HC-KAR

NC: 2026:KHC:59982
RFA No. 1833 of 2026

CNR: KAHC010676672026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE HANCHATE SANJEEVKUMAR

REGULAR FIRST APPEAL NO. 1833 OF 2026 (INJ)

BETWEEN:

1. MADHUSH B M
   S/O. PRASAD,
   AGED ABOUT 34 YEARS,
   R/AT NO.157, 2ND FLOOR,
   2ND PHASE,
   WEST OF CHORD ROAD,
   MAHALAKSHMIPURAM,
   BENGALURU – 560 086.

...APPELLANT

(BY SRI. ARUN ASHOK GADAG, ADVOCATE)

AND:

Digitally signed by N UMA
Location: HIGH COURT OF KARNATAKA

1. RESHMA SHIVALINGA
   W/O. JAGADEESH M.S.,
   AGED ABOUT 38 YEARS,
   R/AT NO.72, SAMRUDDHI NILAYA,
   3RD MAIN, AADITHYA NAGAR,
   KOTHANUR MAIN ROAD,
   NEXT TO NR SCHOOL, KONANAKUNTE,
   JP NAGAR 8TH PHASE,
   BENGALURU.

2. BHASKAR
   FATHER'S NAME NOT KNOWN,
   AGED ABOUT 48 YEARS,
   R/AT PAPAREDDY PALYA,
   YESHWANTHAPURA HOBLI,

BENGALURU NORTH TALUK,
BENGALURU – 560 056.

…RESPONDENTS

(BY SRI.KEMPEGOWDA, ADVOCATE FOR C/R1 IN CP.23107/26)

THIS RFA IS FILED UNDER SEC.96 OF CPC, AGAINST THE JUDGMENT AND DECREE DATED 09.09.2026 PASSED IN OS NO.418/2023 ON THE FILE OF THE IX ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BANGALORE, (CCH-5) AND ETC.,

THIS APPEAL, COMING ON FOR ADMISSION, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE HANCHATE SANJEEVKUMAR

ORAL JUDGMENT

This appeal is filed by the appellant/defendant No.2 calling in question the judgment and decree passed in O.S.No.418/2023 on the file of the IX Additional City Civil and Sessions Judge, Bengaluru (CCH-5), whereby the suit filed by respondent No.1-plaintiff for permanent injunction came to be decreed.

2. For the sake of convenience, the parties are referred to as per their rankings before the Trial Court.

3. The plaintiff has filed the suit for permanent injunction claiming that the she is the absolute owner of the suit schedule property and that the defendant is interfering with her peaceful possession and enjoyment of the suit schedule property.

4. It is the case of the plaintiff that she has purchased the suit schedule property from one Muralidhara and is in possession of the said property. Therefore, alleging that the defendant is causing interference in the suit schedule property, the plaintiff has filed suit for permanent injunction.

5. The defendants No.1 and 2 appeared through their Advocate and defendant No.2 filed his written statement contending that he is the bonafide purchaser of the suit property bearing Site No.132 formed in Sy.nos.23/8 and 22/8 situated at Mallathahalli Village. It is the defence of defendant No.2 that the plaintiff has created concocted documents and filed frivolous suit. Therefore, he prays to dismiss the suit.

6. The plaintiff got examined herself as P.W.1 and produced documentary evidence and got them marked as

Exs.P1 to 41. After P.W.1 completed her evidence, the defendants have not lead any evidence both oral and documentary. Therefore, the Trial Court decreed the suit in favour of plaintiff considering the evidence placed by the plaintiff only.

7. Learned counsel for the appellant/defendant No.2 submitted that one more opportunity may be given to defendant No.2 to contest the suit and that the interests of the plaintiff would not be prejudiced.

8. It is further submitted that the appellant has suffered fracture of L4 bone, therefore, he could not attend the Court. By that time, the trial has begun and the decree is passed in favour of the plaintiff. Therefore, the absence of defendant No.2 is not deliberate and intentional one but was due to aforesaid reasons. Hence, the learned counsel prayed that one more chance be given for a fair trail.

9. Learned counsel for respondent No.1/plaintiff submitted that the defendant No.2 knew the suit proceedings and had also filed his written statement but thereafter failed to conduct the suit. Therefore, the Trial Court passed an ex-parte

judgment. Hence, the learned counsel prays to dismiss the appeal.

10. Considering the submissions of the learned counsel for the parties, it is found out that, in the suit only the plaintiff has led evidence both oral and documentary. Though the defendants have entered appeared appearance and defendant No.2 has filed his written statement but has not lead any evidence. Though technically it cannot be said that the judgment is an ex-parte judgment, the fact remains that the defendants have not conducted the suit. Therefore, this Court is of the opinion that one more opportunity is to be given to the defendants to contest the suit. Accordingly, the judgment and decree passed by the Trial Court is liable to be set aside and the matter is to be remanded to the Trial Court for fresh adjudication.

11. Hence, I proceed to pass the following:

ORDER

i) The Regular First Appeal is **allowed**;

ii) The judgment and decree passed in O.S.No.418/2023 by the IX Additional City Civil and Sessions Judge, Bengaluru (CCH-5), is set aside.

iii) The matter is remanded to the Trial Court for fresh adjudication in accordance with law.

iv) Both the parties shall appear before the Trial Court and give evidence in the suit.

v) Both the parties shall appear before the Trial Court on **05.11.2026** without expecting any notice from the Trial Court.

vi) The Trial Court is directed to dispose of the suit within a period of six months from the date of 05.11.2026.

vii) All contentions are left open.

viii) No order as to costs.

Sd/-
(HANCHATE SANJEEVKUMAR)
JUDGE

UN
List No.: 1 Sl No.: 45