



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

REGULAR FIRST APPEAL NO. 486 OF 2023

BETWEEN:

1. SRI. KRISHNAPPA,
AGED ABOUT 53 YEARS,
S/O LATE MUNIYAPPA,
R/AT NO.13/3, 8TH A CROSS,
BANDEPPA ROAD, YESHWANTHAPURA,
BANGALORE - 560 022.
2. SMT. LATHA,
AGED ABOUT 46 YEARS,
W/O SRI. KRISHNAPPA,
R/AT NO.13/3, 8TH A CROSS,
BANDEPPA ROAD, YESHWANTHAPURA,
BANGALORE - 560 022.

...APPELLANTS

(BY MS.LEKHA, ADVOCATE;
SRI. SIDDHARTH SUMAN, ADVOCATE)

AND:

1. SMT. SUGUNA,
AGED ABOUT 54 YEARS,
W/O LATE K MUNIRAJU,
R/AT NO.529,
NEW NO.44, 3RD MAIN ROAD,
NEAR M.S.R.T.C. GOVERNMENT SCHOOL,
MATHIKERE, BANGALORE - 560 054.





2. SRI. KIRAN,
AGED ABOUT 31 YEARS,
S/O LATE K MUNIRAJU,
R/AT NO.529,
NEW NO.44, 3RD MAIN ROAD,
NEAR M.S.R.T.C. GOVERNMENT SCHOOL,
MATHIKERE, BANGALORE - 560 054.

...RESPONDENTS

(BY SRI. MUNIYAPPA, ADVOCATE)

THIS RFA IS FILED UNDER SECTION 96 R/W ORDER 41 RULE 1 OF CPC., AGAINST THE JUDGMENT AND DECREE DATED 30.11.2022 PASSED IN OS NO.25213/2019 ON THE FILE OF THE LXXIV ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, C/C. LVII ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, MAYOHALL UNIT, CITY CIVIL COURT, BENGALURU. DECREETING THE SUIT FOR THE RELIEF OF PERPETUAL PROHIBITORY INJUNCTION WITH COST.

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

CORAM: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

ORAL JUDGMENT

The captioned appeal is by the defendants directed against the judgment and decree dated 30.11.2022 rendered in O.S.No.25213/2019 whereby the plaintiffs' suit for injunction simplicitor is decreed and the defendants are restrained from interfering with the



plaintiffs' peaceful possession and enjoyment over the suit schedule property.

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

3. Facts leading to the case are as under:

The plaintiffs instituted a suit for bare injunction in O.S.No.25213/2019 seeking protection of their alleged possession over the suit schedule property. It is their specific case that the property originally belonged to Akkamma, who acquired title under a registered gift deed dated 01.10.1962 executed by Muniyamma and Munisonnappa. The plaintiffs further assert that Akkamma, under a Will dated 21.09.1978, bequeathed the property in favour of Krishnamurthappa and Muniakkayamma, thereby vesting title in them.

4. It is contended that plaintiff No.1 is one of the sons of Krishnamurthappa and traces his title through him. According to the plaintiffs, subsequent to the demise of



Krishnamurthappa and Muniakkayamma, a family partition was effected, wherein the suit schedule property fell to the share of Muniraju, who is the husband of plaintiff No.1 and father of plaintiffs No.2 to 4. The plaintiffs state that after the death of Muniraju, they, being his wife and children, succeeded to the property as his legal heirs and have since been in peaceful and lawful possession and enjoyment of the same.

5. Alleging that the defendants, who have no manner of right, title or interest over the suit schedule property, attempted to interfere with their possession, the plaintiffs were constrained to institute the present suit seeking a decree of permanent injunction restraining the defendants from interfering with their peaceful possession and enjoyment of the property.

6. On service of summons, the defendants entered appearance and filed their written statement, stoutly denying the material averments set out in the plaint. While



they admitted that the suit schedule property was originally acquired by Akkamma under a registered gift deed dated 01.10.1962 and that she, under a Will dated 21.09.1978, bequeathed the same in favour of Krishnamurthappa and Muniakkayamma, they specifically denied the alleged family partition and the allotment of the suit schedule property to Muniraju, husband of plaintiff No.1 and father of plaintiffs No.2 to 4. The defendants contended that Krishnamurthappa had, during his lifetime, conveyed rights in respect of the property and asserted that they are the lawful owners in possession. On these grounds, they sought dismissal of the suit.

7. On the basis of the rival pleadings, the Trial Court framed appropriate issues and called upon the parties to adduce evidence. In support of their case, the plaintiffs examined plaintiff No.2 as P.W.1 and one independent witness as P.W.2. They relied principally on the registered partition deed dated 08.03.2018 marked as Ex.P.1, along



with other documents marked as Exs.P.2 to P.16 to substantiate their claim of lawful possession.

8. The defendants, in rebuttal, examined defendant No.1 as D.W.1 and produced seven documents in support of their defence. However, no foundational pleadings were laid in the written statement regarding the alleged prior agreement of sale, power of attorney, or affidavit said to have been executed by Krishnamurthappa.

9. Upon appreciation of the oral and documentary evidence, the Trial Court was not persuaded to accept the defendants' plea that Krishnamurthappa had executed an agreement of sale coupled with a power of attorney and affidavit. The Court noticed that the particulars of such transaction were conspicuously absent in the written statement and that the defence sought to be projected through evidence was beyond the scope of pleadings. Discarding the said defence, the Trial Court held that the plaintiffs had successfully established that the suit



schedule property was allotted to Muniraju under the family partition dated 08.03.2018 (Ex.P.1). Placing reliance on Ex.P.1 and the antecedent title flowing from the gift deed in favour of Akkamma and the subsequent Will, the Trial Court concluded that the plaintiffs were in lawful possession as on the date of the suit and that the alleged interference by the defendants was duly proved. Consequently, the suit for bare injunction was decreed.

10. In the present appeal, the defendants, for the first time in a more elaborate manner, have set up a case that Krishnamurthappa had executed an agreement of sale in the year 1998 along with a power of attorney and affidavit, and that possession was delivered pursuant thereto. It is further brought to the notice of this Court that the defendants have instituted a separate suit for specific performance seeking enforcement of the said agreement alleged to have been executed by Krishnamurthappa and his children.



11. Reiterating the grounds urged in the memorandum of appeal, learned counsel for the appellants/defendants contended that the Trial Court's finding on possession is perverse, inasmuch as it failed to consider that possession had already been delivered to the defendants under the 1998 agreement coupled with the GPA and affidavit. It is submitted that once possession was parted with, the plaintiffs could not have maintained a suit for bare injunction.

12. Per contra, learned counsel for the respondents/plaintiffs submits that the defendants, having suffered a decree in a suit for injunction, are now attempting to improve their case by projecting rights under an agreement of sale and GPA, which are the subject matter of an independent suit for specific performance. It is contended that in a bare suit for injunction, the Court is concerned primarily with possession as on the date of the suit, and that the alleged agreement and GPA, not having been properly pleaded or



proved before the Trial Court, cannot be gone into in the present appeal.

13. Having heard the learned counsel on both sides and on independent re-appreciation of the pleadings and the oral and documentary evidence on record, the following points arise for consideration in this appeal:

(i) Whether the finding recorded by the Trial Court that the plaintiffs were in lawful possession of the suit schedule property as on the date of institution of the suit suffers from perversity or illegality?

(ii) Whether the defendants' claim based on the alleged agreement of sale of the year 1998 and the subsequent suit for specific performance can be examined and adjudicated in the present appeal arising out of a bare suit for injunction?

(iii) What order?



Findings on points No.(i) and (ii):

14. A careful reading of the written statement indicates that the defendants have not disputed the foundational title pleaded by the plaintiffs. It is an admitted position that the suit schedule property was originally acquired by Akkamma under a registered gift deed dated 01.10.1962 executed by Muniyamma. It is also not in dispute that Akkamma, under a Will dated 21.09.1978, made a testamentary disposition in favour of Krishnamurthappa and Muniakkayamma. Therefore, the vesting of title in Krishnamurthappa pursuant to the testamentary arrangement is not seriously controverted by the defendants.

15. While admitting the gift deed dated 01.10.1962 and the Will dated 21.09.1978, the defendants have chosen to dispute only the subsequent partition deed dated 08.03.2018. The defendants are admittedly strangers to the plaintiffs' family and do not claim any co-parcenary or joint family status. In that view of the



matter, their locus to question an inter se family arrangement or partition amongst the legal heirs of Krishnamurthappa is highly doubtful, unless they independently establish a better title.

16. In paragraph No.10 of the written statement, the defendants have taken a specific plea that Krishnamurthappa, who was allegedly suffering from ailments and who died on 13.01.1990, was represented by his widow and children, including M.K. Muniraju (husband of plaintiff No.1), and that they executed a general power of attorney, an agreement of sale and an affidavit in favour of defendant No.1. However, though such a plea is raised, the defendants have not produced the said documents before the Trial Court to substantiate their contention. A mere plea, unsupported by documentary evidence, cannot dislodge the admitted title flowing from the 1962 gift deed and 1978 Will.



17. The plaintiffs, who trace their title and possession through Muniraju, have produced a certified copy of the registered partition deed dated 08.03.2018 marked as Ex.P.1. They have also produced the registered gift deed of the year 1962 in favour of Akkamma (Ex.P.2) and the Will dated 21.09.1978 executed by Akkamma (Ex.P.3). By producing these material documents, the plaintiffs have established the chain of title: from Muniyamma to Akkamma under the gift deed; from Akkamma to Krishnamurthappa and Muniakkayamma under the Will; and thereafter, by virtue of the registered partition deed dated 08.03.2018, allotment of the suit schedule property to Muniraju, husband of plaintiff No.1 and father of plaintiffs No.2 to 4.

18. The defendants, being strangers to the family, cannot lightly impeach a registered partition deed unless they demonstrate a subsisting and superior right. The production of Ex.P.1, coupled with Exs.P.2 and P.3, clearly establishes not only the plaintiffs' title but also their lawful



possession as on the date of the suit. The recitals in the partition deed specifically indicate that the suit schedule property fell to the share of Muniraju, and upon his demise, the plaintiffs, as his legal heirs, stepped into possession and enjoyment of the property.

19. The defendants, in rebuttal, have failed to produce any cogent material to dislodge the plaintiffs' case. Though they have produced a gift deed allegedly executed by defendant No.1 in favour of defendant No.2, the very source of title of defendant No.1 is not substantiated. In the absence of proof of defendant No.1's title, any subsequent gift deed executed by him cannot confer a better right upon defendant No.2.

20. It is also significant to note that the defendants themselves have relied upon the Will dated 21.09.1978 in their pleadings, thereby indirectly acknowledging the devolution of title upon Krishnamurthappa and, consequently, upon his legal heirs. Their present



contention that an agreement to sell was executed by the legal heirs of Krishnamurthappa, including plaintiff No.1, is a matter which squarely falls for adjudication in the separate suit for specific performance instituted by them in O.S.No.522/2023. The validity, enforceability, and effect of such an agreement cannot be conclusively determined in a bare suit for injunction or in the present appeal arising therefrom.

21. In view of the above discussion, this Court finds no perversity or illegality in the finding recorded by the Trial Court regarding the plaintiffs' lawful possession as on the date of the suit. Equally, the defendants' claim based on the alleged agreement of sale and GPA is required to be adjudicated in the pending specific performance suit and cannot be examined in the present proceedings.

22. Accordingly, Point No.(i) and Point No.(ii) are answered in the **"Negative."**



Finding on point No.(iii)

23. For the foregoing reasons, this Court proceeds to pass the following:

ORDER

- i. The Regular First Appeal is hereby **dismissed**;
- ii. It is, however, made clear that the observations made in this judgment are confined to adjudication of the present appeal arising out of a suit for bare injunction and shall not prejudice the rights of the defendants in prosecuting the pending suit instituted by them for specific performance or any other remedy available to them in accordance with law;
- iii. No order as to costs.

Sd/-
(SACHIN SHANKAR MAGADUM)
JUDGE