



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

REGULAR FIRST APPEAL NO. 266 OF 2011 (DEC/INJ)

C/W

REGULAR FIRST APPEAL NO. 265 OF 2011 (DEC)

IN RFA No. 266/2011

BETWEEN:

1. KRISHNA MUTHY
S/O LATE H. GUNDAPPA
AGED ABOUT 42 YEARS
REP BY HIS GPA HOLDER
SRI. B.S. SATHYANARAYANA
S/O SRI. RANGAPPA
AGED ABOUT 50 YEARS
R/AT NO. 45, 1ST MAIN, 1ST CROSS
KAMALANAGAR, BANGALORE-79.

...APPELLANT

(BY SRI. C.M. NAGABUSHANA, ADVOCATE)

AND:

1. SMT. S. GEETHA REDDY
D/O LATE SRIKANTA REDDY
AGED ABOUT 57 YEARS
W/O SRI M. SRINIVASA REDDY
R/AT NO. 844, 7TH CROSS
IX MAIN, SRINAGAR
BANGALORE-560 050.

...RESPONDENT

(BY SRI. D. BASAVARAJAPPA, ADVOCATE)





NC: 2026:KHC:11209
RFA No. 266 of 2011
C/W RFA No. 265 of 2011

THIS RFA IS FILED U/SEC.96 OF CPC, AGAINST THE JUDGMENT AND DECREE DATED 11.11.2010 PASSED IN O.S.No.3675/2004 ON THE FILE OF THE XXV-ADDL. CITY CIVIL JUDGE, BANGALORE, DECREERING THE SUIT FOR THE DECLARATION AND POSSESSION.

IN RFA NO. 265/2011

BETWEEN:

1. B.S. SATHYANARAYANA
S/O RANGAPPA
AGED ABOUT 50 YEARS
R/AT NO.45, 1ST MAIN, 1ST CROSS
KAMALANAGAR, BANGALORE-560079.

...APPELLANT

(BY SRI. C.M. NAGABUSHANA, ADVOCATE)

AND:

1. SMT. S. GEETHA REDDY
D/O LATE SRIKANTA REDDY
AGED ABOUT 57 YEARS
W/O SRI. M. SRINIVASA REDDY
R/AT NO.844, 7TH CROSS, IX MAIN
SRINAGAR, BANGALORE-560050.

...RESPONDENT

(BY SRI. D. BASAVARAJAPPA, ADVOCATE)

THIS RFA IS FILED UNDER SEC.96 OF CPC., AGAINST THE JUDGMENT AND DECREE DATED 11.11.2010 PASSED IN O.S.7099/2001 ON THE FILE OF THE XXV ADDL. CITY CIVIL & SESSIONS JUDGE, BANGALORE, (CCH 23), DECREERING THE SUIT FOR DECLARATION AND POSSESSION.

THESE APPEALS, COMING ON FOR DICTATING JUDGMENT, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:



CORAM: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

ORAL JUDGMENT

These two appeals arise out of a common judgment and decree passed in O.S.Nos.7099/2001 and 3675/2004. RFA.No.265/2011 is filed by the defendant B.S.Sathyanarayana assailing the judgment and decree passed in O.S.No.7099/2001 and RFA.No.266/2011 is filed by the plaintiff Krishna Murthy through his power of attorney holder B.S.Sathyanarayana assailing the judgment and decree passed in O.S.No.3675/2004. The trial Court has decreed the suit filed in O.S.No.7099/2001 and the suit filed in O.S.No.3675/2004 is dismissed. The judgment rendered in both the suits are now assailed in these two appeals.

2. For the sake of brevity, the rank of the parties in O.S.No.7099/2001 is referred to.



3. Facts leading to the case are as under:

The plaintiff in O.S.No.7099/2001 is asserting ownership of suit site bearing No.660 formed in Sy.No.56. Plaintiff asserts that she has acquired title pursuant to sale deed executed from the original grantee, namely Hanumaiah S/o Muddaiah, who was working as a Peon in the office of Deputy Commissioner, under a registered sale deed dated 01.03.1984 for a sale consideration of Rs.8,000/-. Plaintiff also asserts that Hanumaiah executed a GPA which was coupled with interest. Plaintiff has specifically pleaded that Hanumaiah was allotted suit site by the Government vide Order No.DCP 15 DRH dated 13.05.1972. Plaintiff therefore asserts that she is in exclusive possession and enjoyment of the suit site. The plaintiff in O.S.No.7099/2001 contended that she was employed outside Bengaluru and, on account of such employment, was unable to secure immediate registration of the sale deed in respect of the suit schedule property. She asserted that the original grantee, Hanumaiah, had



executed an unregistered sale deed dated 01.03.1984 in her favour and had handed over the original title documents along with possession. According to her, she had demarcated the boundaries of the suit site by fixing stone slabs and had been paying property taxes regularly. It is her specific case that when she visited the property on 01.12.1999, she found that the boundary stones had been disturbed. On enquiry, she allegedly discovered that the defendant had interfered with the property and had managed to secure katha in his favour on the strength of forged and fabricated documents. Though she lodged a complaint with the jurisdictional police, she was relegated to seek appropriate relief before the Civil Court. In that backdrop, she instituted the suit seeking declaration of title and recovery of possession.

4. The defendant entered appearance and filed a detailed written statement stoutly denying the plaint averments. The defendant contended that the Government had floated a scheme in the year 1975 for allotment of



sites to houseless persons and that such benefit was not intended for Government servants. Disputing the plaintiff's claim of title, the defendant asserted that the property originally allotted to Hanumaiah had devolved upon his son Gundappa and grandson Krishna Murthy, who, in turn, executed a General Power of Attorney dated 13.08.1997 in his favour and delivered possession. On the basis of the said GPA and consequential documents, the defendant claims to have secured katha in his name. It is further brought on record that Krishna Murthy, through his GPA holder B.S. Sathyanarayana (who is the defendant in O.S.No.7099/2001), instituted O.S.No.3675/2004 seeking declaration of ownership and injunction. Both suits were clubbed and common evidence was recorded.

5. In support of her case, the plaintiff examined herself as PW.1 and three witnesses as PWs.2 to 4 and produced twenty documents marked as Exs.P-1 to P-20. The defendant, in rebuttal, examined himself as DW.1 and two independent witnesses as DWs.2 and 3 and relied



upon forty-one documents marked as Exs.D-1 to D-41. The Trial Court framed appropriate issues in both suits and proceeded to adjudicate the matter on the basis of common evidence.

6. Upon appreciation of the oral and documentary evidence, the Trial Court decreed O.S.No.7099/2001 holding that the plaintiff had acquired title under the unregistered sale deed dated 01.03.1984 executed by late Hanumaiah and that she had subsequently fortified her title by obtaining a registered sale deed dated 25.06.2001 (Ex.P-12). The Court further held that the plaintiff was unlawfully dispossessed on 10.12.1999 and, consequently, was entitled to recovery of possession. In view of the said finding, O.S.No.3675/2004 filed by Krishna Murthy through his GPA holder was dismissed.

7. Aggrieved by the decree in O.S.No.7099/2001, the defendant has preferred RFA No.265/2011. Likewise, challenging the dismissal of O.S.No.3675/2004, Krishna



Murthy has preferred RFA No.266/2011. Both appeals arise out of the common judgment and are therefore taken up together.

8. Learned counsel appearing for the defendant assailed the judgment of the Trial Court contending that Ex.P-7, the allotment letter (Hakkupatra) relied upon by the plaintiff, is a suspicious and doubtful document. By drawing attention to apparent overwriting in respect of the year "1979", it is argued that the document lacks authenticity. It is further contended that if the Hakkupatra was indeed issued in 1979, it could not have borne the seal and nomenclature of "State of Mysore," as the State had been renamed "State of Karnataka" with effect from 01.11.1973. Reliance is placed on Ex.D-31, a Gazette Notification evidencing the change in nomenclature. It is therefore argued that the plaintiff, who traces her title through Ex.P-7, has failed to establish a valid root of title. Learned counsel also questioned the genuineness of Ex.P-12, the registered sale deed dated 25.06.2001, contending



that the plaintiff failed to establish the subsisting title of her vendor. It is further urged that the defendant has been in physical possession of the property since 1997 and, therefore, the sale deed of 2001 does not confer valid title upon the plaintiff.

9. With regard to O.S.No.3675/2004, learned counsel for the defendant contended that Ex.D-14, the Hakkupatra issued in favour of Hanumaiah S/o Muddaiah, is the genuine allotment document. According to him, after the demise of Hanumaiah, his son Gundappa and grandson Krishna Murthy inherited the property and validly conveyed their rights in favour of the defendant under the GPA dated 13.08.1997 (Ex.D-26). It is contended that the defendant has successfully traced his title through the lawful heirs of the original grantee and that the Trial Court erred in discarding Exs.D-15 to D-19 and other contemporaneous documents which substantiate his claim.



10. Placing reliance on Exs.D-15 to D-19 and other supporting records, learned counsel argued that the Trial Court misread and misconstrued the documentary evidence adduced by the defendant and erroneously accepted the plaintiff's version. It is contended that the findings recorded in O.S.No.3675/2004 suffer from perversity and warrant interference in appeal.

11. On the other hand, the plaintiff in O.S.No.3675/2004 (Krishna Murthy) claims declaration of ownership by way of inheritance, asserting that being the grandson of the original grantee Hanumaiah, he succeeded to the estate and is therefore entitled to the suit schedule property.

12. Having heard the learned counsel appearing on both sides and upon perusal of the material on record, the following points arise for consideration in these appeals:

(i) Whether the finding of the Trial Court that the plaintiff in O.S.No.7099/2001 has established her title over the suit schedule property



on the basis of the registered sale deed dated 25.06.2001 suffers from perversity?

(ii) Whether the finding that the defendant failed to establish his right and title over the suit schedule property is perverse and calls for interference?

(iii) Whether either party, both tracing title through Hanumaiah, has established which of the two allotment letters, Ex.P-7 or Ex.D-32, represents the genuine allotment in respect of the suit property?

(iv) Whether the finding on Issue No.1 in O.S.No.3675/2004 that Krishna Murthy failed to prove his ownership suffers from perversity and warrants interference?

(v) What order?

Finding on Point Nos.(i), (ii) and (iv):

13. The plaintiff traces her title to the suit schedule property through the original grantee, Hanumaiah, who was admittedly employed as a Peon in the Revenue Department. A careful perusal of Ex.P-7, the original allotment letter (Hakkupatra), clearly indicates that the



suit site was granted in favour of Hanumaiah while he was in Government service. The production of the original allotment letter lends considerable weight to the plaintiff's case. In order to further substantiate the genuineness of Ex.P-7 and to establish the identity of the allottee, the plaintiff has examined Smt. Kempamma and Nagaraj as PWs.2 and 3, who are the widow and son of the said Hanumaiah. Their oral testimony consistently supports the plaintiff's version that Hanumaiah was the allottee of the suit property.

14. In addition thereto, the plaintiff has produced the pension payment order and allied pension records, marked as Exs.P-19 and P-20, which demonstrate that PWs.2 and 3 are the legal heirs of the very same Hanumaiah who served in the Revenue Department. These official records, emanating from Government custody, corroborate the identity, service particulars and family details of the original grantee. When Ex.P-7 is read in conjunction with Exs.P-19 and P-20 and the cogent oral



evidence of PWs.2 to 4, the chain of identity between the allottee and his legal heirs stands firmly established. The plaintiff has thus laid a foundational basis to show that she traces her claim through a genuine Government allotment made in favour of Hanumaiah.

15. To demonstrate that she has acquired valid right and title over the suit schedule property, the plaintiff has produced the agreement of sale dated 01.03.1984 executed by Hanumaiah in her favour. She has also produced the original registered sale deed dated 25.06.2001, marked as Ex.P-12. The agreement evidences the initial transaction whereby possession was agreed to be delivered, while the subsequent registered sale deed perfects and formalizes the transfer of title. The execution of these documents, coupled with the evidence of the legal heirs of Hanumaiah, fortifies the plaintiff's claim that she has derived title through a lawful conveyance from the original grantee.



16. In contrast, the defendant seeks to set up a rival claim on the basis of a General Power of Attorney allegedly executed by one Gundappa and Krishna Murthy (plaintiff in O.S.No.3675/2004). A closer scrutiny of the GPA relied upon by the defendant reveals certain inherent improbabilities. The document indicates that Gundappa, claimed to be the son of the original grantee Hanumaiah, was aged 70 years as on the date of execution of the GPA. However, the agreement dated 01.03.1984 executed by Hanumaiah shows his age as 50 years at that point of time. If Hanumaiah was 50 years in 1984, he would have been approximately 63 years in 1997. In such a circumstance, it appears highly improbable that his son Gundappa would be 70 years old in 1997. This glaring discrepancy in age materially affects the credibility of the defendant's version and casts serious doubt on the genealogy and identity projected by him.

17. On the other hand, the plaintiff's version stands corroborated by official allotment records, pension



documents and the evidence of the widow and children of the allottee. When the entire material is evaluated on the touchstone of preponderance of probabilities, which governs civil proceedings, the plaintiff's case appears far more probable and consistent. The documentary evidence adduced by the plaintiff inspires confidence and establishes a coherent chain of title originating from the original grantee.

18. One more significant circumstance which cannot be brushed aside is the conduct of the parties in the connected proceedings. Though the defendant in O.S.No.7099/2001 claims title through a GPA allegedly executed by Gundappa and Krishna Murthy, it is noteworthy that Krishna Murthy himself has instituted O.S.No.3675/2004 seeking declaration of ownership. Strikingly, the said Krishna Murthy is represented in that suit by none other than the defendant in O.S.No.7099/2001 as his GPA holder. Thus, the very person who asserts title in one suit is acting as the power



of attorney holder in another suit filed by a supposed co-claimant to the same property.

19. The reliefs sought in O.S.No.3675/2004, if granted, would substantially undermine and contradict the defence set up by the defendant in O.S.No.7099/2001. This overlapping and inconsistent stand not only creates doubt as to the bona fides of the defendant's claim but also exposes the fragility of the title sought to be projected through the alleged GPA. In that view of the matter, this Court deems it appropriate to extract the prayer sought in O.S.No.3675/2004, which reads as under:

"a. Declaring the plaintiff as absolute owner of the suit schedule property; and

a.(1) To cancel the alleged sale deed dated 25-6-2001 executed by the L.R's of late Hanumaiah in favour of the defendant, which is null and void.

b. Pass an order of permanent injunction restraining the defendant, her agents or anybody



acting on her behalf from interfering with the plaintiff's possession and enjoyment of the suit schedule property;

c. And pass such other relief or reliefs as this Hon'ble Court deems fit in the circumstances of the suit in the interest of justice."

20. It is indeed quite perplexing to note that the defendant in O.S.No.7099/2001, who asserts title through Gundappa and Krishna Murthy, has stepped into the witness box in O.S.No.3675/2004 as the power of attorney holder of the very same Krishna Murthy. The defendant's claim in O.S.No.7099/2001 is founded upon an alleged General Power of Attorney executed by Gundappa and Krishna Murthy in his favour. However, when the plaint averments in O.S.No.3675/2004 are read in their entirety, there is not even a whisper about the alleged conveyance of the suit property in favour of Sathyanarayana (defendant in O.S.No.7099/2001). If indeed Krishna Murthy had divested himself of his rights by executing a



GPA coupled with transfer of possession in favour of the defendant, the said fact ought to have found a place in the pleadings of O.S.No.3675/2004, particularly when Krishna Murthy was seeking declaration of ownership.

21. The conspicuous absence of any reference to such conveyance or transfer in the plaint of O.S.No.3675/2004 renders the defendant's stand inherently contradictory. On the one hand, he claims to have derived rights through Krishna Murthy; on the other, he represents Krishna Murthy in a suit asserting independent ownership over the very same property. Such a course of conduct is clearly self-destructive and strikes at the root of the defence set up in O.S.No.7099/2001. A person who claims to have acquired rights in his own favour cannot simultaneously act as an agent for the alleged transferor in a suit asserting subsisting ownership over the property. This dual and inconsistent stand materially impairs the credibility of the defendant's claim.



22. Further compounding the doubt surrounding the defendant's alleged title through the GPA is a crucial admission elicited during his cross-examination in O.S.No.7099/2001. The answers tendered by him in cross-examination reveal inconsistencies which undermine the authenticity of the GPA transaction and the alleged transfer of possession. These admissions assume significance in assessing the genuineness of the defendant's claim and the probative value of the documents relied upon by him. In this backdrop, this Court finds it apposite to extract the relevant portion of the cross-examination, which reads as under:

"I could not get the Sale deed registered in respect of schedule property from Sri. Gundappa and Sri. Krishna Murthy as there was a condition imposed by the Government that the said land should not be transferred for a period of 25 years. I do not know whereabouts of Sri. Krishna Murthy now."



23. The above admission strikes at the very root of the defendant's case. In categorical terms, the defendant admits that no registered sale deed was ever executed in his favour by Gundappa and Krishna Murthy. His explanation that the land could not be transferred for a period of 25 years on account of a Government condition only reinforces the position that no valid conveyance was effected. Even more significantly, he admits that he does not know the present whereabouts of Krishna Murthy, through whom he claims to derive title.

24. This admission assumes grave importance. If the defendant genuinely derived rights under a valid and subsisting transaction from Krishna Murthy, it is wholly unnatural and improbable that he would be unaware of his whereabouts. The plea of ignorance casts a serious cloud over the identity, existence and participation of Krishna Murthy in the alleged transaction. The defendant, who asserts title solely on the strength of a General Power of



Attorney, has thus failed to establish any lawful transfer of right, title or interest in his favour.

25. The legal position in this regard is no longer *res integra*. The Hon'ble Supreme Court in ***Suraj Lamp & Industries Private Limited vs. State of Haryana*¹**, has authoritatively held that transactions of sale through General Power of Attorney, agreement of sale or similar instruments do not convey title nor create any interest in immovable property. Title can be transferred only by a duly executed and registered deed of conveyance. Applying the ratio laid down therein, the defendant, who admittedly did not obtain a registered sale deed, cannot claim ownership on the basis of a GPA. Consequently, his plea of title is legally untenable.

26. Equally significant is the fact that the plaintiff in O.S.No.3675/2004, namely Krishna Murthy, has not stepped into the witness box to substantiate his claim of inheritance. Instead, the said suit was prosecuted through

¹ AIR 2012 SC 206



the very same defendant in O.S.No.7099/2001 acting as his GPA holder. This creates a clear conflict of interest. The defendant, who asserts independent title in O.S.No.7099/2001, cannot simultaneously represent Krishna Murthy in a connected suit asserting ownership over the same property. Such dual representation is self-contradictory and undermines the credibility of the defence.

27. In the absence of Krishna Murthy entering the witness box, an adverse inference is liable to be drawn against him. The GPA holder, whose own title is under serious cloud and who sets up a claim inconsistent with the pleadings in O.S.No.3675/2004, was not competent to effectively prosecute the connected suit. Therefore, the Trial Court was fully justified in holding that Krishna Murthy failed to establish his ownership.

28. On the other hand, the Trial Court rightly appreciated the evidence on record in O.S.No.7099/2001



and declared the plaintiff therein as the owner of the suit schedule property. The finding that the defendant failed to establish his title is based on proper evaluation of documentary and oral evidence. The Trial Court was also justified in accepting that Hanumaiah, the husband of PW.2, as reflected in Ex.P-7 and corroborated by pension records, is the genuine original grantee. The rival claim set up by the defendant that another Hanumaiah under Ex.D-14 was the allottee is unsupported by reliable evidence and cannot be presumed to be genuine for the reasons already discussed. Consequently, the grant relied upon by the defendant under Ex.D-32 deserves to be discarded. Accordingly, Point Nos.(i), (ii) and (iv) are answered in the ***Negative.***

Finding on Point No.(iii):

29. This Court, upon re-appreciation of the entire material on record, is of the considered view that the plaintiff has successfully demonstrated that the



Hanumaiah referred to in Ex.P-7 is the true and original grantee of the suit schedule property. The identity of the allottee is conclusively established through Ex.P-7, the pension documents (Exs.P-19 and P-20) and the evidence of his widow and son examined as PWs.2 and 3.

30. In contrast, Ex.D-32 relied upon by the defendant suffers from serious infirmities and lacks credibility. The discrepancies in identity, the inconsistencies in age, the absence of lawful conveyance and the admissions elicited in cross-examination cumulatively render the defendant's version improbable. Therefore, Ex.D-32 is liable to be rejected as a concocted and unreliable document. Accordingly, Point No.(iii) is answered in the ***affirmative***, holding that Ex.P-7 represents the genuine allotment in favour of Hanumaiah and against the defendant.



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Finding on Point No.(v):

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

ORDER

Appeals are devoid of merit and accordingly, stand ***dismissed.***

**SD/-
(SACHIN SHANKAR MAGADUM)
JUDGE**

CA
List No.: 1 Sl No.: 19