KABR210001892020

IN THE COURT OF THE PRL. SENIOR CIVIL JUDGE & J.M.F.C., ANEKAL.

PRESENT:
Sri. Krishna Raj K., B.A., LL.B.,
Prl. Senior Civil Judge & JMFC.,
Anekal.

DATED THIS THE 22nd DAY OF APRIL, 2026

RA. No.4 / 2020

Appellant: 1. Sri. Muniswamy
Aged about 65 years,
S/o Late Pillappa,
R/at – Madappanahalli Village,
Kugur Post, Sarjapura Hobli,
Anekal Taluk.

2. Sri. P. Venkatappa
Aged about 60 years,
S/o Late Pillappa,
R/at – Madappanahalli Village,
Kugur Post, Sarjapura Hobli,
Anekal Taluk.

(By Sri. Y.N.R., Adv)

V/s

Respondents: 1. Sri. Ravi
Aged about 39 years,
S/o Late Ramaiah,
R/at – Avalahalli Village,
Sarjapura Hobli, Anekal Taluk.

2. Sri. Maduresh
Aged about 36 years,
S/o Late Ramaiah,
R/at – Avalahalli Village,
Sarjapura Hobli, Anekal Taluk.

3. Sri. R. Nagaraja
Aged about 33 years,
S/o Late Ramaiah,
R/at – Avalahalli Village,
Sarjapura Hobli, Anekal Taluk.

4. Sri. Shivappa
Aged about 31 years,
S/o Late Ramaiah,
R/at – Avalahalli Village,
Sarjapura Hobli,
Anekal Taluk.

(By Sri. R.G., Adv)

Date and nature of the decree or order appealed against	Set aside the Judgment and decree passed by Prl. Civil Judge and JMFC, Anekal in OS No.362/2009 dated 09.04.2019.
Date of institution of the appeal	05.02.2020

Date of pronouncement of Judgment	22.04.2026
Duration of the appeal	Year/s Month/s Day/s 06 02 17

J U D G M E N T

This is an appeal filed by the appellants/plaintiffs U/Sec.96 of CPC being aggrieved and dissatisfied by the impugned judgment and decree dated 09.04.2019 in OS No.362/2009 on the file of learned Prl. Civil Judge & JMFC, Anekal.

2. For the sake of convenience, the parties to the appeal are referred to in the same rank as before the Trial Court.

3. It is the specific case of the appellants/plaintiffs before the Trial Court that the plaintiffs are the absolute owners and in lawful possession and enjoyment of the suit schedule property bearing Sy.No.26 measuring 4 acre 21 guntas situated at Madappanahalli Village, Sarjapura Hobli, Anekal Taluk, Bangalore District. The father of the plaintiffs namely Sri. Pillappa was a tenant under the landlord with respect to the said property and he was cultivating the same as tenant. After the death of father of plaintiffs, the plaintiffs continued in joint possession and enjoyment of the suit schedule property as tenant. They have filed application U/Sec.77 in form No.7A of Land

Reforms Act before the Tahsildar, Anekal in proceedings No.LRF.7A/494/1998-99 and 284/1998-99 seeking occupancy right in their favour. The Land Tribunal has visited the spot and conducted the mahazar on 02.09.2008 and granted occupancy right in favour of the plaintiffs on 23.09.2008. Accordingly occupancy right was granted with respect to 4 acre 21 guntas of land in Sy.No.26 situated at Madappanahalli Village, Sarjapura Hobli, Anekal Taluk. In pursuance of the said order, grant certificate also issued in the name of the plaintiffs. Subsequently Sy.No.26 has been re-surveyed and conducted phodi and it was assigned new Sy.No.26/2. The name of the plaintiffs got entered in the revenue records as per MR.No.10/2008-09. The plaintiffs have planted eucalyptus tree in the suit schedule property and now it is aged about 5 years and ready for harvesting. Such being the case, the defendants who are adjacent land owners, their property is situated towards the eastern side of the suit schedule property, without having any manner of right, title and interest over the suit schedule property on 08.08.2009, illegally interfered with the peaceful possession and enjoyment of the plaintiffs with respect to the suit schedule property. Hence the plaintiffs are constrained to file the above suit for permanent injunction against the defendants.

4. On service of suit summons, the defendants have appeared before the Trial Court and filed their written statement denying the averments of the plaint. The defendants have specifically denied the ownership and possession of the plaintiffs with respect to the suit schedule property. However it is admitted that the plaintiffs have filed application before the Land Tribunal for grant of occupancy right with respect to the suit schedule property. It is contended that the father of the defendants namely Ramaiah was cultivating the schedule property as tenant under the original landlord as such he has filed application before the Land Tribunal for grant of occupancy right. The Land Tribunal has confirmed the occupancy right in favour of father of defendants with respect to 23 guntas of land. Similarly the father of defendants also filed another application for grant of 2 acres of land. The said application was came to be dismissed. Against the said order, appeal RA.No.82/2006 is pending before the Hon'ble Karnataka Appellate Tribunal. The plaintiffs have obtained orders in LRF.No.7A/494/1998-99 and 284/1998-99 against the dead person. The respondent therein namely Dakshina Murthy was passed away about 20 years back. Hence the order obtained against the dead person is not valid in eye of law. The defendants have challenged the said order before the Hon'ble Karnataka

Appellate Tribunal and same was stayed by Hon'ble Karnataka Appellate Tribunal. Subsequently in the appeal No.333/2009 and appeal No.394/2009 was allowed by the Karnataka Appellate Tribunal and the order granting occupancy right in favour of the plaintiffs has been set aside on 30.01.2018. Hence the suit of the plaintiffs is liable to be dismissed.

5. On the basis of above pleadings, the learned Trial Court has framed the following issues ;

ISSUES

1. Whether the plaintiffs prove that they are in possession and enjoyment of the schedule property ?

2. Whether the plaintiffs prove that the defendants are interfering with their possession and enjoyment of the schedule property ?

3. Whether the plaintiffs are entitled for relief sought for ?

4. What order or decree ?

6. In order to substantiate the case of the plaintiffs, the plaintiff No.2 got examined as PW.1 and produced 10 documents at Ex.P.1 to P.10. On the other hand, the defendant No.2 got

examined as DW.1 and produced 19 documents at Ex.D.1 to D.19.

7. After considering the oral and documentary evidence of both side and after hearing the arguments of both side, the learned Trial Court answered the above issues as under;

Issue No.1 : In the Negative,

Issue No.2 : In the Negative,

Issue No.3 : In the Negative,

Issue No.4 : As per the final order,

8. The learned Trial Court dismissed the suit of the plaintiffs on the ground that the order of the Land Tribunal produced at Ex.P.2 has been set aside by the Hon’ble Karnataka Appellate Tribunal. The subsequent documents produced at Ex.P.3 to P.9 are based on the order passed by the Land Tribunal under Ex.P.2. Once the Ex.P.2 got set aside, the subsequent documents based on Ex.P.2 cannot be looked into. Under such circumstances, there is no material to substantiate the possession of the plaintiffs over the suit schedule property. The plaintiff has not adduced any independent oral evidence to substantiate his possession over the suit schedule property. Moreover the plaintiff himself has admitted that the order under Ex.P.2 was obtained

against the dead person. With the above observation, the learned Trial Court dismissed the suit of the plaintiffs by answering the above issues in the negative.

9. The appellants/plaintiffs being aggrieved and dissatisfied with the impugned judgment and decree passed by the learned Trial Court, preferred the above appeal on various grounds set out in the memorandum of appeal. It is contended that the learned Trial Court erroneously dismissed the suit, contrary to the pleadings, evidence on record and law governing to the case. The father of the plaintiffs namely Pillappa was in possession and enjoyment of the suit schedule property as a tenant. After the death of Pillappa, the plaintiffs have been in continuous possession and enjoyment of the suit schedule property and they have filed an application before the Land Tribunal for grant of occupancy right and the Land Tribunal has granted the occupancy right in favour of the plaintiffs. The plaintiffs are in lawful possession and enjoyment of the suit schedule property. The defendants who are the neighbours of the suit schedule property have no right, title and interest over the suit schedule property. The defendants have admitted that the Sy.No.26/1 measuring 23 guntas belongs to the defendants and it is situated adjacent to the suit schedule property and it is not

included in the suit schedule property. The property of the defendants is altogether different. The oral and documentary evidence of the plaintiffs clearly establishes the possession and enjoyment of the plaintiffs over the suit schedule property. The revenue records are the proofs to establish the possession of the plaintiffs, same was not considered by the Trial Court. The appeal filed by the defendants before the Karnataka Appellate Tribunal in Appeal No.333/2009 and 394/2009 was allowed only on the ground that the landlord Dakshina Murthy was no more as on the date of filing of the application. There is no observation regarding the possession of the plaintiffs over the suit schedule property. The learned Trial Court is erred in holding that once the order of the Land Tribunal has been set aside, there is nothing on record to prove the possession of the plaintiff over the suit schedule property. DW.1 in his cross examination categorically admitted that the landlord is not in possession of the suit schedule property. The said fact itself shows that the plaintiffs are in possession and enjoyment of the suit schedule property. The learned Trial Court has not considered the above material aspects and erroneously dismissed the suit filed by the plaintiffs. Under such circumstances, the impugned judgment and decree is to be set aside by allowing the above appeal.

10. On service of notice, the respondents have appeared through their counsel. Heard the arguments of learned counsel for appellants and respondents. The entire records in OS No.362/2009 has been called for and same has been perused by this Court.

11. By considering the reasonings and findings of the learned Trial Court in the impugned judgment and the grounds urged in the memorandum of appeal, the following points would arises for consideration of this court ;

POINTS

1. Whether the learned Trial Court is erred in arriving at the conclusion that in view of set aside of Ex.P.2, there is no material to substantiate that the plaintiffs are in lawful possession and enjoyment of the suit schedule property as on the date of filing of the suit ?

2. Whether the learned Trial Court is erred in dismissing the suit of the plaintiffs/appellants ?

3. Whether the impugned judgment and decree passed by the learned Trial Court is opposed to law, facts and materials on record and requires interference by this court ?

4. What order ?

12. My finding on the above points are as under;

Point No.1 : In the Negative,

Point No.2 : In the Negative,

Point No.3 : In the Negative,

Point No.4 : As per the final order for the following;

R E A S O N S

13. **Point Nos.1 to 3:-** The above points are interconnected with each other and requires similar and identical discussion, therefore all the above points were taken up together for commons discussion.

14. It is the specific case of the appellants/plaintiffs that they are the absolute owners and in lawful possession of the suit schedule property bearing Sy.No.26 measuring 4 acres 21 guntas situated at Madappanahalli Village, Sarjapura Hobli, Anekal Taluk, Bangalore District. The said property was granted by the Land Tribunal as per the order in LRF.7A/494/1998-99 and 284/1998-99 dated 23.09.2008. Based on the said order, all the revenue records got transferred in the name of the plaintiffs, the plaintiffs are paying tax to the concerned authority regularly. The defendants being the adjacent owners situated towards the eastern

side of the suit schedule property without having any manner of right, title and interest causing obstruction to the peaceful possession and enjoyment of the plaintiffs with respect to the suit schedule property. The defendants have contended that the grant made in favour of the plaintiffs with respect to the suit schedule property has been set aside in appeal No.333/2009 and 394/2009 by the Hon'ble Karnataka Appellate Tribunal on 30.01.2018. Therefore there is no material to substantiate that the plaintiffs are the absolute owners and in lawful possession of the suit schedule property. The father of the defendants namely Late Ramaiah was cultivating the schedule property as a tenant and he has obtained grant with respect to 23 guntas of land. With respect to another 2 acres of land, the application was filed before the Land Tribunal and said application was dismissed and against the said order appeal RA.No.82/2006 is pending for consideration. The order obtained by the plaintiffs against the dead person is not sustainable under law.

15. The plaintiff No.2 got examined as PW.1. PW.1 in his chief examination reiterated the averments of the plaint and contended that the landlord namely K.S. Rajaram also filed two appeals before the Hon'ble Karnataka Appellate Tribunal in RA.No.607/2009 and 608/2009. The appeal filed by the

defendants and appeal filed by the landlord are pending for consideration before the Karantaka Appellate Tribunal. The plaintiffs are in continuous and exclusive possession and enjoyment of the suit schedule property. The father of the defendants also filed an application for grant of occupancy right with respect to 2 acres of land in LRF/A/174/1998-99 and it was rejected by the Assistant Commissioner. Against the said order, appeal was preferred in appeal No.82/2006 and same was also dismissed. It is further stated that on 03.04.2014, the defendants have caused illegal interference and complaint has been lodged against the defendants. In support of the oral evidence, the plaintiffs have produced copy of statement at Ex.P.1, copy of order passed by the Land Tribunal at Ex.P.2, form No.11CCC at Ex.P.3, survey sketch at Ex.P.4, mutation extract at Ex.P.5, RTC extracts at Ex.P.6, tax paid receipts at Ex.P.7, encumbrance certificate at Ex.P.8 & 9, copy of FIR at Ex.P.10.

16. On the other hand, the defendant No.2 got examined as DW.1. DW.1 in his chief examination reiterated the averments of his written statement and also deposed that the father of the plaintiffs earlier has filed application for grant of occupancy right in the year 1959-60 and same was dismissed in the year 1962. Again in the year 1975-76 similar application was filed and it was

dismissed. No appeal was preferred against the said order. Suppressing the said material facts, the plaintiffs have played fraud on the Land Tribunal and filed the subsequent applications. In support of the oral evidence, the defendants have produced copy of memorandum of appeal at Ex.D.1, certified copy of order sheet at Ex.D.2 & 3, form No.7A at Ex.D.4, order of the Land Tribunal at Ex.D.5 to 7, RTC extracts at Ex.D.8 to 12, form No.7A at Ex.D.13, copy of application at Ex.D.14, form No.10 at Ex.D.15, copy of the order of the Land Tribunal at Ex.D.16, form No.7A at Ex.D.17, copy of the order in appeal No.394/2009 at Ex.D.18, copy of the order in appeal No.333/2009 at Ex.D.19.

17. The learned counsel for appellants argued that the defendants in their written statement admitted that the suit schedule property has been granted by the Land Tribunal in favour of the plaintiffs as per Ex.P.2. In Ex.P.2 the measurement is wrongly shown as 6 acres, however the correct measurement is 4 acres 21 guntas. Grant certificate has been issued in favour of the plaintiffs with respect to 4 acre 21 guntas as per Ex.P.3. The total extent of land is 5 acre 4 guntas in Sy.No.26, out of it 4 acres 21 guntas is belonging to the plaintiffs and remaining 23 guntas is belonging to the defendants. As per the survey sketch produced by the plaintiffs, the plaintiffs are in possession of 4 acre 21

guntas, the eastern portion 23 guntas is in the possession of the defendants. The Hon'ble Karnataka Appellate Tribunal has not made any observation regarding the possession of the plaintiffs. The plaintiffs are in possession and enjoyment of the suit schedule property. The learned Trial Court erroneously dismissed the suit of the plaintiffs holding that the grant order has been set aside by the Hon'ble Karnataka Appellant Tribunal. Even though the tenancy dispute is pending before the Land Tribunal, the Civil Court got the jurisdiction to grant permanent injunction against the defendants who are strangers to the proceedings. The bar enumerated U/Sec.132 & 133 of Karnataka Land Reforms Act is not applicable to the case on hand. The plaintiffs have established their possession and illegal interference by the defendants, under such circumstances, the learned Trial Court ought to have decreed the suit of the plaintiffs. In support of the above arguments, the learned counsel for appellants has relied on the decision of Hon'ble High Court of Karnataka in Meghashyam Bhat Vs. Seetharam Jois reported in ILR 2000 KAR 2287 and decision of Hon'ble Apex Court in Nagar Palika Raisinghnagar Vs. Rameshwar Lal and another reported in 2018(1) Kar.L.R.99 (SC).

18. On the other hand, the learned counsel for respondents argued that once the order passed by the Land Tribunal produced

under Ex.P.2 got set aside by the Hon'ble Karnataka Appellant Tribunal, all the subsequent revenue entries which was created on the basis of Ex.P.2 is not valid in the eye of law. If the above documents were removed from the records, there is nothing on record to show that the plaintiffs are in possession and enjoyment of the suit schedule property. When the matter is pending before the Land Tribunal, the Land Tribunal has got the jurisdiction to decide the issues including the interim reliefs. Therefore the suit itself is not maintainable. The learned Trial Court rightly dismissed the suit of the plaintiffs.

19. In the light of the arguments advanced by both side, I have perused the entire material on record. The plaintiffs are claiming ownership and possession over the suit schedule property as per the order passed by the Land Tribunal produced under Ex.P.2. The said petition is filed against one Dakshina Murthy of Kuguru Village, Sarjapura Hobli, Anekal Taluk. In the cross examination of PW.1, PW.1 categorically admitted that as on the date of filing of the said petition the respondent therein namely Dakshina Murthy was not alive, he was died in the year 1978. The relevant portion of cross examination of PW.1 is extracted below :

" ದಕ್ಷಿಣಮೂರ್ತಿಶಾಸ್ತ್ರಿರವರನ್ನು ಕೊನೆಯದಾಗಿ 1978 ರಲ್ಲಿ

> ಕುಗೂರಿನಲ್ಲಿ ನೋಡಿರುತ್ತೇನೆ. ದಕ್ಷಿಣಮೂರ್ತಿಶಾಸ್ತ್ರಿ ದಿನಾಂಕಃ 20.08.1978 ರಂದು ಮರಣ ಹೊಂದಿರುವ ವಿಚಾರ ನನಗೆ ಖುದ್ದಾಗಿ ಗೊತ್ತಿರುತ್ತದೆ ಅಂದರೆ ಸರಿ. ನಿಪಿ-2ರಡಿಯಲ್ಲಿ ದಾವಾ ಸ್ವತ್ತು ನಮಗೆ ಬಂದಿರುತ್ತದೆ. ನಿಪಿ-2ರ ಪ್ರಕಾರ ನಾನು ದಕ್ಷಿಣಮೂರ್ತಿ ವಿರುದ್ಧ ಮಾತ್ರ ಅರ್ಜಿ ಹಾಕಿರುತ್ತೇವೆ ಅಂದರೆ ಸರಿ. ನಾವು 1998 ರಲ್ಲಿ ಅರ್ಜಿಯನ್ನು ಹಾಕುವ ಕಾಲಕ್ಕೆ ದಕ್ಷಿಣಮೂರ್ತಿ ಮರಣ ಹೊಂದಿರುವ ವಿಚಾರ ನನಗೆ ಗೊತ್ತಿತ್ತು ಅಂದರೆ ಸರಿ.”

20. From the above cross examination of PW.1, it is clear that the order produced at Ex.P.2 was obtained against the dead person. The plaintiffs have not made any effort to bring the Lrs of the landlord in the said proceedings. Under such circumstances, prima-facie it is clear that the order obtained against the dead person is nullity in the eye of law. The defendants have produced certified copy of the order of Hon’ble Karnataka Appellate Tribunal in appeal No.333/2009 and 394/2009 at Ex.D.18 & 19. As per the said order, the Hon’ble Karnataka Appellate Tribunal has set aside the order passed by the Land Tribunal and remanded the matter for fresh consideration. Therefore it is clear that Ex.P.2 got set aside by the appellate authority.

21. The plaintiffs are relying on Ex.P.2 to P.9 documents to substantiate their possession and ownership over the suit schedule property. Ex.P.2 is the certified copy of the order passed by the Land Tribunal, Ex.P.3 is grant certificate, Ex.P.5 & 6 are mutation extracts and RTC extracts. All the documents produced at Ex.P.3

to 9 had taken place as a consequences of order passed by the Land Tribunal under Ex.P.2. Once the Ex.P.2 got set aside by the Appellate Court, all the subsequent documents including the revenue entries based on the order passed under Ex.P.2 will by default of no legal consequences. Therefore the plaintiffs cannot rely on Ex.P.2 to 9 as a documents to substantiate their ownership and possession over the suit schedule property. Once the order of the Land Tribunal got set aside by the Appellate Authority, the documents created based on the order passed by the Land Tribunal cannot be looked into as an evidence to substantiate the physical possession of the plaintiffs over the suit schedule property. Except the documents produced at Ex.P.2 to 9, the plaintiffs have not produced any other documentary evidence to substantiate their physical possession over the suit schedule property. The defendants have produced RTC extracts pertaining to the suit schedule property at Ex.D.10 & 11. On perusal of the above documents it is evident that the name of the father of the plaintiffs as well as the name of the father of the defendants are appearing in column No.12 of the RTC extracts. There is no material to show that the father of the plaintiffs namely Pillappa was in possession of 4 acre 21 guntas of land in Sy.No.26 of Madappanahalli Village.

22. The Land Tribunal has granted occupancy right with respect to 6 acres of land as per Ex.P.2. However the present suit is filed only with respect 4 acre 21 guntas. In the cross examination of PW.1, PW.1 categorically admitted that even though the grant was with respect 6 acres of land, the suit was filed only with respect to 4 acre 21 guntas of land. The plaintiffs are not in possession of entire 6 acres of land. The said discrepancies in the order passed by the Land Tribunal and in the grant certificate is not explained by the plaintiffs. The defendants are in possession and enjoyment of 23 guntas of land. In the cross examination of DW.1, DW.1 categorically admitted that they are in possession of 23 guntas of land. The said property is separate from the suit schedule property. The defendants also claiming that their father was tenant with respect to 2 acres of land and the father of the defendants has filed separate application for grant of occupancy right with respect to said 2 acres of land. The application filed by the father of the defendants with respect to said 2 acres of land was dismissed by the Land Tribunal. The defendants have filed an appeal No.82/2008 and same is pending for consideration. In the cross examination of DW.1 suggestion was put to DW.1 that the said appeal was dismissed by the Karnataka Appellate Tribunal. DW.1 stated that the appeal was

dismissed and subsequently it was restored. Under such circumstances, there is a dispute between the plaintiffs and defendants with respect to 2 acres of land, which is part and parcel of the 4 acre 21 guntas of land. Hence there is a rival claim by the plaintiffs and defendants against the landlord claiming occupancy right with respect to properties which includes 4 acre 21 guntas i.e., suit schedule property herein. The appeal filed by the defendants in appeal No.333/2009 and 394/2009 was allowed and the order of the Land Tribunal produced at Ex.P.2 got set aside and the matter was remanded back to the tribunal for fresh consideration. Under such circumstances, the plaintiffs have failed to establish their possession over the suit schedule property. The plaintiffs have not placed any independent, oral evidence and documentary evidence to substantiate their possession over the suit schedule property. The documents produced at Ex.P.2 to 9 are with respect to the order passed by the Land Tribunal, since the order has been set aside, the documents cannot be looked as an evidence to substantiate the physical possession of the plaintiffs over the suit schedule property.

23. The learned counsel for appellant relied on the decision of Hon’ble High Court of Karnataka in Meghashyam Bhat Vs. Seetharam Jois reported in ILR 2000 KAR 2287 to

contend that the jurisdiction of the Civil Court to decide the question of injunction cannot be stopped by referring the question of tenancy to the Land Tribunal. I have gone through the above decision. In the above decision, the Hon'ble High Court of Karnataka arrived at the conclusion that *" In a suit for injunction, if the plaintiff is found to be in possession, he is entitle to injunction, if the plaintiff is not found to be in possession, the defendant who incidentally may claim to be the tenant is found to be in possession then the suit must fail. The possession in nine points in law and the question regarding the possession of a particular property with the person claiming to be so has to be decided only by a Civil Court and not otherwise."* The Hon'ble High Court of Karnataka arrived at the above conclusion by referring to the earlier decisions. In the said decision, the Hon'ble High Court of Karnataka also referred to the earlier decision of Hon'ble High Court of Karnataka in Govinda Shetty Vs. Shivarama Shetty reported in AIR 1979 KAR 110, the relevant observations are extracted below ;

> " Section 48 -C confers power on the Land Tribunal to issue interlocutory orders in the nature of temporary injunction or appointment of receiver concerning agricultural land in respect of which an application is made under Section 48-A. Section

> 132 imposes a bar of jurisdiction on Civil Courts to decide any question which is the subject matter of the Land Tribunal. Thus by reading these two sections, it becomes clear that the Civil Court in the proceedings before it, in this case, a suit for partition had no jurisdiction to pass interlocutory orders like the injunction or appointment of a receiver in respect of the subject mater in the suit i.e., agricultural land as it was already the subject matter of the application under Section 48-A before the Land Tribunal. The presence or absence of the tenants as parties to the proceedings before the Civil Court would not make any difference in law."

24. Similarly in the above decision, the Hon'ble High Court of Karnataka also relied earlier decision of Hon'ble High Court of Karnataka in Mudakappa Vs. Rudrappa reported in 1996(6) Kar.L.J. 129, the relevant portion is extracted below;

> " When inter se rival claims for tenancy rights have been set up, it has been empowered with jurisdiction to decide that question as to who is the tenant in possession of the land prior to the date of vesting and entitled to be registered as a tenant with the State Government and its decision shall be final."

25. In the view of the law laid down in the above decisions, it is clear that when there is rival claims for tenancy

right have been set up, it has been empowered with the jurisdiction to decide the question as to who is the tenant in possession of the land prior to the date of vesting and entitled to get registered as a tenant. When the tenancy dispute is pending before the Land Tribunal, the Land Tribunal has got ample power to grant any kind of interim reliefs by way of interlocutory order for temporary injunction or appointment of receiver as contemplated U/Sec.48(C) of Karnataka Land Reforms Act, 1961. Such being the case, when the tenancy dispute is pending before the Land Tribunal, the remedy available to the plaintiffs is to invoke Sec.48(C) of Karnataka Land Reforms Act to seek temporary injunction against the landlord or against the rival claimant i.e., defendants herein with respect to the schedule property before the Land Tribunal. This would be the proper remedy available to the plaintiffs to protect his right over the suit schedule property. When there is tenancy dispute is pending before the Land Tribunal, it may not be appropriate to grant any kind of interim reliefs in favour of the plaintiffs by the Civil Court. The grant of suit schedule property in favour of the plaintiffs by the Land Tribunal under Ex.P.2 has been set aside and matter is remanded before the Land Tribunal by the Hon’ble Karnataka Appellant Tribunal. From the above materials placed

by the plaintiffs, it is evident that as on today LRF.No.494/1998-99 is pending, LRF.No.284/1998-99 is pending, RA No.82/2006 is pending. The claim of the plaintiffs with respect to 4 acres 21 guntas in Sy.No.26 is pending for adjudication before the Land Tribunal. The claim of the defendants with respect to 2 acre of land in Sy.No.26 is pending before the Karnataka Appellant Tribunal in RA.No.82/2006. When there is a rival tenancy claim by the plaintiffs and defendants, the appropriate forum for adjudication of the said dispute would be the Land Tribunal and the Appellant Tribunal. The Land Tribunal is empowered to grant any kind of interim reliefs in favour of the plaintiffs U/Sec.48(C) of Karnataka Land Reforms Act, 1961. Under such circumstances, the decision relied by the learned counsel for appellants is distinguishable and not applicable to the case on hand. The appropriate remedy available to the plaintiffs is to seek interim reliefs by way of temporary injunction before the Land Tribunal U/Sec.48(C) of Karnataka Land Reforms Act. The plaintiffs/appellants are at liberty to move necessary application before the Land Tribunal seeking interim reliefs against the defendants herein.

26. The learned counsel for appellants also relied on the decision of Hon’ble Apex Court in Nagar Palika Raisinghnagar

Vs. Rameshwar Lal and another referred supra. In the above decision, the Hon'ble Apex Court held that once the plaintiffs have establishes their possession over the suit schedule property and illegal interference, he is entitle to the relief of temporary injunction. As discussed above, the claim of the plaintiffs is based on the Ex.P.2. The subsequent documents including the revenue records were got created based on the documents produced at Ex.P.2. Once the Ex.P.2 has been set aside by the appellate authority, all the consequential documents which were created based on the Ex.P.2 cannot be looked into. Therefore the documents produced by the plaintiffs including the mutation extracts and RTC extracts cannot be considered as a proof to substantiate the possession of the plaintiffs over the suit schedule property. The appropriate remedy available to the plaintiffs is to file necessary application before the Land Tribunal U/Sec.48(C) of Karnataka Land Reforms Act, 1961 to seek temporary injunction against the defendants during the pendency of the proceedings. The Land Tribunal is having ample power to consider the application filed by the plaintiffs in a proceedings pending before it. Under such circumstances, the learned Trial Court rightly dismissed the suit of the plaintiffs. There is no error apparent on the face of the record. The appellants have failed to

make out sufficient grounds to interfere with the impugned judgment and decree passed by the learned Trial Court. Accordingly point Nos.1 to 3 are answered in the ***negative***.

27. **Point No.4**:- In view of my findings on the above points, I proceed to pass the following;

ORDER

The appeal filed by the appellants/plaintiffs U/Sec.96 of CPC is hereby dismissed.

Consequently the impugned judgment and decree passed by the learned Prl. Civil Judge and JMFC, Anekal in OS No.362/2009 dated 09.04.2019 is hereby confirmed with specific observation that the plaintiffs are at liberty to move necessary interlocutory applications before the Land Tribunal U/Sec.48(C) of Karnataka Land Reforms Act, 1961 to seek interim reliefs in the pending proceedings in LRF.No.7A/494/1998-99 and 284/1998-99.

Considering the facts and circumstances, no order as to cost.

Draw decree accordingly.

Office to return the entire records in OS No.362/2009 to the Trial Court along with the copy of the judgment and decree of this appeal forthwith.

(Dictated to the stenographer, transcribed and typed by her, corrected by me and pronounced in the open court on this the ***22nd day of April, 2026***).

(Krishna Raj K.,)
Prl. Senior Civil Judge & JMFC.,
Anekal.