HC-KAR

NC: 2026:KHC:60845
RFA No. 1545 of 2011

CNR: KAHC010652712011

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 2ND DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MS. JUSTICE JYOTI M

REGULAR FIRST APPEAL NO. 1545 OF 2011

BETWEEN:

1. M/S VARNA BUILDERS
REPRESENTED BY ITS
MANAGING PARTNER
SRI V BHAKTA KUMAR
OFF. AT SWISS COMPLEX,
2ND FLOOR, NO.33,
RACE COURSE ROAD,
BENGALURU - 560 001.

...APPELLANT

(BY SRI. S.CHETAN NAG, ADVOCATE ALONG WITH
SRI. R.DESHRAJ, ADVOCATE AND ALSO FOR
PROPOSED IMPLEADING APPLICANT)

AND:

Digitally signed by
PREMCHANDRA M R
Location: HIGH
COURT OF
KARNATAKA

1. SMT RADHA SRIDHAR
W/O SRI R SRIDHAR
AGED ABOUT 71 YEARS,
SRIVARDHINI NO.118, 4TH CROSS,
GAVIPURAM EXTENSION,
BENGALURU -560019.

2. SMT PATTAMMAL
SINCE DECEASED BY HER LRS

2(A) SRI K V ARAVAMUDAN
S/O K VEDANTH IYENGAR
MAJOR
SINCE DECEASED, REPRESENTED BY LRS

2(A)(A) SMT. JAMBU KANNAN,
W/O. LATE K.V.ARAVAMUDAN,
MAJOR,

2(A)(B) SRI. K.V.DASARTHI
S/O. LATE K.V.ARAVAMUDAN,
MAJOR,

2(A)(C) SMT. SHEELA SHRIPATHI,
W/O. LATE K.V.SHRIPATHI,
MAJOR,

2(A)(D) SMT. SHRUTHI,
D/O. LATE K.V.SHRIPATHI,
MAJOR

2(A)(E) SRI. SRINIDHI,
S/O. LATE K.V.SHRIPATHI,
MAJOR,

RESPONDENTS NO.2A(A) TO 2A(E)
R/AT DOOR NO. 107/58, IV MAIN,
GAVIPURAM EXTENSION,
BENGALURU-560019.

2(B). SRI. K.V.VARADARAJAN,
S/O. SRI. K.VEDANTHA IYENGAR,
AGED MAJOR,

2(C). SRI. K.V.SAMPATH,
S/O. SRI. K.VEDANTHA IYENGAR,
AGED MAJOR,

2(D). SRI. K.V.VIJAYASARATHI,
S/O. SRI. K.VEDANTHA IYENGAR,
AGED MAJOR,

2(E). SRI. K.V.RAGHUPATHI,
S/O. SRI. K.VEDANTHA IYENGAR,
AGED MAJOR,

RESPONDENTS NO. 2(B) TO 2(E) ARE
RESIDING AT "SRI SHAILAM" NO.59,
4TH MAIN, GAVIPURAM, GUTTAHALLI,
CHAMARAJAPET, BENGALURU-560019.

3. THE COMMISSIONER
CORPORATION OF THE
CITY OF BENGALURU
NOW BBMP, BENGALURU.

…RESPONDENTS

(BY SMT. JASHO LAKSHMI, ADVOCATE FOR
SMT. SOHANI HOLLA, ADVOCATE FOR R1;
SMT. B.S.VIJAYALAKSHMI, ADVOCATE FOR R2(C);
SRI. C.K.NANDAKUMAR AND ASSTS., ADVOCATE
FOR R2(E);
R2(A), R2(B) AND R2(D) ARE
SERVED AND UNREPRESENTED;
SRI. ARAVIND M. NEGLUR, ADVOCATE FOR R3)

THIS REGULAR FIRST APPEAL IS FILED UNDER SECTION 96 READ WITH ORDER 41 RULE 1 OF THE CODE OF CIVIL PROCEDURE.

THIS REGULAR FIRST APPEAL IS LISTED FOR ORDERS, THIS DAY, THE JUDGMENT IS DELIVERED AS UNDER:

ORAL JUDGMENT

Sri.S.Chetan Nag., along with Sri.R.Deshraj., counsel for the appellant and also for proposed impleading applicant; Smt.Jasho Lakshmi., and Smt.Sohani Holla., counsel for respondent No.1 appeared in person.

2. This is an appeal from the Court of the XXVII Addl. City Civil Judge, Bengaluru City.

3. The plaintiff, Smt.Radha Sridhar., filed a suit against the defendants, Smt.Pattammal, and the Commissioner in O.S.No.1812/1992. The Trial Court, vide Judgment and Decree dated 30.07.2008, decreed the suit. The present appeal is filed under Section 96 of the CPC by M/s.Varana Builders.

4. Counsel for the respective parties advanced several contentions. The Court heard and perused the records with care.

5. The following points arise for determination:

1. Whether the suit for bare injunction abated upon the death of the defendant.
2. Whether the Trial Court was competent to pass a Judgment and Decree after abatement.
3. What is the consequence of an appeal filed against such Judgment and Decree?

6. The suit is for a permanent injunction simpliciter. It is unnecessary to refer to the pleadings in detail.

An injunction is, in its nature, a remedy against an individual. It will be issued only in respect of acts done by the person against whom it is sought to be enforced. An injunction is a personal remedy and does not run with the land. Ordinarily, a decree for an injunction can be executed only against the person against whom the injunction is issued, and it cannot be executed against any other person in the absence of a statutory provision. The relief of an injunction is purely personal.

Applying the principles of "actio personalis moritur cum persona", the injunction is a personal remedy against a person, particularly the defendant. It restricts the person, i.e., the defendant.

In a bare injunction suit, the relief sought and the cause of action are personal to the defendant. When the defendant dies, the right to sue ordinarily does not survive,

and the suit abates under Order XXII CPC. Any Judgment or Decree the Trial Court passes afterwards is a nullity in law because it is passed against a dead person and without jurisdiction.

The records clearly show that the defendant, Smt.Pattammal, died while the proceedings were pending and before the final Judgment was delivered. Upon a person's death, the cause of action dies with them and does not pass to their legal representatives. In a suit seeking only a permanent injunction, if the defendant dies before the dispute is finally adjudicated, the right to sue does not survive, and the cause of action ends.

7. Under these circumstances, the consequence of an appeal would be that:

1. The appeal will succeed, not on the merits of the injunction, but on the ground that the Trial Court lacked jurisdiction to decide after abatement.

2. The decree will be set aside, and the suit will stand abated as of the date of the defendant's death.

3. No substantive rights flow from such a decree, and execution based on it cannot be sustained.

ORDER

I. The appeal is ***allowed***.

II. The Judgment and Decree dated:30.07.2008 passed by the Trial Court after the death of the first defendant are set aside.

III. It is declared that the suit abated upon the death of the first defendant.

IV. Any execution or enforcement of the impugned decree is null and void.

V. Parties shall bear their own costs.

VI. Because of disposal of the appeal, pending interlocutory applications, if any, does not survive for consideration.

Sd/-
(JYOTI M)
JUDGE

MRP/List No.: 1 Sl No.: 59.1