



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 11TH DAY OF NOVEMBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE UMESH M ADIGA

REGULAR SECOND APPEAL NO. 1762 OF 2012 (INJ)

C/W

REGULAR SECOND APPEAL NO. 1324 OF 2012 (INJ)

IN RSA No. 1762/2012

BETWEEN:

SMT. LAKSHMAMMA
AGED ABOUT 65 YEARS
W/O LATE B.C. CHANAPPA
R/O BYRAPATNA
CHANNAPATNA TALUK
RAMANAGARAM DISTRICT.

...APPELLANT

(BY SRI. K.M. SANATH KUMAR, ADVOCATE)

AND:

1. K. LINGEGOWDA
DEAD BY HIRS LR'S
- 1(A). SMT. VENKATALAKSHMAMMA,
W/O LATE LINGEGOWDA,
AGED ABOUT 75 YEARS.
- 1(B). UMADEVI
D/O LATE LINGEGOWDA
AGED ABOUT 50 YEARS

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by
ANNAPURNA G
Location: HIGH
COURT OF
KARNATAKA



NC: 2025:KHC:47467
RSA No. 1762 of 2012
C/W RSA No. 1324 of 2012

- 1(C). B.L. JAGADEESH
S/O LATE LINGEGOWDA
AGED ABOUT 45 YEARS

ALL ARE R/AT BYRAPATNA VILLAGE
CHANNAPTNA TALUK, MALUR HOBLI
RAMANAGARA DISTRICT - 562 160.

2. THE SECRETARY
MALUR GRAMAPANCHAYATH
DODDA MALUR, CHANNAPATNA TALUK
RAMANAGARAM DISTRICT.
3. THE EXECUTIVE OFFICER
TALUK PANCHAYATH,
CHANNAPATNA TALUK
RAMANAGARAM DISTRICT.

...RESPONDENTS

(BY SRI. S.R.HEGDE HUDLAMANE, ADVOCATE FOR R1(A TO
C);
R2 AND R3 ARE SERVED AND UNREPRESENTED)

THIS RSA IS FILED U/S. 100 OF CPC AGAINST THE
JUDGEMENT & DECREE DATED 16.6.2012 PASSED IN
R.A.NO.23/2012 (OLD NO.R.A.12/2010) ON THE FILE OF
SENIOR CIVIL JUDGE & JMFC, CHANNAPATTANA, RAMANAGAR
DISTRICT, DISMISSING THE APPEAL AND CONFIRMING THE
JUDGEMENT AND DECREE DATED 30.11.2009 PASSED IN
OS.NO.98/2005 ON THE FILE OF ADDITIONAL CIVIL JUDGE
(JR.DN.), CHANNAPATNA.



NC: 2025:KHC:47467
RSA No. 1762 of 2012
C/W RSA No. 1324 of 2012

IN RSA NO. 1324/2012

BETWEEN:

1. K. LINGEGOWDA
S/O LATE KATIGOWDA
AGED ABOUT 75 YEARS
SINCE DEAD BY HIRS LR'S
- 1(A). SMT. VENKATALAKSHMAMMA,
W/O LATE LINGEGOWDA,
AGED ABOUT 75 YEARS.
- 1(B). UMADEVI
D/O LATE LINGEGOWDA
AGED ABOUT 50 YEARS
- 1(C). B.L. JAGADEESH
S/O LATE LINGEGOWDA
AGED ABOUT 45 YEARS

ALL ARE R/O BYRAPATNA VILLAGE
CHANNAPTNA TALUK, MALLUR HOBLI
RAMANAGARA DISTRICT.

...APPELLANTS

(BY SRI. S.R. HEGDE HUDLAMANE, ADVOCATE)

AND:

1. LAKSHMAMMA
W/O LATE B.C. CHANAPPA
AGED ABOUT 58 YEARS
R/O BYRAPATNA,
CHANNAPATANA TALUK,
RAMANAGARA DISTRICT.



NC: 2025:KHC:47467
RSA No. 1762 of 2012
C/W RSA No. 1324 of 2012

2. THE SECRETARY
MALLUR GRAMA PANCHAYATH
CHENNAPATANA TALUK
RAMANAGARA DISTRICT
3. THE EXECUTIVE OFFICER
TALUK PANCHAYAT,
CHANNAPATANA TALUK
RAMANAGARAM DISTRICT.

...RESPONDENTS

(BY SRI. K.M. SANATH KUMAR, ADVOCATE FOR R1;
R2 AND R3 ARE SERVED AND UNREPRESENTED)

THIS RSA IS FILED UNDER SEC.100 OF CPC., AGAINST THE JUDGMENT AND DECREE DATED 16.06.2012 PASSED IN R.A.NO.23/2012 ON THE FILE OF THE SENIOR CIVIL JUDGE AND JMFC., CHANNAPATTANA, RAMANAGAR DISTRICT, DISMISSING THE APPEAL AND CONFIRMING THE JUDGMENT AND DECREE DATED 30.11.2009 PASSED IN O.S.NO.98/2005 ON THE FILE OF THE ADDL. CIVIL JUDGE (JR.DN) & JMFC., CHANNAPATNA.

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

CORAM: HON'BLE MR. JUSTICE UMESH M ADIGA



ORAL JUDGMENT

Both these appeals arise out of judgment and decree dated 16.06.2012 passed by the Senior Civil Judge and JMFC., Channapattana, District Ramanagar, which arose out of judgment and decree dated 30.11.2009, passed by the Court of Additional Civil Judge, Channapatna, in OS.No.98/2005. The suit was filed seeking the relief of permanent injunction. The Trial Court dismissed the suit, and the First Appellate Court confirmed the said judgment and decree.

2. RSA No.1324/2012 is filed by the plaintiff and RSA No.1762/2012 is filed by defendant No.1. Hence, both the appeals are taken up together for disposal.

3. For the sake of convenience, the parties are referred to as per their ranking before the Tribunal.

4. The brief facts of the case are that the suit property bearing Khata No.166/3 measuring 35 feet east to west and 80 feet north to south was a site formed by Mallur Mandal Panchayath along with other sites. The



Khata No.166/3 was granted in the name of one Kempangowda by the Pradhan of Mallur Mandal Panchayath on 25.01.1991 and the said grantee paid a sum of Rs.2,800/- for the grant of the land. The plaintiff purchased the said property by a registered Sale Deed dated 30.10.2003. Thereafter, his name was mutated in the revenue records. He has been in peaceful possession and enjoyment of the said land and he has been paying the tax to the panchayath.

5. Further, the case of the plaintiff was that the defendants were trying to interfere in the peaceful possession and enjoyment of the property and dispossess the plaintiff from the suit property. Defendant No.3 tried to cancel the grant. With these reasons, prayed to decree the suit.

6. Defendant No.1 is claiming possession over the suit property. According to defendants, totally 164 sites were formed in Survey No.492 during the year 1973 and



said sites were distributed to the beneficiaries. The said sites were measuring 180 X 45 feet. Therefore, no land was vested with the Panchayath in Survey No.492 to grant any land in favour of the predecessor in title of the plaintiff. The plaintiff was never in possession and enjoyment of any portion of Survey No.492 or property bearing No.166/3. With these reasons, prayed to dismiss the suit.

7. The defendant No.2-panchayath also denied plaint averments. It has also contended that in Survey No.492, 164 sites were formed and Pradhan of the Panchayath had no right to grant the land or allot Hakku Patra. A resolution was passed by the defendant No.2 for the purpose of distributing the sites in respect of 164 persons. The said list was approved by the State Government. No records were available in the Panchayat regarding the creation of the khata of the alleged suit schedule property either in the name of Kempankegowda or subsequently in the name of the plaintiff. The sites



were allotted by the Tahsildar. The alleged grant claimed by the plaintiff is false and in violation of the applicable conditions. Defendant No.2 has also denied the plaintiff's possession through his vendor and prayed to dismiss the suit.

8. The Trial Court framed following issues:

" 1. Whether plaintiff proves that he is in lawful possession and enjoyment over the suit property as on the date of the suit?

2. Whether the plaintiff proves the interference of defendants with his possession and enjoyment over the suit property as alleged in the plaint?

3. What order or decree?"

9. The plaintiff to prove his case examined two witnesses as PW-1 and PW-2 and marked 20 documents, as per Exs.P-1 to P-20. The defendants examined one witness as DW-1 and marked documents as Exs.D-1 to D-11.



10. The Trial Court after hearing the arguments, answered issue Nos.1 and 2 in the negative and held that the plaintiff was not in possession of the property as on the date of the suit. Accordingly, the suit was dismissed.

11. Being aggrieved by the said judgment and decree, the plaintiff preferred an appeal before the Court of Senior Civil Judge and JMFC, Channapattana, Ramanagar, in R.A.No.23/2012.

12. The First Appellate Court after hearing both the parties, framed the following points for consideration:

" 1. Whether the appellant has made out sufficient grounds to interfere with the judgment and decree of the trial Court?

2. What order?"

13. On re-appreciating the evidence, it answered the said point in the negative and dismissed the appeal. The First Appellate Court has also held that plaintiff has been in possession of the disputed property. It confirmed



the judgment and decree passed by the Trial Court by the impugned judgment.

14. These appeals were admitted to consider the following substantial questions of law:

IN RSA NO.1762/2012

"i. Whether the first Appellate Court was justified in observing that "defendant No.1 was not in possession of the property", though that was not an issue framed in this case?"

IN RSA NO.1324/2012

"i. When the plaintiff purchased the suit property and came in possession of it in the year 2003 from its allottee, and later when this sale deed was cancelled, whether the plaintiff could protect his possession by obtaining a decree of injunction till he is dispossessed in due course of law?"

15. I have heard the arguments of learned counsel for the appellants as well as respondents. The appellants in both the appeals are the plaintiff and defendant No.1.



16. Learned counsel for the appellant/plaintiff in RSA No.1324/2012 submits that the land was granted in favour of the vendor of the plaintiff. At the time of sale, possession was delivered to him, and Khata was duly made in his name. After 23 years the grant made in favour of the grantee was cancelled; mere cancellation of the grant is not sufficient, but the panchayath has to take possession of the land in accordance with the law. Without taking possession, the defendants tried to interfere in possession and enjoyment of the said property. Therefore, the plaintiff was constrained to file the suit. Respondent Nos.2 and 3 have not made out a case that they tried to take possession of the property in accordance with law and there are no materials on record to show that any steps were taken by the Panchayath to recover the possession. Under these circumstances, the plaintiff is entitled to a permanent injunction restraining the defendants from interfering with his peaceful possession and enjoyment of the property until he is legally



dispossessed from the said property. The Courts below failed to properly consider this point and came to a wrong conclusion. Hence, prayed to set aside the judgment passed by the Courts below and allow the appeal.

17. Learned counsel for the appellant/defendant No.1 in RSA No.1762/2012 contended that according to the case of defendant No.2/Panchayath as well as defendant No.1, sites were formed in Survey No.492 and in the acquired land, total 164 sites were formed. The said layout has been produced by the defendant at Ex.D.1. The said layout was approved by the government. Under such circumstances, there was no question of formation of Khata No.166/3. It is a fictitious property created by the plaintiff just to gulp the property belonging to defendant No.1. He further contends that there are no materials on record to show that Site No.164 was ever formed. Under those circumstances, mere entries in the Panchayath record cannot be grounds to believe that the plaintiff or his vendor was in possession of the suit property. The



Panchayath, in its written statement, has specifically denied the right of the Pradhan, if any, to grant the land or issue Hakkupatra. The Panchayath also denied handing over the possession of the property and has stated that there are no records in their office to show that the entries were made in accordance with the law in the Panchayath records. Therefore, the plaintiff has utterly failed to prove his case that he has been in possession of the property.

18. Learned counsel for defendant No.1 further contended that, according to Survey No. 492, the land belongs to defendant No.1. The plaintiff is claiming part of the property belonging to defendant No.1 under the pretext that it was part of the Survey No.492 and property Khata No.166/3. There is no reliable evidence to prove his title and possession. Unless he proves his lawful possession, he is not entitled to the relief. The Courts below considered these facts in detail and rightly dismissed the suit as well as the appeal. It does not call for any interference by this Court.



19. The learned counsel further contended that though defendant No.1 has been asserting that she is in possession of the said land and it is part of her agricultural land, no issues were framed in this regard. Defendant No.1 produced records to oppose the contentions of the plaintiff. The Trial Court has rightly accepted the same and held that the plaintiff was not in possession of the property. But the First Appellate Court gave a finding in its judgment that defendant No.1 was also not in possession of the property. The said finding was unwarranted. It was not a suit filed by the defendant No.1 and she has not made any counterclaim. Under those circumstances, the said finding is not tenable. Therefore, prayed to set aside the said finding and allow the appeal, filed by the defendant No.1.

20. It is a settled proposition of law that a person who asserts a fact shall prove it. The plaintiff cannot get a decree on the weakness of the case of defendants. The Trial Court and First Appellate Court have a concurrent



view that the plaintiff was not able to prove that his predecessor in title was a grantee of the suit land in accordance with law and possession was handed over to him. Both the Courts below held that plaintiff was not able to prove his lawful possession of the suit land.

21. The defendants produced the approved layout plan signed by the Tahsildar at Ex.D.1. It indicates that there were only 164 sites formed in the said layout of Survey No.492. The plaintiff has not placed any records to show that after formation of layout, sizes of sites were modified and additional 23 sites were formed. The alleged resolution passed by the panchayath is noted in the Trial Court judgment. Plaintiff has not produced documents to prove that modified layout plan was approved by the Government. The Panchayath is the only recommending body for grant of the lands. The learned advocate for appellant has not produced any rule authorising Pradhan to issue Hakkupatra. The defendants have produced copy of a grant certificate issued in favour of a beneficiary at



Ex.D.11. It pertains to a site formed in Survey No.492 of Mallur Mandal Panchayath. The said Hakkupatra was signed by the Tahsildar. It supports contentions of defendants. Ex.P.2 is a doubtful document. At the cost of repetition, the appellant is unable to prove that pradhan of Mandal Panchayath had any authority to issue Hakkupatra. Hence, Ex.P.2 is of no value and on that basis plaintiff cannot become owner and come in possession. Therefore, consequent to the said Ex.P.2, any records that were mutated in the panchayath will not give right to the plaintiff in respect of a factious property, which was not at all in existence as on the date of alleged allotment.

22. The Kempankegowda had no right over the property and hence, he could not have transferred the same property under Ex.P.5 to the plaintiff. It appears that there were manipulations in the panchayath records in collusion with the officials concerned, that led to this litigation. The plaintiff has utterly failed to establish that he has been in possession of the property by virtue of



Ex.P.2. Therefore, a question of taking possession by the Panchayath in accordance with the law does not arise. The Courts below appreciated & reappreciated on the basis of available materials concurrently held that the plaintiff utterly failed to prove possession over the suit property. Under such circumstances, granting of equitable relief of injunction in favour of the plaintiff does not arise. Therefore, the substantial question of law framed in RSA No.1324/2012 is answered against the plaintiff.

23. As rightly submitted by learned counsel for the respondent-defendant No.1 in RSA No.1762/2012, there was no issue regarding possession of defendant No.1 over the property and defendant No.1 has not made any counterclaim. The only question that arose before the First Appellate Court was whether the findings of the Trial Court was in accordance with facts and law and whether the plaintiff-appellant was able to prove his possession over the property. Therefore, any finding other than the issues involved in the matter is unwarranted. However, the First



Appellate Court even considered the defence of defendant No.1 and observed that defendant No.1 was unable to prove her possession of the property. The said observations/findings required to be set aside. Accordingly, points raised in RSA No.1762/2012 are answered in favour of defendant No.1.

24. In the result, I proceed to pass the following:

ORDER

- i) RSA No.1324/2012 is ***dismissed.***
- ii) RSA No.1762/2012 is ***allowed in part.***
- iii) The observation made by the First Appellate Court in RA No.23/2012 dated 16.06.2012 regarding the possession of defendant No.1 is hereby set aside.
- iv) The judgment and decree of the First Appellate Court in RA No.23/2012 (except above observation) as well as the judgment and



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C/W RSA No. 1324 of 2012

decree passed by the Trial Court in OS
No.98/2005 dated 30.11.2009 are confirmed.

Registry is directed to send back the records along
with a copy of this judgment to the Courts below.

Sd/-
(UMESH M ADIGA)
JUDGE

AMA
List No.: 1 Sl No.: 10