



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13TH DAY OF OCTOBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE ANANT RAMANATH HEGDE

REGULAR SECOND APPEAL NO. 73 OF 2024 (DEC/INJ)

BETWEEN:

1. BALAMMA,
W/O LATE THIPPAIAH,
AGED ABOUT 78 YEARS,
2. NAGAMMA,
W/O. LATE KATAPPA,
AGED ABOUT 76 YEARS,
3. KATAMMA,
W/O NARASIMHAPPA,
AGED ABOUT 75 YEARS,
4. ERAPPA
S/O. LATE AJJAPPA,
AGED ABOUT 72 YEARS,
5. KARIYAMMA
D/O. LATE AJJAPPA,
W/O. SANNERAPPA,
AGED ABOUT 67 YEARS,
6. RUDRAPPA,
S/O. LATE AJJAPPA,
AGED ABOUT 66 YEARS,
ALL ARE AGRICULTURISTS,
THE APPELLANTS NO.1, 2, AND 4 ARE
R/O JAMMAPURA GOLLARAHATTY VILLAGE,
JAGALURU TALUK - 577 528,
THE APPELLANTS NO.3 AND 5 ARE
R/O CHIKKAGONDANAHALLY,

Digitally
signed by
PRAMELA G V
Location:
HIGH COURT
OF
KARNATAKA



GOLLARAHATTY VILLAGE,
CHITRADURA TALUK - 577532.

...APPELLANTS

(BY SRI R SHASHIDHARA, ADVOCATE)

AND:

1. SHARANAMMA,
W/O. BASAVARAJAPPA,
AGED ABOUT 62 YEARS
AGRICULTURIST,
2. R. SAMPATHKUMAR
S/O. K. RAMALINGAPPA,
AGED ABOUT 44 YEARS,
AGRICULTURIST,

BOTH ARE R/O. JAMMAPURA VILLAGE,
JAGALUR TALUK-577 528,
DAVANAGERE DISTRICT.

...RESPONDENTS

THIS RSA IS FILED UNDER SECTION 100 OF CPC AGAINST THE JUDGMENT AND DECREE DATED 23.06.2022 PASSED IN RA.No.10/2021 ON THE FILE OF THE SENIOR CIVIL JUDGE JAGALUR, DISMISSING THE APPEAL AND CONFIRMING THE JUDGMENT AND DECREE DATED 15.10.2020 PASSED IN OS No.83/2014 ON THE FILE OF THE CIVIL JUDGE AND JMFC, JAGALUR.

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

CORAM: HON'BLE MR. JUSTICE ANANT RAMANATH HEGDE



ORAL JUDGMENT

This Regular Second Appeal is arising from the concurrent findings in a suit for declaration and injunction.

2. Suit in O.S.No.83/2014 is filed challenging the registered sale deed. The suit is filed seeking relief of declaration and permanent injunction claiming that the plaintiffs are the absolute owners of the suit schedule properties and sought injunction against the defendants from interfering the plaintiffs' peaceful possession and enjoyment over the suit schedule properties.

3. The second prayer in the plaint reads as under:

"The alleged sale deeds dated 19.10.1976 and 24.07.1985 alleged to had been executed by deceased Ajjappa, is not binding on the right, title, interest, possession of the plaintiffs in the suit schedule properties".

4. The relationship of the parties is not in dispute. Plaintiffs claim under one Ajjappa son of Thippaiah. Plaintiffs also claim that the suit schedule properties are ancestral properties of Ajjappa son of Thippaiah.



5. It is not in dispute that on 18.10.1976 and 24.07.1985, two registered sale deeds have been executed by Ajjappa in respect of suit properties. In paragraph No.5 of the plaint, it is alleged that sale deed is got executed by practicing undue influence, fraud and behind the back of the plaintiffs, though Ajjappa did not have absolute right over the properties.

6. Defendants contested the suit by filing separate written statements. Defendant No.1 claimed right over the property bearing Sy.No.149/2B measuring 1 acre 37 guntas and Sy.No.149/2A measuring 20 guntas of Jammapura village, Jagalur taluk.

7. Defendant No.1 claimed right over the property under the registered sale deed dated 24.07.1985 and defendant No.1 also claims that defendant No.2 purchased the property bearing Sy.No.149/2A measuring 20 guntas under the registered sale deed dated 18.10.1976.

8. Defendant No.2 urged that he purchased Sy.No.149/2B measuring 1 acre 37 guntas under registered



sale deed dated 18.07.1985 and vendor of defendant No.1 had purchased the property under registered sale deed dated 03.04.1968.

9. Both the defendants also took a contention that the suit is time barred and prayed for dismissal of the suit.

10. The Trial Court has held that the allegation relating to the fraud and misrepresentation is not established.

11. Referring to evidence in the cross-examination came to the conclusion that the plaintiffs are not in possession of the suit schedule properties ever since the execution of the sale deeds referred to above.

12. The Trial Court also concluded that the defendants are in possession of the property based on the sale deeds referred to above.

13. The finding recorded by the Trial Court is confirmed by First Appellate Court. First Appellate Court also



came to the conclusion that the suit is time barred under Article 109 of the Limitation Act, 1963.

14. Learned counsel appearing for the plaintiffs/appellants would urge that the properties are ancestral properties and could not have been sold without the consent and knowledge of the plaintiffs.

15. It is his further submission that the suit is not time barred as the defendants have not established adverse possession over the suit schedule properties.

16. This Court has considered the contentions raised at the bar and perused the records.

17. As can be seen from the averments made in the plaint, it is noticed that the plaintiffs have taken a contention that the sale deed of the year 1975 and the sale deed of the year 1986 are outcome of fraud and misrepresentation. The suit is filed in the year 2014. It has come in evidence that the purchasers of the property are in possession of the suit schedule properties.



18. Though the plaintiffs made an attempt to contend that the plaintiffs are in possession of the property, the contention is not established as there is an admission in the cross-examination that the defendants are in possession.

19. The possession of the defendants is based on registered sale deeds. The vendor of the property has not questioned the sale deeds.

20. Under these circumstances, assuming that the properties are ancestral, Article 109 of the Limitation Act, 1963 will apply and the plaintiffs were required to file the suit within 12 years from the date of dispossession. However, that is not done. Suit is filed beyond 12 years after the execution of the sale deed and dispossession.

21. In addition to that, it is also relevant to notice that nothing is placed on record to hold that the properties in the hands of vendor Ajjapa were the ancestral.

22. Under these circumstances, this Court does not find any reason to interfere in the concurrent findings recorded by the Trial Court and First Appellate Court relating



to the execution of registered sale deeds dated 18.10.1976 and 24.07.1985 and also the findings relating to the possession based on the admission in the cross-examination of PW.1.

23. Accordingly, the Second Appeal is ***dismissed***.

24. In view of the disposal of the main appeal, application for condonation of delay of 463 days in filing the appeals is also dismissed.

Sd/-
(ANANT RAMANATH HEGDE)
JUDGE

GVP
List No.: 1 Sl No.: 4