

KARN020000632013



Presented on : 07-01-2013
Registered on : 07-01-2013
Decided on : 18-03-2026
Duration : 13 years, 02 months, 11 days

**IN THE COURT OF THE I ADDL., SENIOR CIVIL JUDGE
AND JMFC., AT RAMANAGARA**

Dated : This the 18th day of March 2026

Present

Smt.Niveditha.T.M.,

BA.L., LL.B.,

I Addl. Senior Civil Judge & JMFC.,
Ramanagara.

Miscellaneous No.3/2013

Appellant :-

1. Smt.A.S.Lakshamma,
W/o. Late C.Paramashivaiah,
Aged about 63 years,
2. Sri.Madhusudhan @ Madhu,
S/o. Late C.Paramashivaiah,
Aged about 43 years,
3. P.Malathi,
D/o. Late C.Paramashivaiah,
Aged about 40 years,
R/at :No 74/ 'A', Sir.M.V.Layout,
Ullal Main Road,
Near Ashrama Circle,
Bangalore 560 056.
4. Sri.P.Mohan Kumar,



S/o. Late C.Paramashivaiah,
Aged about 36 years,
Agriculturists,
R/at Bilagumba Village,
Kasaba Hobli,
Ramanagara Taluk.

(Rep by Sri.KGS., Advocate)

-V/s-

Respondent:-

1. Sri.C.Chikegowda @ Thammaiah,
Since dead by his LR's
- 1a) Smt.Jayamma,
W/o. late C.Chikkegowda @
Thammaiah,
Aged about 80 years,
- 1b) Sri.B.C.Ramesh,
S/o. late C. Chikkegowda @
Thammaiah,
Aged about 61 years,
- 1c) Sri.B.C.Raghu.
S/o late C.Chikkegowda @
Thammaiah,
Aged about 57 years,
Since dead by his LR's
- 1c i) Smt.Sudha,
W/o. B.C.Raju,
Aged about 45 years,
- 1c ii) Sri.Abhisek,



S/o. late C. Chikkegowda @
Thammaiah,
Aged about 28 years,

2. B.C.Raju,
S/o. C.Chikkegowda @ Thammaiah,
Aged about 44 years,

LR's 1(a) to (c) and 2 are R/at:
Bilagumba Village,
Kasaba Hobli,
Ramanagara Taluk
Ramanagara District-526 126.

(LR's No.1(a) to (c) Rep by Sri.MBR, Advocate)

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J U D G M E N T

(Delivered on 18/03/2026)

The petition is filed by the petitioners under Order IX Rule 3 R/w Section 151 of CPC., for restoration of exparte judgment and decree passed in OS.No.676/2006 dated:17.12.2008 and consequently orders passed by this court in Execution No.98/2009 on the file of the Addl.Senior Civil judge, Ramanagara.



2. Case of the petitioner is that, the petitioners and the respondents are neighbors and permanent residents of Bilagumba Village. The petitioners hailed from an agricultural family and the entire family is depending upon the agricultural income. The Garden lands bearing Sy.Nos. 95/1 measuring 3.11 acres and 95/2 measuring 3.20 acres of Bilagumba Village, Kasaba Hobli, Ramanagara Taluk & District are the ancestral properties of the petitioners. Further it is stated that, the petitioner's husband one C.Paramashivaiah was the only male son to his parents followed by five sisters. After the marriage of his sisters, the said Paramashivaiah being the kartha of the family was enjoying the suit schedule properties and other properties in Bilagumba Village and all the revenue records were standing in the name of Paramashivaiah. Further



the said Paramashivaiah died on 01.05.2001 intestate leaving behind the petitioners as his legal heirs. Thereafter the revenue records were transferred in the name of the 1st petitioner vides IHC No. 28/2000-01.

3. Further it is stated that, the 1st petitioner with a view to meet her family necessities and discharge the family debts towards the loss incurred in establishing the brick factory and also for maintenance of the family has approached the respondents for financial assistance in a sum of Rs.8,00,000/- as the respondents are neighbors and well versed with the affairs of the family of the petitioners have agreed to extend the help by lending a sum of Rs.8,00,000/- for a period of two years. In this regard on the demand of the



respondents, the petitioners were forced to execute an agreement for a sum of Rs.12,75,000/- by means of an agreement dated 21-06-2004. Further it is stated that, as on the date of agreement the petitioners received only a sum of Rs.8,00,000/- and except the said amount the petitioners have not at all received the amount of Rs.4,00,000/- neither at the time of executing the document nor at the time of registration of the document. Since the petitioners have borrowed the loan from the respondents at the rate of 2% interest per month on the said sum of Rs.8,00,000/-. Further a total sum of Rs.4,00,000/- lakhs to be paid after the period of 25 months from the date of execution of the agreement. Therefore, it is written in the agreement that, the petitioners have received a sum of Rs.12,00,000/- on the date of the agreement. Even



to this date the petitioners have not received the said sum of Rs.4,00,000/- from the respondents.

4. Further it is stated that, it was specifically agreed that the petitioners shall pay the said sum of Rs.12,00,000/- on or after 25 months. Though the respondents have not paid a sum of Rs.4,00,000/- before the Sub-Registrar, the respondents have managed before the Sub-Registrar a sum of Rs.4,00,000/- was paid to the 1st petitioner at the time of registration of the agreement. Further as the petitioners and respondents are neighbors and belongs to same caste and community, they were in cordial terms and therefore the petitioners did not suspect the conduct of the respondents at any point of time during the period of 25 months. Further it is stated that, after 25 months the



respondents caused a legal notice calling upon the petitioners to come and execute the sale deed. The petitioners were not aware of the legal aspects and also proceedings and hence, handed over the copy of the said notice to the family advocate Sri.B.K.Dhananjaya, who is commonly known by the petitioners and respondents. In turn the said advocate assured the petitioners that, in view of the facts and circumstances he would sit across the table and speak with the respondents as he was aware of the fact that the said transaction was only a loan transaction and the petitioners had no intention to sell the properties in question. The said advocate also assured the petitioners that he is going to reply to the same and received his fees.

5. Further it is stated that, the petitioners were under the impression that, the petitioners counsel



had issued the reply to the respondents. It was specifically understood that the parties were ready and willing to pay the entire loan amount with interest. After about 5-6 months of the receipt of the notice, the petitioners received the court summons. The 3rd petitioner is the permanent resident of Bangalore for the last 15 years, after the marriage. Immediately the petitioners approached the said advocate and handed over the papers and signed the Vakalath. The said advocate has assured the petitioners that he would settle the matter by speaking to the respondents. Though the petitioners received the court summons they were not aware of the fact that, the respondents have filed a suit for specific performance and even the counsel appearing for the petitioners was also did not inform about the



nature of proceedings initiated by the respondents. The petitioners immediately after 25 months went with the money to pay back the same along with interest to the respondents. The respondents being the neighbors and were cordial with the petitioners have avoided to receive the same for the reasons best known to them. Further it is stated that, the petitioners even tried to pay the said amount of Rs.8,00,000/- along with interest in a sum of Rs.4,00,000/- to the respondents after due date. The respondents with one pretext or the other have avoided to receive the same without disclosing the fact of filing the suit and got Ex-parte decree in their favour. Further stated that, that the petitioners advocate also kept the petitioners in total dark without disclosing anything about the proceedings conducted in the



original side, so in the Execution side and the advocate except appearing one or two hearing failed to appear before this court.

6. Further it is stated that, after taking the possession without the knowledge of the petitioners the respondents got entered their name in the revenue records. During the 2nd week of December-2012 the respondents started trying to put up fencing to the land and at that point of time the respondents disclosed and did not allow the petitioners to enter the land and informed that they have already obtained the decree against the petitioners and thereafter got the sale deed in their favour on 05-10-2012. The said fact was well within the knowledge of the advocate who was appearing for the petitioners and for the reasons best known to



him has deliberately not informed the petitioners about the that, from the date of the agreement, till the 2nd week of execution of the sale deed through court. Further it is stated that, December-2012 the petitioners were not at all aware of the said proceedings and were totally kept in dark. The act of the advocate who was appearing for the petitioners was total contravention of the provisions of Advocates Act and it is a breach of trust. Hence, the petitioners left with no other alternative are taking legal action against the Sri.B.K.Dhananjaya, Advocate vide enrollment No.KAR/494-1989 before the appropriate authority. The petitioners are also filing a criminal case against the respondents as well as the concerned on account of breach of trust and cheating.



7. Further it is stated that, the respondents being the neighbors, taking advantage of the innocence of the petitioners have played a fraud by not only obtaining the agreement of sale. In fact the petitioners were all along informed that it is only loan transaction and for a sum of Rs.8,00,000/- the interest at the rate of 2% per month was calculated for a period of 25 months. In fact on the date of the registration of the document i.e., on 21.06.2004 the respondents did not pay any amount except the payment of Rs.8,00,000/-. However, before the Sub-Registrar it was noted that a sum of Rs.4,00,000/- was received in the presence of the Sub-Registrar. Hence, even at the time of registration of the document the



respondents have misrepresented and played a fraud on the petitioners.

8. Further it is stated that, after entrusting the matter in the original side the petitioners were asked to attend the office of the counsel Sri.B.K.Dhananjaya and on all the dates of hearing the petitioners used to go to the office of the counsel and by paying the legal fee and collect the dates. The same thing continued even when the execution petition was pending. However, for the reasons best known to the advocate neither called the petitioners to file objections at any point of time nor called them to give evidence in any of the proceedings and by making false assurance to the petitioners, they were kept in total dark. Ultimately after the registration of the sale deed also the



petitioners approached the counsel and at that point of time and the revenue records were transferred in the name of the respondents even at that point of time the counsel started giving evasive answers to the petitioners and immediately the petitioners with their known persons have approached the very same counsel and got all the copies through him only. Hence, the counsel on record of the petitioner not only played a fraud on the petitioners but also committed a Criminal Breach of Trust towards the petitioners. In this regard the petitioners are taking separate steps against the counsel.

9. Further it is stated that, for the one time the petitioners came to know of all fraud played by the respondents in collusion with the petitioners



advocate Sri.B.K.Dhananjaya who appeared throughout on behalf of the petitioners without filing written statement, objections and totally not contested the matter in any manner against to the interest of the petitioners and allowed the respondents to get an Ex-parte decree and thereafter by filing Execution Petition No.98/2009, the respondents have taken possession of the property as per the records during the 2nd week of December-2012. In fact the petitioners were not informed from the date of filing the Execution. petition till the date of taking possession through court. Further it is stated that, the whole process from the date of agreement till the date of taking possession of the properties by the respondents there is a direct collusion among the respondents and the counsel appearing for the petitioners. After



the receipt of the court notice the said advocate has not disclosed anything about the proceedings and the petitioners for the 1st time came to know of the entire proceedings only after obtaining the certified copy of the entire proceedings.

10. Further it is stated that, the property in question was never intended to sell to any persons much less the respondents. The market value of the property was more than the amount mentioned in the said agreement. It is submitted that, if the Ex-parte Judgment and decree is not set-aside and other consequential orders, the petitioners will be put to great hardship and loss resulting miscarriage of the justice. Hence, the petition.



11. After service of notice, respondents appeared before the court through their counsel and file the objection to the main petition.

In the objection the respondent contended that, the petition is not maintainable in law or on facts and the petitioners are not entitled for any reliefs, as the same is barred by limitation. Further contended that, the respondents No.1 and 2 filed O.S.No.676/2006 against the petitioners for specific performance of contract based on the registered agreement dated:21.06.2004 in respect of the suit schedule property. Further contended that, the petitioners even though appeared in O.S.No.676/2006 and filed vakalath on 16.03.2007, but did not file any written statement. Further the above O.S.No.676/2006 came to be decreed on 17.12.2008, directing the petitioners



herein to execute registered sale deed in favour of the respondents herein in respect of suit schedule property by receiving the balance consideration amount, within three months. If the petitioners refuse to execute the same, the respondents No.1 and 2 at liberty to get the sale deed registered in respect of the suit schedule property as per law. The respondents 1 and 2 deposited the balance consideration in the court.

12. Further contended that, as per the judgment and decree dated:17.12.2008 passed in O.S.No.676/2006, the petitioners herein not come forward to execute the registered sale deed in respect of the suit schedule property in favour of the respondents No.1 and 2. Hence, the respondents 1 and 2 filed execution petition in



Ex.No.98/2009 to execute the judgment and decree dated:17.12.2008 against the petitioners herein. Further in the execution petition No.98/2009 the petitioners filed vakalath dated:24.10.2009, but did not file any objections. Further the Court executed the registered sale deed dated:23.09.2012 in favour of the respondents No.1 and 2 on behalf of the petitioners herein in respect of the suit schedule property. Further contended that, on the strength of the registered sale deed dated:23.09.2012 executed by this Court on behalf of the petitioners herein, in favour of the respondents No.1 and 2 in respect of the suit schedule property, possession of the suit schedule property was handed over by the Court through sale receipt and mahazar dated:06.12.2012. As stated above, the respondents are in possession of the suit schedule property.



Further on the strength of the registered sale deed dated:23.09.2012, the revenue records changed into the name of the respondents No.1 and 2.

13. Further contended that, the above facts clearly establish that the petitioners have filed the above miscellaneous petition in order to drag on the proceedings and to harass the respondents No.1 and 2. More over the petitioners were very much aware of the proceedings in O.S.No.676/2006 and Ex.No.98/2009. Further as stated above petition filed by the petitioners is barred by limitation and the reasons for not contesting the above proceedings is not properly explained as required in law. Therefore, the respondents No.1 and 2 prays dismissed the petition with costs.



14. The petitioner No.4 examined himself as Pw-1 and got marked the ExP-1 to ExP-33 and one supporting witness examined as Pw-2. On the other hand, the respondent No.1 examined himself as Rw-1 and got marked ExR-1 to ExR-13.

15. Heard and perused materials available on record.

16. The petitioner advocate has relied upon the following decisions:

- 1) Vishwabandhu V/s Sri.Krishna & Another, reported in (2021) 9 S.C.R. 15;
- 2) Parimal V/s Veema @ Bhaarti, in Civil Appeal No.1467/2011;
- 3) Basawaraj & Others V/s The Spl.Land Acquisition Officer, in Civil Appeal No.6974 and 6975/2013;
- 4) Smt.Komala Krishna Reddy & Others V/s Smt.Nagarathnamma, in MFA.No.4928/2021 (CPC).



16. The following points arise for my determination:

(1) Whether the petitioners have established sufficient and satisfactory reason for restoration of 676/2006?

(2) What order?

17. My findings on the above points are as under:

Point No.1 : *In the Affirmative;*

Point No.2 : *As per final order for the following :*

REASONS

18. **Point No.1** :- This petition is filed by the petitioner to restore the original suit OS.No.676/2006 for restoring the case. As per the contention of the petitioner, the petitioner appeared before the trial court but, did not file written statement and suit was decreed against the petitioner and execution No.98/2009 is also filed. It is the contention of the petitioner that, he filed suit before the Trial Court for recovery, wherein



the petitioners borrowed a sum of Rs.8,00,000/- from the respondents to lead their family necessities and also discharge the loan for the purpose of establishing brick industry. The respondent being the neighbour knew them for many years and agreed to extend the help by lending a sum of Rs.8,00,000/- as hand loan and put to terms that the amount has to be repaid along with interest at the rate of 2% per annum. The suit against the petitioner was decreed since the respondent did not appear before the trial court to file written statement and did not contest the case. Now, the petitioner before this court and has examined herself as Pw-1 she has filed affidavit in lieu of her examination in chief. She has produced documents such as ExP-1 to ExP-33. It is pertinent to note that, the main allegation is that, her advocate did not cooperate, and her family were kept in dark without



giving any details and results of the case till 2nd week of December 2012, the said advocate is permanently residing at Belagumba Village, Kasaba Hobli, Ramangara Taluk from his child hood and out of bonafide belief they could not suspect the conduct of the advocate. Even after, disposal of the case and before taking possession the said advocate was assuring that he is go into settle the matter and very cordial with them and they lost the case sole on account carelessness and negligence of their advocate.

19. Pw-1 has been cross examined by the respondent. In the cross examination he admits that, he is involved in politics he is the member of the Panchayath, he was also President of Belagumba Village earlier. He also admits that his advocate is resident of his village, advocate also own property in



the said village. There were many criminal cases between them and they were compromised. He denies the suggestion made to him that, he was aware of the original suit and he was also aware that written statement was not filed. But, this suggestion is denied by the witness. Further in the cross examination to the Pw-1 the respondent counsel have suggested the contents of the plaint which is made by them in original suit which is not necessary in this case. He has tried to elicit allegation made against the petitioner in the plaint. He further stated in the cross examination that he had given the notice to his advocate to give reply but advocate suggested to him that, he would sought it out. He also further states that he went to give Rs.10,00,000/- to the respondent but he rejected to take it and demanded full Rs.12,00,000/- to him. He further state that, he want



to compromise the case by paying the money and he expressed the same with the respondent and also with the counsel.

20. Additional evidence has been led by 4th petitioner in this petition by name P.Mohan Kumar stating that, Lakshamma is his mother and other petitioners are his brother and sisters and they have authorized him to swear this affidavit on behalf of them and also himself. He has reiterated his examination in chief affidavit filed before this court earlier on 07.06.2014. Further he has stated that, after filing of this petition the respondent appeared before this court and seriously contested the matter and insisted to hold an enquiry on limitation, which came to be allowed. He had also filed an application temporary injunction restarting the defendants from alienating the property



which was dismissed. He has further stated that, he has already filed the complaint before the Bar Counsel of Karnataka which is numbered as C29/2013 which is pending before the Bar Counsel. They have also filed criminal case with jurisdictional police for criminal breach of trust committed by their advocate, which is under investigation. The properties in question measures nearly 7 acres worth more than Rs.25,00,000/- per acre as they have grown Mango Trees in the entire extent of land and the same are fruit yielding trees entire family was depending upon income of the said land. This court has passed an order condoning the delay in filing the Miscellaneous petition, which was challenged by the respondent before the Hon'ble High Court of Karnataka in WP.No.5415/2018(GM-C.P.C) and 62047/2016(GM-C.P.C) further both the petition were taken up for



consideration together and Hon'ble Court of Karnataka confirms the order of this court dated:08.11.2016 and 16.08.2017 vide order dated:28.08.2023. The Bar counsel of Karnataka by considering the complaint passed an order on 05.11.2022 suspending the advocate B.K.Dananjaya from practicing for period of 3 years.

21. It is further contended by the petitioner that, the traction is only a loan transaction at no point of time this petitioner and his family members have intended to sell the property for a price. By virtue of execution the respondents have taken possession of the property and they are enjoying the property from 16.12.2012. Therefore, it is prayed that the petitioner has good case on hand and to prays to restore the case. In the cross examination dated:08.09.2025 Pw-1



admits his signature and also admits that agreement was entered into on 21.06.2004. He also admits that, he has signed the sale agreement before the Sub-Registrar office.

22. For better appreciation of the evidence I have reproduce the cross-examination of Pw-1.

“ಪತ್ರ ಬರೆಸುವಾಗ ನಾನು ವಕೀಲರಿಂದ ಮಾಹಿತಿ ಪಡೆದುಕೊಳ್ಳಬಹುದಿತ್ತು ಎಂದರೆ ಸಾಕ್ಷಿ ನನಗೆ ಗೊತ್ತಾಗಲಿಲ್ಲ ಮತ್ತು ಪ್ರತ್ಯೇಜಿದಾರರು ನನ್ನ ಪಕ್ಕದ ಮನೆಯವರು ಆಗಿದ್ದ ಕಾರಣ ಬರೆಸಿಕೊಳ್ಳಲಿಲ್ಲ ಎನ್ನುತ್ತಾರೆ. ನಾವು ಕರಾರು ಪತ್ರ ಬರೆಸಿಕೊಳ್ಳಲು ಸಬ್ ರಿಜಿಸ್ಟ್ರಾರ್ ಕಛೇರಿಗೆ ಹೋಗಿದ್ದೆವು. ಆಗ ಸಬ್ ರಿಜಿಸ್ಟ್ರಾರ್ ಕಛೇರಿಯಲ್ಲಿ ಪತ್ರ ನೋಂದಣಿ ವೇಳೆಗೆ ಒಕ್ಕಣೆಯನ್ನು ನಮಗೆ ಓದಿ ತಿಳಿಸಿದ್ದಾರೆ ಎಂದು ಹೇಳಿದರೆ ಸರಿಯಲ್ಲ. ಈ ಪತ್ರದಲ್ಲಿ ಬರವಣಿಗೆ ವೇಳೆ 8 ಲಕ್ಷ ಮತ್ತು ನೋಂದಣಿ ವೇಳೆ 4 ಲಕ್ಷ ಅಂದರೆ ಒಟ್ಟು 12 ಲಕ್ಷ ನಾನು ಅವರಿಂದ ಪಡೆದುಕೊಂಡಿದ್ದೇನೆ ಅಂತ ನಮೂದಾಗಿದೆ ಎಂದರೆ ಸಾಕ್ಷಿ ನಾನು ಕೇವಲ 8 ಲಕ್ಷ ಮಾತ್ರ ಪಡೆದುಕೊಂಡಿದ್ದೆ ಮತ್ತು 26 ತಿಂಗಳ ನಂತರ ನಾನು ಅವರಿಗೆ 12 ಲಕ್ಷ ಕೊಡಬೇಕಾಗಿತ್ತು ಎನ್ನುತ್ತಾರೆ. ಕ್ರಯದ ಮೊಬಲಗೂ 12 ಲಕ್ಷ 75 ಸಾವಿರಕ್ಕೆ ತೀರ್ಮಾನ ಆಗಿತ್ತು



ಎನ್ನುವುದು ಮತ್ತು ನಾನು ಬಾಕಿ ಹಣ 75 ಸಾವಿರವನ್ನು ಪತ್ರ ನೋಂದಣಿ ಆಗುವ ಕಾಲಕ್ಕೆ 28 ತಿಂಗಳ ಒಳಗಾಗಿ ಕೊಡಬೇಕು ಅಂತ ತೀರ್ಮಾನ ಆಗಿತ್ತು ಹಾಗೂ ಪತ್ರ ನೋಂದಣಿ ಮಾಡಿಸಿಕೊಡುತ್ತೇವೆ ಅಂತ ಒಪ್ಪಿದ್ದೆ ಎಂದರೆ ಸರಿಯಲ್ಲ. ನನ್ನ ಮತ್ತು ಪ್ರತ್ಯೇರ್ಜಿದಾರರ ನಡುವೆ ಆದ ಅಗ್ರಿಮೆಂಟ್ ಜಮೀನಿನ ಕರಾರು ಎಂದರೆ ಸಾಕ್ಷಿ ಇಲ್ಲ ಬಡ್ಡಿ ವ್ಯವಹಾರದ ಕರಾರೂ ಎನ್ನುತ್ತಾರೆ. ಆ ಸಂಬಂಧ ಪ್ರತ್ಯೇರ್ಜಿದಾರರ ನೋಂದಣಿ ಪತ್ರ ಬರೆದುಕೊಡಿ ಅಂತ ವಕೀಲರ ಮೂಲಕ ನೋಟಿಸ್ ನನಗೆ ಬಂದಿದೆ ಎಂದರೆ ನಿಜ. ನಾನು ಆ ನೋಟಿಸ್‌ನ್ನು ನಮ್ಮ ವಕೀಲರಾದ ಧನಂಜಯ್ಯ ಇವರಿಗೆ ಕೊಟ್ಟಿದ್ದೆ. ಆಗ ಅವರು ನೋಡುತ್ತೇನೆ ಹೋಗಿ ಅಂತ ಹೇಳಿದ್ದರು.”

ಮುಂದುವರೆದು "ನಾನು ಎದುರುದಾರರು ಮಾಡಿರುವ ಆಸಲು ದಾವೆಯನ್ನು ರಾಜಿ ಮಾಡಿಕೊಳ್ಳುವ ಸಂಬಂಧ ನಾನು ನಮ್ಮ ವಕೀಲರಿಗೆ ಮಾಹಿತಿ ಹೇಳಿದ್ದೇನೆ. ಎದುರುದಾರರು ನಮ್ಮ ಮನೆಯ ಪಕ್ಕದವರೇ ಆಗಿರುವ ಕಾರಣ ನಾನು ಅವರಿಗೆ ರಾಜಿ ಮಾಡಿಕೊಳ್ಳಲು ಹೇಳಬಹುದಿತ್ತು ಎಂದರೆ ಸಾಕ್ಷಿ ನಾನು ಅವರಿಗೂ ಸಹ ರಾಜಿ ಮಾಡಿಕೊಳ್ಳೋಣ ಅಂತ ಹೇಳಿದ್ದೆ ಎನ್ನುತ್ತಾರೆ. ನಾನು ಎದುರುದಾರರಿಗೆ ರಾಜಿ ಮಾಡಿಕೊಳ್ಳೋಣ ಅಂತ ಅವರು ಆಸಲು ದಾವೆ ಮಾಡಿದ ನಂತರ ಅವರಿಗೆ ನಾನು ಹೇಳಿದ್ದೆ. ಅವರ ಮೂಲ ಹಣ ಮತ್ತು ಬಡ್ಡಿ ಎರಡನ್ನೂ ಕೊಡವಂತೆ ತೀರ್ಮಾನ ಮಾಡಲು ಅವರಿಗೆ ಹೇಳಿದ್ದೆ. ಈ ವಿಚಾರವನ್ನು ನಮ್ಮ ವಕೀಲರಿಗೂ ಹೇಳಿದಾಗ ಅವರು ಪ್ರತಿ ಮುದ್ದತಿ ದಿನಾಂಕ ಮುಗಿಯಲಿ ಅಂತ ಮುಂದೂಡುತ್ತಾ ಬಂದಿದ್ದರು ಎನ್ನುತ್ತಾರೆ. ನಾನು ಎದುರುದಾರರ ಜೊತೆ ರಾಜಿ



ಮಾಡಿಕೊಳ್ಳಲು ಯಾವತ್ತೂ ಮಾತನಾಡಲು ನಮ್ಮ ವಕೀಲರಿಗೆ
ಹೇಳಿಲ್ಲ ಎಂದರೆ ಸರಿಯಲ್ಲ.”

ಮುಂದುವರೆದು "ಸಾಕ್ಷಿಯು ಮುಂದುವರೆದು ಮುದ್ದತಿ
ದಿನಾಂಕವನ್ನು ನಮ್ಮ ವಕೀಲರು ನನಗೆ ಪೋನ್ ಮೂಲಕ
ಹೇಳುತ್ತಿದ್ದರು ಎನ್ನುತ್ತಾರೆ.”

23. Further one Sri.Mariswamy.C., has filed affidavit he is examined as Pw-2 he has supported the case of the petitioner. In the cross examination of Pw-2 on confrontation of ExP-7 he admits his signature in ExP-7 and states that, from the date of agreement he is aware of all the transactions and the facts of sale agreement. He admits that, Rs.4,00,000/- paid to him at the Sub-registrar office. Further he states that, even before the registration of the instrument Rs.4,00,000/- was paid soon after they spoke about the transaction. Further it is suggested that, to help the petitioner he is deposing falsely.



24. On the other hand the respondent also examined themselves as Rw-1 he has filed affidavit in lieu of his chief examination. he has produced the documents such as 13 documents as ExR-1 to ExR-13. ExR-1 to ExR-3 are the certified copies of judgment, decree and order sheet in OS.No.676/2006, ExR-4 to ExR-9 are the certified copies of petition, order sheet, decree, delivery and spot mahazars in Ex.No.98/2009 , ExR-10 and 11 RTC Extracts, ExR-12 mutation register extract and ExR-13 is the order copy in Civil Appeal No.(s)1161/2023.

25. In the cross-examination of Rw-1 he states that, he has given the consideration amount in the Sub-registrar office. Further states that, the petitioner attended the court in original suit regularly on the hearing dates. Further it is suggested that, whether the



presence of defendant is mentioned in the order sheet to this question he is ignorant stating that, he do not no. He admits that, advocate Dhananjaya appear before the court in all hearings. The suit was filed in the year 2006 and was disposed in the year 2012. Further it is suggested that, the petitioner never appeared before the Trial Court only his advocate appeared before the Trial Court this suggestion denied by the witness. It is further suggested that, the respondent and the advocate Mohankumar have colluded with each other and therefore the decree is passed by giving false message and making false submission before the Trial Court. It is also admitted that, even in execution petition advocate Dhananjaya appeared he do not know whether the objection statement is filed in the said execution petition. Further it is also suggested that, since the property is



of the huge value they have given false document and false statement and have obtained sale agreement, this suggestion is denied. Further it is suggested that since the petitioner was not aware of the execution petition he has not filed objection and he had not come to Sub-Registrar office to execute the sale deed. To this suggestion petitioner states that, he got the sale deed registered through the court. Further it is also suggested that, only when the respondents approached to take possession of the property he came to know about the sale deed to this suggestion witness states that, the petitioner knew about the sale deed. He also states that the summons was issued through the court. Further it is suggested that, himself and the counsel for the advocate colluded with each other and got the sale deed executed, this suggestion is denied.



26. The petitioner has strongly taken contention that, his counsel behind his back taken discussion and not informed it at all. Therefore, he has taken steps to prosecution the Lawyer/Counsel. The Bar Counsel of Karnataka after full pledged hearing has passed an order by it's order the Layer has been suspended by the Hon'ble High Court of Karnataka. However, his suspension has been revoked by the Hon'ble Supreme Court of India. The petitioner has taken steps against the counsel also these facts leads to suspicious.

27. It is just to given an opportunity to the petitioner to contest the case. The petitioner though not led evidence, he has taken strong contention that, he was mislead by his advocate. He has contested till Hon'ble Supreme Court of India has quashed the suspension of the advocate. Further prosecuting the



advocate show's that petitioner has made every effort to prove his contention. It has to been seen whether there has been bonafide reason for the petitioner for not appearing before the Court in original suit. The respondent has vehemently argued that, the possession of the property has been given. But, an opportunity should be give to the petitioner to contest the suit and justice should not be denied. In the whole cross examination of Pw-1 reproduced in the above. Cross examined on merits, but merits can not be decided in this petition, only whether petitioner has made out sufficient to allowed this petition or not is the question are point for consideration involved in this case. Further burden is on petitioner to prove. The petitioner by producing oral and documentary evidence as discussed above has proved his contention. Hence, with this observation, **Point No.1 is answered in the Affirmative.**



28. **Point No.2** : Based on findings in Point No.1, this Court proceeds to pass the following:

ORDER

The petition filed by the petitioners under Order IX Rules 9 R/w Section 151 of CPC., is allowed with cost of Rs.2,000/-.

Order dated:17.12.2008 passed by this Court in OS.No.676/2006 is hereby set-aside.

The petition in OS.No.676/2006 is restored. The petitioners and respondents are directed to appear before this court on 29.04.2026 without waiting for further notice from the Court and Court notice shall be issued to the respondents for his appearance before the Court on 29.04.2026.

The parties are directed to co-operate with the Court for speedy adjudication of the petition.



Office is directed to put up the OS.

No.676/2006 on 29.04.2026.

(Dictated to the Stenographer in-part and directly on computer, typed by him, then corrected by me and then pronounced in the open Court on this the 18th day of March 2026)

(Smt.Niveditha.T.M)
1st Addl. Senior Civil Judge & JMFC.,
Ramanagaram.

1. List of witnesses examined on behalf of the petitioners :

Pw-1 : Sri.Mohan Kumar;
Pw-2 : Sri.Mariswamy.C.

2. List of documents marked on behalf of the petitioners:

ExP-1 : Certified Copy of Judgment in OS.No.676/2006;
ExP-2 : Certified Copy of Decree in OS.No.676/2006;
ExP-3 : Certified Copy of Order Sheet in OS.No.676/2006;
ExP-4 : Certified Copy of Complaint in OS.No.676/2006;
ExP-5&6: Certified Copies of Affidavits in OS.No.676/2006;
ExP-7 : Certified Copy of Sale Deed;
ExP-8&9: Certified Copies of RTC Extract;
ExP-10 &11: Certified Copies of Legal Notices;
ExP-10(a), 11(a) (b): Certified Copy of Postal and Acknowledgments;
ExP-12 & 13 : Certified Copies of Petition and Order Sheet in
Ex.No.98/2009;
ExP-14 : Certified Copy of Sale Deed in FDP.No.98/2009;
ExP-15 : Encumbrance Certificate;
ExP-16 : Mutation Register Extract;
ExP-17 to 29: RTC Extracts.
ExP-30 to 33: Certified Copies of Complaint, Statement of
Objection & Order Sheet in Complaint No.29/2013;



3. List of witnesses examined on behalf of the respondents:

Rw-1 : C.Chikkegowda @ Thamaiah;

4. List of documents marked on behalf of the respondents:

- ExR-1 to 3: Certified Copies of Judgment, Decree & Order Sheet in OS.No.676/2006;
ExR-4 : Certified Copy of Petition in Ex.No.98/2009;
ExR-5 : Certified Copy of Order Sheet in Ex.No.98/2009;
ExR-6 : Certified Copy of Sale Deed;
ExR-7 : Certified Copy of Delivery Warrant in Ex.No.98/2009;
ExR-8 : Certified Copy of Spot Mahazar in Ex.No.98/2009;
ExR-10&11: RTC Extracts;
ExR-12 : Mutation Register Extract;
ExR-13 : Copy of Order in Civil Appeal No.(s).1161/2023.

(Smt.Niveditha.T.M)
I Addl. Senior Civil Judge and JMFC.,
Ramanagara.