



**IN THE COURT OF THE SENIOR CIVIL JUDGE & J.M.F.C.,  
MUDIGERE.**

**Dated this the 24<sup>th</sup> day of March 2026**

**Present : Sri Prakash P.M., M.B.A., LL.B.,  
Senior Civil Judge and J.M.F.C.,  
Mudigere**

**O.S. No. 15/2025**

**Plaintiff : Smt.Purnesh K.K  
Aged about 65 years,  
S/o Late. Krishne Gowda  
R/o Nadvinmadkal Village,  
Hesgal Post, Mudigere Taluk**

**(Rep. by Sri.S.D., Advocate)**

**- V/s-**

**Defendant : Sri. Sandeep Malagoudanavar,  
Aged about 40 years,  
S/o Nemagounda,  
Residing at House No.1177  
Padmakunja,  
18<sup>th</sup> B Main Road  
5<sup>th</sup> block, Rajajinagara,  
Bangalore-10**

**(By Sri. B.S.S.B., advocate)**

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## ORDER ON PRELIMINARY ISSUE/ADDITIONAL ISSUE

The plaintiff has filed the present suit against the defendant seeking the relief of declaration that the registered Sale Agreement bearing SR No. 87/2021-22 dated 17.04.2021, alleged to have been executed between the plaintiff and the defendant, is not binding on the plaintiff and is liable to be declared as null and void.

### **2. The case of the plaintiff's in brief is as follows:**

The brief facts of the plaintiff's case are that the plaintiff is the absolute owner of the plaint schedule properties. Item Nos.1 and 2 of the schedule properties were originally allotted to the plaintiff's father, late K.B. Krishne Gowda, under a registered Partition Deed bearing No.179/1981-82. After his death, the said items were mutated in the name of the plaintiff. Item No.3 of the schedule property was also allotted to the plaintiff under the same partition deed. Accordingly, the khatha of the schedule properties was mutated in the name of the plaintiff in the revenue records vide MR No.7/1996-97. On 17.04.2021, the plaintiff entered into a registered Agreement of Sale with the defendant before the Sub-



Registrar, Mudigere, bearing No.BK-1-87/2021-22, agreeing to sell the schedule properties for a total consideration of Rs.23,90,000/-. On the same day, the defendant paid a sum of Rs.7,20,000/- to the plaintiff through NEFT as advance consideration, and the parties agreed to execute the sale deed within three months from the date of the agreement.

**2a.** It is further the case of the plaintiff that though he was ready to perform his part of the contract, the defendant was not ready and willing to complete the transaction and failed to get the sale deed executed within the stipulated period. The Agreement of Sale remained valid up to 18.04.2024, and thereafter the defendant has no enforceable right under the agreement. However, the entry of the said agreement continues to appear in the encumbrance records of the schedule properties, causing hardship to the plaintiff in obtaining loans for improvement and development of the properties. The plaintiff approached the Sub-Registrar, Mudigere, seeking removal of the encumbrance, but was informed that the same could not be cancelled without a court order or



registered cancellation deed. The plaintiff thereafter issued a legal notice to the defendant, to which the defendant sent an untenable reply. As the defendant has not come forward to execute a cancellation deed and is attempting to take wrongful advantage of the agreement, the plaintiff has filed the present suit seeking declaration that the registered Agreement of Sale dated 17.04.2021 is not binding on him and for consequential reliefs.

3. After service of summons, the defendant appeared before the court and filed written statement.

4. The defendant, in his written statement, has admitted that the plaintiff is the owner in possession of the suit schedule properties but contends that the properties are the family properties of the plaintiff as stated in the Agreement of Sale dated 17.04.2021. The defendant admits that a registered Agreement of Sale dated 17.04.2021 was executed between the parties before the Sub-Registrar, Mudigere, bearing Document No. MGE-1-00087-2021-22, wherein the plaintiff agreed to sell the suit schedule properties for a total consideration of Rs.23,90,000/-. Out



of the said amount, the defendant paid Rs.7,20,000/- through NEFT as advance and subsequently paid an additional sum of Rs.25,000/- at the request of the plaintiff, thereby paying a total amount of Rs.7,45,000/-.

**4a.** It is the specific contention of the defendant that the plaintiff had obtained a loan from Canara Bank, Mudigere Branch, by mortgaging the suit schedule properties and had agreed, under Clause 8 of the Agreement of Sale, to clear the said loan before execution of the sale deed. According to the defendant, he has been insisting that the plaintiff produce proof of discharge of the said loan and execute the sale deed, and that he has always been ready and willing to perform his part of the contract by paying the balance sale consideration of Rs.16,45,000/-.

**4b.** The defendant further contends that the plaintiff issued a legal notice dated 14.10.2024 seeking cancellation of the agreement, which was suitably replied to by the defendant on 23.10.2024 expressing his readiness to complete the transaction subject to compliance with the



terms of the agreement. It is also alleged that during the subsistence of the Agreement of Sale, the plaintiff executed a registered sale deed dated 17.03.2025 in respect of Item No.2 of the schedule property in favour of one Sri S.M. Srinath, which according to the defendant is illegal, fraudulent and not binding on him.

**4c.** The defendant further contends that the Agreement of Sale dated 17.04.2021 is valid, subsisting and enforceable and that the plaintiff has filed the present suit suppressing material facts despite having received a substantial advance amount. It is also contended that the suit is not maintainable for want of cause of action and that the plaintiff has not properly valued the suit and has paid insufficient court fee, as the suit ought to have been valued under Section 38 of the Karnataka Court Fees and Suits Valuation Act on the value mentioned in the agreement and not under Section 24(d). On these grounds, the defendant has sought dismissal of the suit with costs.

**5.** On the basis of above pleadings, this court has framed the following issues:



### ISSUES

1. Whether plaintiff proves that the registered sale agreement dated 17.04.2021 has become unenforceable and barred by limitation.?
2. Whether the plaintiff proves that the defendant was not ready and willing to perform his part of the contract under the sale agreement?
3. Whether the court fee paid by the plaintiff is sufficient?
4. Whether plaintiff is entitled for the relief of Cancellation of the registered sale agreement?
5. What order or Decree?

6. The issue No.3 **“Whether the court fee paid by the plaintiff is sufficient?”** relates to the valuation of the suit and the sufficiency of the court fee paid by the plaintiff. Since the question pertains to valuation and court fee, the same has been treated as a preliminary issue.,



7. Heard the learned counsel for the plaintiff and defendant on preliminary issue, perused the materials available on record.

8. My answer to the above preliminary issue/issue No.3 **in the Negative** as for the following:

### R E A S O N S

9. Preliminary Issue/Issue No.3: Learned counsel for the defendant has contended that the plaintiff has not properly valued the suit and has paid insufficient court fee. It is argued that the plaintiff seeks a declaration that the registered Agreement of Sale dated 17.04.2021 executed between the parties is not binding on him and is liable to be declared as null and void. According to the defendant, since the plaintiff himself is an executant to the said agreement, the suit in substance amounts to seeking cancellation of a document executed by him and therefore the suit ought to have been valued under **Section 38 of the Karnataka Court Fees and Suits Valuation Act, 1958**, on the value of the property or the consideration mentioned in the document. It is further contended that the plaintiff



has instead valued the suit under **Section 24(d)** of the Act and paid a fixed court fee of Rs.25/-, which according to the defendant is not in accordance with law.

**10.** Per contra, the learned counsel for the plaintiff has contended that the plaintiff has sought only a declaration that the Agreement of Sale dated 17.04.2021 is not binding on him and therefore the suit has been properly valued under **Section 24(d) of the Karnataka Court Fees and Suits Valuation Act**, which provides for payment of a fixed court fee in suits for declaration where consequential relief is not sought.

**11.** I have carefully considered the rival submissions and perused the pleadings on record. It is not in dispute that the plaintiff himself is a party to the registered Agreement of Sale dated 17.04.2021. The relief sought in the plaint is to declare that the said registered Agreement of Sale is not binding on the plaintiff and to treat the same as null and void. When a person who is a party to a document seeks to avoid or annul the same, the relief sought is in the nature of **cancellation of the document**.



12. Here, **Section 38 of the Karnataka Court Fees and Suits Valuation Act, 1958** provides that in a suit for cancellation of a decree or other document which creates, declares, assigns, limits or extinguishes any right, title or interest in property, the court fee shall be computed on the value of the subject matter of the suit, and where the suit relates to a document securing money or property, the court fee shall be computed on the amount or value of the property for which the document was executed. In the present case, the Agreement of Sale dated 17.04.2021 mentions a total sale consideration of **Rs.23,90,000/-**, and therefore the court fee ought to have been paid on the said value as required under **Section 38 of the Act**.

13. The contention of the plaintiff that the suit falls under **Section 24(d)** of the Act cannot be accepted, because Section 24(d) applies only to suits for mere declaration where the plaintiff is not a party to the document or where the declaration sought does not amount to cancellation of an instrument executed by the plaintiff. In the present case, the plaintiff himself is the executant of the Agreement of Sale and seeks to avoid the effect of the



said document. Therefore, the relief sought by the plaintiff substantially amounts to cancellation of the document, attracting the provisions of **Section 38 of the Act.**

**14.** In view of the above discussion, this Court is of the opinion that the suit has not been properly valued and the court fee paid by the plaintiff is insufficient. Accordingly, the plaintiff is required to value the suit properly under **Section 38 of the Karnataka Court Fees and Suits Valuation Act, 1958** and pay the requisite court fee on the value mentioned in the Agreement of Sale dated 17.04.2021. Hence, **Issue No.3 is answered in the Negative** and I proceed to pass the following:

#### **ORDER**

The preliminary issue/issue No.3 is answered in the **Negative.**

It is held that the court fee paid by the plaintiff is insufficient.

The plaintiff is directed to properly value the suit under Section 38 of the Karnataka Court Fees and Suits Valuation Act, 1958 and pay the deficit court fee on the value



mentioned in the Agreement of Sale dated 17.04.2021.

The plaintiff is granted time of 30 days from the date of this order to pay the deficit court fee.

Failing which, the plaint shall stand rejected in accordance with law.

(Dictated to the stenographer directly on computer, corrected and then pronounced by me in the open court on this the 24<sup>th</sup> day of March 2026)

**(Prakash.P.M)**  
**Senior Civil Judge & JMFC.,**  
**Mudigere**