



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 14TH DAY OF OCTOBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

REGULAR FIRST APPEAL No.1243 OF 2003 (INJ)

BETWEEN:

1. SMT.NAVANEETHAMMA
W/O. LATE THIPPAIAH
AGED 85 YEARS
2. T NARAYANAPPA
S/O LATE THIPPAIAH
SINCE DEAD BY LEGAL REPRESENTATIVES
- 2(a) SMT.GOWRAMMA
WIFE OF LATE T.NARAYANAPPA
HINDU, AGED ABOUT 60 YEARS
- 2(b) SRI N.SHIVARUDRAPPA
S/O LATE T.NARAYANAPPA
HINDU, AGED ABOUT 41 YEARS
- 2(c) SRI N.NAGARAJ
S/O LATE T.NARAYANAPPA
HINDU, AGED ABOUT 35 YEARS
- 2(d) SRI N.JAGADISHA
S/O LATE T.NARAYANAPPA
HINDU, AGED ABOUT 29 YEARS

Digitally
signed by
MALATESH
K C
Location:
HIGH
COURT OF
KARNATAKA

ALL ARE RESIDING AT MYLASANDRA VILLAGE
R.V.COLLEGE POST
KENGARI HOBLI
BANGALORE SOUTH TALUK



- 2(e) SMT.N.VIJAYA
D/O LATE T.NARAYANAPPA
W/O SRI N.NARAYANASWAMY
HINDU, AGED ABOUT 32 YEARS

ALL ARE RESIDING AT
BANDE BOMMASANDRA
DODDAGUBBI POST, BIDARAHALLI HOBLI
BANGALORE EAST TALUK, PIN:562 149

3. T KRISHNAPPA
AGED 57 YEARS
S/O LATE THIPPAIAH
4. T NARASIMHA MURTHY
AGED 50 YEARS
S/O LATE THIPPAIAH

RESPONDENT NOS.3 AND 4 ARE
RESIDING AT
MYLASANDRA VILLAGE
Kengeri Hobli
BANGALORE SOUTH TALUK
BANGALORE-59

...APPELLANTS

(BY SRI S GANGADHAR AITHAL, ADVOCATE)

AND:

NARAYANAPPA
S/O. CHIKKA VENKATARAMANAPPA
SINCE DEAD BY LEGAL REPRESENTATIVES

- 1(a) SRI HANUMAPPA
S/O LATE C.NARAYANAPPA
AGED ABOUT 50 YEARS
RESIDING AT MYLASANDRA VILLAGE
Kengeri Hobli
BANGALORE SOUTH TALUK
BANGALORE-560 059



- 1(b) SRI RANGASWAMY
S/O LATE C.NARAYANAPPA
AGED ABOUT 47 YEARS
RESIDING AT R.V.LAYOUT
MYLASANDRA VILLAGE
R.V.COLLEGE POST
KENGARI HOBLI
BANGALORE SOUTH TALUK
BANGALORE-560 059
- 1(c) SRI RAMESHA
S/O LATE C.NARAYANAPPA
AGED ABOUT 44 YEARS
RESIDING AT BALAJI LAYOUT
MYLASANDRA VILLAGE
KENGARI HOBLI
BANGALORE SOUTH TALUK
BANGALORE-560 059
- 1(d) SMT.AMMAYAMMA
W/O NARASIMHAMURTHY
AGED ABOUT 42 YEARS
RESIDING AT GAVIPURA
K.GALAHALLI POST
KENGARI HOBLI
BANGALORE SOUTH TALUK
BANGALORE-560 060
- 1(e) SRI NAGARAJA
S/O LATE C.NARAYANAPPA
AGED ABOUT 36 YEARS
RESIDING AT R.V.COLLEGE POST
BEML 7TH STAGE
MYLASANDRA VILLAGE
KENGARI HOBLI
BANGALORE SOUTH TALUK
BANGALORE- 560 059

...RESPONDENTS

[BY SRI G.NATARAJ, ADVOCATE FOR R1(a to e)]



THIS RFA IS FILED UNDER SECTION 96 OF CIVIL PROCEDURE CODE AGAINST THE JUDGMENT AND DECREE DATED 18.8.03 PASSED IN O.S.NO.5284/93 ON THE FILE OF THE V ADDL. CITY CIVIL JUDGE, BANGALORE CITY, CCH NO.13, DECREETING THE SUIT FOR PERMANENT INJUNCTION.

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

CORAM: HON'BLE MR. JUSTICE V SRISHANANDA

ORAL JUDGMENT

Heard Sri S.Gangadhar Aithal, learned counsel for the appellants and Sri G.Nataraj, learned counsel for the legal representatives of deceased respondent No.1, i.e., respondent Nos.1(a) to (e).

2. Defendants are in appeal challenging the validity of the judgment and decree passed in O.S.No.5284/1993 in respect of the following immovable properties, hereinafter referred to as 'suit properties'.

"The vacant site forming part of House list No.33 bearing katha and assessment No.35 of Mylasandra, Kengeri Hobli, Bangalore South Taluk and the entire property assessed at Rs.20.70 paise and bounded as under:

East by: Vacant site earlier owned by Ramaiah, Son of Pillaiah and now purchased by defendant No.2 Sri T.Narayanappa,



West by: Vacant sites of Ramaiah, Son of Sri Pillaiah and now owned by the 2nd defendant Sri T.Narayanappa,

North by: Vacant site belonging to Sri Ganesh Pillai now purchased by II defendant Sri T.Narayanappa,

South by: The residential house of the plaintiff.

Measuring East to West 29 feet and North to South 29 feet, with manure and pit on its eastern side measuring about 14 x 14 feet with a depth of about six feet."

3. Parties are referred to as plaintiff and defendant as per their ranking before the Trial Court.
4. Facts of the case in brief which are utmost necessary for disposal of the present appeal are as under:

A suit for bare injunction came to be filed by the plaintiff contending that plaintiff is the absolute owner in possession of the vacant site forming part of house list No.33 bearing katha and assessment No.35 of Mylasandra village, Kengeri Hobli, Bengaluru South Taluk, measuring East to West 29 feet and North to South 29 feet with boundaries as mentioned above.



5. It is further contended that the suit schedule property also has got a house situated on the southern side of the suit property in which plaintiff is residing with family members without interruption from anybody.

6. Defendants are the owners of the property on three sides of the suit property on the east, west and north.

7. It is further contended that the sale deed dated 05.09.1955 was executed by Hanumaiah, S/o late Muddaiah (youngest uncle of the plaintiff) in favour of one Ramaiah, S/o Pillaiah consisting of two items situated on the eastern and western side of the suit property. The southern boundary of the suit property and southern boundary of two items of the above suit property purchased by the family of the defendants from Ramaiah referred to in the sale deed dated 05.09.1955 having common boundary for the property of Ganesh Pillai situated on further southern side of the suit property extending East to West 116 feet.

8. Plaintiff is tethering cattle and also dumping the cowdung and other waste in the manure pit in the suit schedule property



and same has been put to use since the time of ancestors of the plaintiff.

9. It is further contention of the plaintiff that defendants on or about 12.08.1993 and subsequently, tried to trespass into the suit schedule property. Same was duly resisted by the plaintiff. Plaintiff gave a complaint to Kengeri Police in this regard. Thereafter, plaintiff learnt that the defendants were trying to obtain licence from the Pattanagere Group Panchayat to put up construction in the suit schedule property belonging to the plaintiff under different house list No.45 and katha No.43 of Mylasandra village.

10. Thus, plaintiff filed a complaint with Pattanagere Group Panchayath on 16.08.1993 requesting them not to grant licence to the defendants to construct the house. But, there was no response either from the police or from the Pattanagere Group Panchayath which necessitated the plaintiff to file the suit.

11. Pursuant to the issuance of suit summons, defendants entered appearance and filed detailed written statement denying the plaint averments in *toto*.



12. Defendants contended that plaintiff is not in possession of the suit property and admitted that the suit property is a vacant site measuring 29 feet x 29 feet. But the plaintiff is residing in the residential portion located on the southern side of the suit property and plaintiff is not the owner of the suit property.

13. They further contended that the property measuring 115 feet east to west is no way concerned with suit property and defendants deny the allegation that there was interference.

14. They also contended that defendants are the owners of the property having bought the same from Smt. Lakshmakka, W/o of Muniswamy who is the daughter-in-law of one Kaki Venkataramana.

15. It is further contended that said Kaki Venkataramana had only one son by name Muniswamy. Kaki Venkataramana and Muniswamy died earlier to the year 1899.

16. Lakshmakka being the sole surviving heir of Kaki Venkataramana sold the entire strip of the property mentioned



in the rough sketch filed along with written statement marked with the letters ABCD in favour of Kadaraiah of Gonipura including the suit schedule property.

17. They further contended that in the year 1899 itself, there was a house existed on the eastern and western side of the suit property. Inclusive of those houses, the suit schedule property has been sold to Kadaraiah by Lakshmakka.

18. In the year 1933, Narasappa, S/o Kadaraiah had sold the property to one Kamaiahnapalyada Kadrappa. The property purchased thereunder is represented by letters AEFB and HGCD in the rough sketch annexed to the written statement.

19. Kadraiah's son while selling the above suit property in favour of Kadrappa had retained the suit schedule property with him. Kamaiahnapalyada Kadrappa during the year 1943 had sold the property purchased from Narasappa in favour of Hanumaiah, S/o Muddaiah. Thus, tile of defendants is perfected with supportive documents.

20. The defendants also contended that defendant No.2 is the owner of the property situated on three sides of the suit



schedule property inclusive of suit schedule property. Subsequently, one Malleswarada Sathyanarayana purchased the suit property from Ramaiah and in turn, he sold the property in favour of Mangamma in the year 1989, whose property is situated on the eastern side of the defendants' property. Thereafter, on the western side of Mangamma's property, property of Navaneethamma is situated. Towards further western side of the property of Navaneethamma, the property which is claimed as suit property situated. Further to the west side thereof is the property belonging to T.Narayanappa.

21. Further, on both eastern and western side there lies the road. Thus, defendants maintained that plaintiff is not the owners of the suit property.

22. Based on the rival contentions of the parties, learned Trial Judge raised necessary issues for consideration.

23. However, at the first instance, the plaintiff alone adduced the evidence and defendants failed to lead any evidence.



24. Based on the material evidence placed on record by the plaintiff, suit came to be decreed.

25. An appeal came to be filed challenging the decreeing of the suit.

26. This Court permitted the defendants to lead the evidence and evidence was recorded by the Trial Court and finding on the evidence placed by the defendants alone was sought. However, learned Trial Judge misunderstood the directions of this Court and again decreed the suit which is again called in question before this Court.

27. The findings now available on record runs contrary to the stand taken by the defendants.

28. Therefore, Sri Gangadhar Aithal, learned counsel for the appellants has questioned not only the validity of the decree, but also the finding recorded by the learned Trial Judge after recording the evidence of the defendants pursuant to the directions issued by this Court.



29. Learned counsel for the appellants has filed a synopsis in furtherance to the grounds urged in the appeal memorandum contending that, there was a suit filed in O.S.No.3806/1994 and finding recorded therein would go to show that there was no property situated belonging to the plaintiff on the eastern side and such a finding is incorrect.

30. The relevant portion at paragraph 11 of the said judgment reads thus:

"the description of eastern portion of the vacant site of Chikka Venkataramanappa for the property sold to plaintiff by said Ramaiah under Ex.P.5 is on the face of it erroneous."

31. Admittedly, plaintiff in the present suit did not challenge the decree passed in O.S.No.3806/1994 and the said finding recorded by the competent Court became final.

32. In the teeth of such a finding and an order of injunction enjoyed by the defendants, further suit of plaintiff for the relief of injunction is not maintainable' is the prime contention on which the impugned judgment and decree is assailed by the appellant.



33. Further, Sri Aithal would also contend that defendant No.1 claims that suit property is under the ownership of the first defendant having purchased the same to the extent of 24 feet x 28 feet from Raghavendra, S/o Erappa of Laggere village under sale deed which is placed on record. But the probative value of the same is not taken into consideration by the Trial Court while recording the finding against the defendants and therefore, the decree of the Trial Court needs to be set-aside.

34. He also contended that when there is a specific finding recording in O.S.No.3806/1994 as to the description of the property given by the plaintiff, repeating the same boundaries in the present case has resulted in miscarriage of justice.

35. He also pointed out that the Trial Court has not taken into consideration the principles of law enunciated by the Hon'ble Apex Court in the case of ***Corporation of the city of Bangalore vs. M.Papaiah and another*** reported in ***AIR 1989 SC 1809*** to contend that 'the revenue documents are not the title deeds as against the title deed produced by the party'.



36. He also pointed out that the Trial Court has not taken into consideration the principles of law enunciated by the Hon'ble Apex Court in the case of **Anathula Sudhakar vs. P.Buchi Reddy (dead) by LRs and others** reported in **(2008)4 SCC 594** and therefore, decree of the Trial Court needs to be set-aside.

37. Per contra, Sri G.Nataraj, learned counsel for the legal representatives of the deceased respondent/plaintiff supports the impugned judgment by contending that plaintiff is able to show that he is in possession of the property in view of the admission made by D.W.1 in his cross-examination that plaintiff is in possession of the suit property.

38. Therefore, in a suit for bare injunction, possession is what is to be looked into and decreeing of suit is thus justified in the attendant facts and circumstances of the case and sought for dismissal of the appeal.

39. Having heard the arguments of both sides, this Court perused the material on record meticulously.



40. On such perusal of the material on record, the following points would arise for consideration:

(i) Whether the plaintiff was successful in establishing that he was in lawful possession of the suit property?

(ii) Whether the plaintiff has further established that there was interference caused by the defendants in respect of the suit property?

(iii) Whether the impugned judgment is suffering from legal infirmity and perversity and thus calls for interference by this Court?

(iv) What Order?

41. REGARDING POINT Nos.1 TO 3: These points are taken up together for consideration in order to avoid the repetition of the statement of facts and law.

42. Admittedly, suit is one for bare injunction. There was a suit filed in O.S.No.3806/1994 filed by the defendants against the plaintiff. The said suit on merits came to be decreed.

43. While passing such a decree, a categorical finding was recorded by the learned Trial Judge in paragraph 11 of the judgment as referred to supra.



44. In the teeth of such a finding, boundaries that has been furnished by the plaintiff in the present suit would not tally with the finding recorded by the Trial Court.

45. It is pertinent to note that having suffered the decree in O.S.No.3806/1994 and not challenged the same before the Appellate Forum, plaintiff should have realized the mistake and corrected the boundaries in the present suit. But he failed to do so.

46. Defendants, pursuant to the directions of this Court, placed on record the sale deeds to trace their title in respect of suit property in them as per Exs.D-10, 11, 13, 23, 24 and 25. Pertinently plaintiff did not question the validity of those sale deeds.

47. Admittedly, when there is are sale deeds which are pitted against the revenue documents, probative value of sale deeds should prevail over the revenue documents.

48. It is settled principles of law and requires no emphasis that the revenue documents do not confer title over the



property especially when there is a contra claim based on the title deeds.

49. Further, it is equally settled principles of law, when there is a dispute as to the boundaries and measurement, boundaries would prevail.

50. In the case on hand, not only documents of title is placed on record by the defendants, but also, boundaries have been specifically stated. The boundaries mentioned by the defendants has been taken note of by the learned Trial Judge in O.S.No.3806/1994 and decreed the suit of the defendants.

51. When the said finding has become final, plaintiff hanging on to the same boundaries as is mentioned in the present suit without even seeking for amendment has affected adversely to the interest of the plaintiff.

52. Moreover, in a suit for bare injunction, it is incumbent on the plaintiff to establish that plaintiff is in lawful possession of the suit property.



53. Whereas, the boundaries furnished by the plaintiff itself did not tally as is mentioned in the judgment in O.S.No.3806/1994. Therefore, possession of the plaintiff in respect of the suit property itself doubtful, much less lawful possession over the suit property.

54. The documents that are placed on record on behalf of the plaintiff are admittedly the revenue entries, inasmuch as the katha number and house list number is relied upon.

55. To get the house list number or katha in respect of the suit property which is falling on to the northern side of the property of the plaintiff, there is no other document except the revenue entries.

56. Under such circumstances, when there is a dispute as to the title of the plaintiff, especially in view of the decreeing of the suit in O.S.No.3806/1994, the plaintiff ought to have sought for the relief of declaration as to ownership over the suit property and suit for bare injunction ought not to have been decreed by the learned Trial Judge in view of the fact that by the time the suit came to be dismissed there was already a



decree in O.S.No.3806/1994 which was not even challenged by the plaintiff.

57. As such, there cannot be an injunction against an injunction which has not been taken note of by the learned Trial Judge which requires interference by this Court by exercising the appellate powers vested in this Court under Section 96 of the Code of Civil Procedure.

58. Having said so, when defendants have specifically made out that the suit property is situated on western side of property of defendant having been purchased under different sale deeds, it was incumbent on the plaintiff to show that he purchased the property which is on the southern side and a portion of the property on the western side of property of Navaneethamma and eastern side of T.Narayanappa.

59. To establish existence of such a property, only revenue documents are relied upon. Therefore, alleged interference cannot be countenanced in law. When the plaintiff has failed to establish the lawful possession and alleged interference, suit for bare injunction ought not to have been decreed.



60. No doubt, at the time of passing the decree by the Trial Court at the first instance there was no contra evidence placed on record as defendants failed to examine themselves before the Court nor placed any evidence.

61. However, by an Order of this Court, defendants were permitted to lead evidence and when there is fresh evidence available on record, it was the duty of the Trial Court to record proper finding as to whether the defendants were able to establish the ownership over the suit property having regard to the fact that they have produced the title deeds especially the sale deeds not only establishing their right, title and interest, but also the right, title and interest possessed by their vendors and vendors thereof.

62. Under such circumstances, when there is a title that has been established by the defendants as against the claim of the plaintiff based on revenue documents, this Court is of the considered opinion that decreeing of the suit has resulted in miscarriage of justice which requires interference by this Court.



63. In view of the foregoing discussion, invariably this Court has to hold that the impugned judgment is suffering from not only legal infirmity, but can be termed as perverse as well.

64. Accordingly, point Nos.1 and 2 are answered in the negative and point No.3 in the affirmative.

65. REGARDING POINT No.4: In view of the finding of this Court on point Nos.1 to 3 as above, the following:

ORDER

- (i) Appeal is ***allowed***.
- (ii) Impugned judgment and decree dated 18.08.2003 passed in O.S.No.5284/1993 on the file of the V Addl. City Civil Judge (CCH-13), Bengaluru City, is hereby set-aside.
- (iii) However, it is made clear that the legal representatives of respondent/plaintiff are at liberty to establish their title over the suit schedule property in an appropriate proceedings.



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- (iv) Needless to emphasize that if any such proceedings are filed, parties are at liberty to canvass all favourable points in accordance with law.
- (v) No order as to costs.

**Sd/-
(V SRISHANANDA)
JUDGE**

kcm
List No.: 2 Sl No.: 46