



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 26TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE PRADEEP SINGH YERUR

REGULAR SECOND APPEAL NO. 1994 OF 2025 (DEC)

BETWEEN:

1. SRI P K BELLIAPPA
S/O LATE P.K. KUTAPPA
AGED ABOUT 77 YEARS
2. SMT. P.B. RADHA
W/O P.K. BELIYAPPA
AGED ABOUT 74 YEARS
3. SMT. MANJULA @ KAVERAMMA
D/O P.K. BELIYAPPA
AGED ABOUT 44 YEARS
4. SMT. NETHRA BELLIAPPA
D/O P.K. BELLIAPPA
AGED ABOUT 41 YEARS
5. SMT. MADHURA BELLIAPPA
D/O P.K. BELLIAPPA
AGED 39 YEARS

ALL OF THEM ARE
R/O KOLTHODU-BAIGUDU VILLAGE,
HATHUR POST,
AMMATHI NADU, VIRAJPET TALUK,
KODAGU DISTRICT-571218


Digitally
signed by B
LAVANYA
Location:
HIGH
COURT OF
KARNATAKA



REPRESENTED BY THEIR SPA HOLDER,
SRI. RATHAN BIDDAPPA,
AGED 40 YEARS,
R/O KOLTHODU BYGODU VILLAGE,
HARTHUR POST, VIRAJPET TALUK,
KODAGU DISTRICT - 571 218

...APPELLANTS

(BY SRI. SACHIN B S.,ADVOCATE)

AND:

SRI ANAND LOBO
S/O LATE JOHN LOBO,
AGED 51 YEARS,
R/O FLAT NO.102,
DIVYA JYOTHI CLASSIC APARTMENT,
BEHIND MANTRI CLASSIC APARTMENT,
S.P. ROAD, KORAMANGALA 4TH BLOCK,
BENGALURU-560034

...RESPONDENT

THIS RSA IS FILED UNDER SECTION 100 OF CPC,
AGAINST THE JUDGMENT AND DECREE DATED 16.09.2025
PASSED IN RA No.5007/2024 ON THE FILE OF THE II
ADDITIONAL DISTRICT AND SESSIONS JUDE, KODAGU,
MADIKERI, SITTING AT VIRAJPET, DISMISSING THE APPEAL
AND CONFIRMING THE JUDGMENT AND DECREE DATED
05.03.2024 PASSED IN OS.NO.25/2021 ON THE FILE OF THE
SENIOR CIVIL JUDGE, VIRAJPET.

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

CORAM: HON'BLE MR. JUSTICE PRADEEP SINGH YERUR



ORAL JUDGMENT

Heard learned counsel for the appellants.

2. This appeal is filed by the appellants, who were the plaintiffs before the trial Court, being aggrieved by the judgment passed in RA.No.5007/2024 dated 16.09.2025, whereby the II Additional District and Sessions Judge, Kodagu-Madikeri, dismissed the appeal of the appellants/plaintiffs and confirmed the judgment and decree passed by the Senior Civil Judge, Virajpet, in OS No.25/2021 dated 05.03.2024.

3. Parties to the proceedings shall be referred to as per their status before the trial Court for the sake of brevity.

4. The brief facts of the case are as follows:

Plaintiffs filed a suit against the defendant for the relief of declaration to declare that they are the absolute owners of the suit schedule property and the sale deed



dated 27.11.2010 is null and void and for other consequential reliefs. Plaintiffs inherited the suit schedule property, who are in possession and enjoyment of the same as lawful owners and in the year 2007, defendant approached the plaintiffs to invest money in growing agricultural crops and expressed his desire to register the suit schedule property by availing a bank loan to develop and improve the suit schedule property. Defendant wanted the plaintiffs to sell the property to him. It is the contention of the plaintiffs that the defendant has not paid any sale consideration to the plaintiffs, and it was a oral understanding between the plaintiffs and defendant that after development and improvement of the suit schedule property, the defendant agreed to pay the profits of agricultural income after deduction of expenses, which the defendant has violated the oral conditions and understanding and neglected the growing of agricultural crops. The plaintiffs have also not received any profits from the defendant despite the plaintiffs approaching the



defendant several times requesting an annual statement of accounts and to share the profits; the same was not given. Due to which the plaintiffs got issued a legal notice on 18.11.2020 asking the defendant to pay the market value of the suit schedule property. No reply was given to the said legal notice. Perforcing plaintiffs to file the present suit for declaration and consequential reliefs.

5. The suit summons was issued to the defendant but remained ex-parte. He did not contest the suit.

6. Based on the pleadings, the trial Court framed following issues for consideration.

1. Whether the plaintiffs proves that they are entitled to the relief as sought for in the plaint?

2. What order or decree?

7. In order to prove the case, plaintiffs got examined the special power of attorney holder as PW1 and got marked Ex.P1 to Ex.P9 and closed their evidence. The learned trial judge, upon consideration of the materials



placed on record, both oral and documentary, and in the absence of any defence of the defendant, as the defendant remained ex-parte, took into consideration the materials placed by the plaintiffs, and it was for the plaintiffs to establish the case duly on the contentions of their pleadings without there being a defence. But, however, plaintiffs were unable to establish the fact so stated in the evidence, both oral and documentary. The trial Court, having not found favour with the plaintiffs, dismissed the suit of the plaintiffs for having not made out good ground to allow the relief sought by the plaintiffs and also there being no preponderance of probabilities in favour of the plaintiffs, and it is for the plaintiffs to stand on their own legs rather than on the weakness or absence of the defendant. Accordingly, dismissed the suit of the plaintiffs.

8. Aggrieved by the dismissal of the suit by way of judgment and decree, the plaintiffs approached the first appellate court by filing an appeal in RA No.5007/2024, challenging the judgment and decree passed by the trial



Court. The summons was issued once again, but the respondent/defendant again remained absent, and there was no representation.

9. The first appellate Court reconsidered the entire gamut of materials placed before the trial court by the plaintiffs. Upon reconsideration and re-appreciation of the entire evidence, both oral and documentary, formulated the following points for consideration.

1. Whether the finding of the trial Court that sale deed is absolute and binding is sustainable?

2. Whether the suit filed on 23.03.2021 for cancellation of sale deed dated 27.11.2010 is within limitation period?

3. Whether the plaintiffs have established absence of consideration on the subsisting ownership?

4. Whether appellants made out grounds interference in this appeal?

5. What order?

10. The first appellate Court, upon reconsideration of the material and in the absence of the



respondent/defendant, did not find favour with the appellants/plaintiffs and, having formulated the points for consideration, negated points, that were agitated by the appellants/plaintiffs and affirmed the finding to the effect that the sale deed is binding and sustaining and consequently, dismissed the appeal and confirmed the judgment and decree rendered by the trial Court.

11. It is these two concurrent findings of facts that are questioned by the appellants/plaintiffs in this appeal on the ground that both the Courts have committed an error in not appreciating the evidence placed on record on the fact that the plaintiffs had talked to and parted with the possession of the suit schedule property and entered into only an agreement of understanding with the defendant to cultivate the land, grow crops, and share the profits out of the revenue generated from the crop and the sale deed so framed and registered was a nominal one that was not for our consideration; hence, the same cannot be taken into consideration as no sale



consideration was passed to the plaintiffs and therefore the trial Court and the first appellate Court have ignored these aspects of no passing of the sale consideration and the alleged sale deed was only a nominal one that was not acted upon.

12. It is also contended by learned counsel for the appellants/plaintiffs that despite the legal notice issued by the plaintiffs to the defendant there is no reply, and even the suit summons was issued to the defendant he has not appeared and participated and conveniently remained absent both before the trial Court as well as the first appellate Court.

13. It is further contended that the RTCs with regard to the suit schedule properties still continue in the name of the plaintiffs. Therefore, plaintiffs still being in possession of the suit schedule properties, both the Courts ought to have granted the relief in favour of the plaintiffs



rather than rejecting the suit and the first appellate Court confirming the same.

14. Learned counsel for the appellants/plaintiffs primarily contends that the trial Court and the first appellate Court have not considered the factual aspect of the sale deed marked at Ex.P2 and the other documents produced before the trial Court. Therefore, there is an error committed that has led to miscarriage of justice to the plaintiffs. Though, it is also contended that there is arbitrary exercising of powers imposed by both the Courts in not appreciating the factual aspect of the sale deed and the non payment of the sale consideration and the sale deed being void because of it being only a nominal; nothing cogent material has been placed by the plaintiffs to prove the same and establish it before the Court.

15. Having heard the learned counsel for the appellants/ plaintiffs and having perused the judgment of the trial Court as well as the first appellate Court and the



documents relied on by the plaintiffs, though there is no appearance of the respondent/defendant before both the Courts, it is for the plaintiffs who comes before the Court to establish their case on their own strength and not on the weakness of the defendant. These aspects have been elaborately dealt with by the trial Court as well as the first appellate Court and having not found any favour and cogent material or evidence in their favour, the suit came to be dismissed, which on re-appreciation and re-consideration of the materials once again, the first appellate Court has dismissed the appeal and confirmed the judgment and decree of the trial Court. Even before this Court, plaintiffs have not placed any material that runs contrary or that the trial Court and the first appellate court have not considered any such material that was placed before the trial Court or for that matter any substantial questions of law that require framing that has not been considered by both the Courts.



16. Section 100 of CPC deals with the Scope and powers of the Appellate Court. It is a no more *res integra* to state that the powers as contemplated under Section 100 CPC are very narrow and limited. This Court, in several catena of judgments, has held that the Appellate Court sitting in the second appeal is not required to appreciate the evidence on record unless there is perversity shown in the judgments rendered by the trial Court as well as the first Appellate Court. When two Courts have already considered the question of fact and the question of law to a large extent in detail, even if this Court finds third opinion on the opinions already expressed concurrently by both Courts, it is a general Rule that this Court should refrain from imposing its third opinion merely for the sake of interference when there is no cogent material placed on record.

17. In view of the discussions made herein above, it is my humble opinion that the trial court and the first appellate Court have dealt with the matter, elaborately



considered all the materials that were placed by the plaintiffs before the Court, did not find favour with the plaintiffs and accordingly dismissed the suit of the plaintiffs which is rightfully confirmed by the first appellate Court on re appreciation of the matter once again. I do not find any good ground or cogent reason made out by the appellants to frame any substantial question of law for consideration in this appeal, as none exist. Accordingly, I pass the following order.

ORDER

The appeal stands ***dismissed*** at the initial stage of admission itself.

**Sd/-
(PRADEEP SINGH YERUR)
JUDGE**

RCK
List No.: 1 Sl No.: 42