



NC: 2025:KHC:46056
RFA No. 1873 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 11TH DAY OF NOVEMBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

REGULAR FIRST APPEAL NO.1873 OF 2025 (MON)

BETWEEN:

1. SRI. SANTOSH KUMAR J
S/O. JAGANNADHAN,
AGED ABOUT 40 YEARS,
SAI LEELA PALACE,
APT NO.403, 4TH FLOOR,
CHELEKARE, KALYAN NAGAR,
BENGALURU-560 043.
2. MRS. SULOCHANA
W/O. JAGANNADHAN,
AGED ABOUT 61 YEARS,
NO.72, SULOCHANA NILAYAM,
MUNITHAYAPPA LAYOUT,
LINGARAJAPURAM,
BENGALURU-560 084.

...APPELLANTS

(BY SRI. AKSHAY RAJ B.R, ADVOCATE)

AND:

SRI. SHARUN RAJ
S/O. SRI. R. VASU,
AGED ABOUT 39 YEARS,
PNR SERENITY, F-103,
2ND FLOOR, RAMAIAH LAYOUT,
KAMMANAHALLI, BENGALURU - 560 008.

...RESPONDENT

(BY SRI. VIVEKANANDA N., ADVOCATE)

THIS RFA IS FILED UNDER SEC.96 OF CPC AGAINST THE JUDGMENT AND DECREE DATED 25.06.2025 PASSED IN OS NO.25325/2024 ON THE FILE OF C/C. XXVI ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU, PARTLY DECREERING THE SUIT FOR RECOVERY OF MONEY.

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

Digitally signed
by CHANDANA
B M
Location: High
Court of
Karnataka



CORAM: HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

ORAL JUDGMENT

This appeal by the defendants in O.S.No.25325/2024 is directed against the impugned judgment and decree dated 25.06.2025 passed by the XXVI Additional City Civil and Sessions Judge, Bangalore, whereby the said suit filed by the respondent-plaintiff against the appellants-defendants for recovery of money restraining them from interfering with the plaintiff's possession and enjoyment of the suit schedule immovable property was partly decreed by the Trial Court in favour of the respondent-plaintiff against the appellants-defendants.

2. Heard learned counsel for the parties and perused the material on record.

3. A perusal of the material on record will indicate that the respondent-plaintiff instituted the aforesaid suit for recovery of money in relation to the suit schedule immovable property. The appellant-defendant entered appearance and filed the written



statement, pursuant to which, the Trial Court framed the following issues:-

(i) *Whether the plaintiff proves that he was the tenant under the defendant No.2 through the rental agreement dated 06.04.2022?*

(ii) *Whether the plaintiff proves that he has paid Rs.5,00,000/- towards the security deposit and paint charges to the defendants under the rental agreement dated 06.04.2022?*

(iii) *Whether the plaintiff proves that he has regularly paid the rents upto September 2022 to defendant No.1 as per the rent agreement dated 06.04.2022?*

(iv) *Whether the plaintiff proves that defendants have failed to refund the security deposit?*

(v) *Whether the defendants proves that the plaintiff has created and fabricated the rental agreement which is produced by him?*

(vi) *Whether the plaintiff is entitled for the refund of Rs.5,00,000/- with 24% interest from the defendants as prayed?*

(vii) *Whether plaintiff is entitled for Rs.1,00,000/- as legal charges and mental agony as prayed?*

(viii) *What order or decree?*

4. The plaintiff examined himself as PW-1 and Exs.P1 to P6 were marked. However, the appellants-defendants did not cross-examine PW-1 nor adduced any oral or documentary



evidence in support of their defence. In this context, it is the specific assertion on the part of the appellants that they had entered appearance through their counsel. It was contented that the inability and omission on the part of the appellants-defendants to contest the suit after commencement of evidence of the respondent - plaintiff was due to bonafide reasons, unavoidable circumstance and sufficient cause and it is therefore necessary to set aside the impugned judgment and decree and remit the matter back to the Trial Court for reconsideration afresh in accordance with law.

5. Per contra, it is contented by the respondent that despite granting sufficient opportunity, the appellants-defendants did not exercise due diligence in contesting the suit and as such, the Trial Court was fully justified in passing the impugned judgment and decree which does not warrant interference by this Court in the present appeal.

6. The only point that arises for consideration in the present appeal is as to whether the impugned judgment and decree passed by the Trial Court warrants interference by this Court in the present appeal?



7. A perusal of the material on record including the impugned judgment and decree will indicate that the Trial Court has taken into account the fact that the evidence of PW-1 remained un-rebutted and that the appellants - defendants did not adduce any defence evidence and proceeded to decree the suit in favour of the plaintiff against the defendants. Under these circumstances, having regard to the specific assertion on the part of the appellants that their inability and omission to cross-examine PW-1 and adduce defence evidence was due to bonafide reasons, unavoidable circumstance and sufficient cause, by adopting a justice oriented approach and in order to provide one more opportunity to the appellants - defendants, I deem it just and appropriate to set aside the impugned judgment and decree and remit the matter back to the Trial Court for reconsideration afresh in accordance with law by issuing certain directions.

8. In the result, I pass the following:-

ORDER

(i) The appeal is hereby ***allowed***.



(ii) The impugned judgment and decree dated 25.06.2025 passed in O.S.No.25325/2024 by the Trial Court is hereby set aside.

(iii) The matter is remitted back to the Trial Court for reconsideration afresh in accordance with law.

(iv) Parties are to directed to appear before the Trial Court on **08.12.2025** without awaiting further notice.

(v) The appellants-defendants are directed to cross-examine PW-1 on the date to be fixed by the Trial Court .

(vi) Liberty is reserved in favour of both the parties to adduce further oral and documentary evidence in support of their respective claims.

(vii) All rival contentions between the parties are kept open and no opinion is expressed on the same.

(viii) The Trial Court shall dispose of the suit within a period of six months from 08.12.2025.

Sd/-
(S.R.KRISHNA KUMAR)
JUDGE