

7. SRI. LOKESH
S/O. LATE MURTHY,
AGED ABOUT 29 YEARS
R/AT.NO.23, VADDARAPALYA,
AGARA MAIN ROAD,
BENGALURU 560 043.

8. SRI.GANGADHARA
S/O. LATE KRISHNAPPA @
CHIKKAKRISHNAPPA,
AGED ABOUT 52 YEARS
R/AT. NO.78, VADDARAPALYA,
AGARA MAIN ROAD,
BENGALURU 560 043.

9. SMT. MUNIYAMMA
W/O. LATE NAGARAJ,
AGED ABOUT 38 YEARS
R/AT. NO.78, VADDARAPALYA,
AGARA MAIN ROAD,
BENGALURU 560 043.

10. SRI. KIRAN KUMAR.G
S/O. LATE PRAMOD DAMODARAN,
AGED ABOUT 23 YEARS
R/AT.NO.1, PRARTHANA,
KAVERI LAYOUT, DEFENCE COLONY,
HORAMAVU, AGARA,
BENGALURU 560 043.

11. SRI. ZAMEERULLA
S/O.SRI.ABDUL AZEEZ,
AGED ABOUT 40 YEARS
R/AT.NO.905, HENNUR MAIN ROAD,
KACHARAKANAHALLI,
BENGALURU 560043.

…RESPONDENTS

(BY SRI.UDAYA PRAKASH MOULYA., ADVOCATE FOR R1 TO R9
V/O DT.03/12/2025 NOTICE TO R10 & R11 IS D/W)

THIS CRP IS FILED UNDER SECTION 115 OF CPC, AGAINST THE ORDER DATED 28.08.2025 PASSED ON I.A.NO. III IN OS.NO.2611/2025 ON THE FILE OF THE XLIV ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU AND ETC.

THIS PETITION, COMING ON FOR ADMISSION, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE R DEVDAS

ORAL ORDER

This Civil Revision Petition is filed at the hands of defendants No.3 and 4 in O.S.No.2611/2025 on the file of the learned XLIV Addl. City Civil and Sessions Judge, Bengaluru (CCH-45), aggrieved of the rejection of their application filed under Order VII Rule 11 (a) and (d) of the Code of Civil Procedure.

2. For the purpose of convenience, the parties shall be referred to in terms of their ranking before the Trial Court.

3. Learned counsel for defendants No.3 and 4 submits that a plain reading of the plaint clearly shows that the plaintiffs admit that the father of defendant No.1, late Sri Pramod Damodaran has executed a registered gift Deed in favour of defendant No.1. It is also admitted that a registered sale deed dated 22.04.2022 has been executed by defendant No.1 in favour of defendants No.3 and 4. They have further admitted that the khata in the office of the BBMP has been transferred in favour of defendants No.3 and 4. That being the position, the suit with a prayer only for permanent injunction to restrain the defendants is not maintainable, in view of the law laid down by the Hon'ble Supreme Court in the case of ***Anathula Sudhakar Vs. P.Buchi Reddy (Dead) by Lrs. and Others*** reported in **(2008) 4 SCC 594**. In that view of the matter, the Trial Court could not have rejected the

application filed under Order VII Rule 11 (a) and (d) of the Code of Civil Procedure.

4. Per contra, learned counsel for the plaintiffs submits that the Trial Court has rightly taken into consideration the contentions raised by defendants No.3 and 4 and has rightly come to a conclusion that dispute as to the possession being question of fact is required to be decided by a full-fledged trial.

5. It was also rightly held that the plaintiffs can seek the relief of declaration of ownership by way of amendment of the plaint. Learned counsel would further submit that it would be incorrect to read the plaint in the manner in which the learned counsel is trying to read a few sentences here and there. Learned counsel submits that the plaintiffs have clearly stated that the defendants are utter strangers to the suit schedule property, neither did the defendant No.1 nor his father have any right, title or interest in respect of the suit schedule property to have

transferred the rights in favour of defendants No.3 and 4. Therefore, merely because a registered sale deed is executed in favour of defendants No.3 and 4, it would not compel the plaintiffs to seek a declaration in respect of such documents where the person who has executed the document had no right, title or interest over the property in question and therefore, as the law laid down by the Hon'ble Supreme Court, in such circumstances it may not be mandatory on the part of the plaintiffs to seek a declaration in respect of such documents.

6. Having heard the learned counsel for defendants No.3 and 4, the learned counsel for plaintiffs and on perusing the petition papers, this Court is of the considered opinion that there is considerable substance in the submission made by the learned counsel for the plaintiffs. On a plain reading of the plaint, it cannot be said that there is no cause of action for the plaintiffs to have filed the suit with the prayer seeking only permanent injunction against the defendants. The plaintiffs have

clearly stated that even though there are registered documents executed by some person in favour of defendants No.3 and 4, that by itself will not compel the plaintiffs to seek a declaration in respect of those documents. If a person who has no title over the property has executed a sale deed transferring the rights which he never had, the law does not require the party who comes to the Court seeking a decree of permanent injunction to necessarily seek a relief as against such illegal or void documents. Moreover, as rightly observed by the Trial Court, it is always open for the plaintiffs to amend the plaint and seek such a relief, if necessary.

7. This Court does not find any infirmity in the impugned order. Accordingly, the Civil Revision Petition stands ***dismissed***.

Sd/-
(R DEVDAS)
JUDGE

JT/-
CT: JL