



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD
DATED THIS THE 26TH DAY OF FEBRUARY, 2026
BEFORE
THE HON'BLE MR. JUSTICE HANCHATE SANJEEVKUMAR
REGULAR SECOND APPEAL NO. 100099 OF 2026 (EVI)

BETWEEN:

1. SRI BABULAL B. JAIN,
S/O. BHOORCHAND JAIN,
AGED ABOUT 57 YEARS,
RESIDENT OF PLOT NO.44,
29TH WARD, M. J. NAGAR,
HOSPET, BELLARI DISTRICT-583201.
2. SMT. SUSHEELA JAIN,
W/O. SRI BABULAL B. JAIN,
AGED ABOUT 51 YEARS,
RESIDENT OF PLOT NO.44,
29TH WARD, M. J. NAGAR,
HOSPET, BELLARI DISTRICT-583201.
3. SRI MANISH B. JAIN,
S/O. BABULAL B. JAIN,
AGED ABOUT 35 YEARS,
RESIDENT OF PLOT NO.44,
29TH WARD, M. J. NAGAR,
HOSPET-583201,
BELLARI DISTRICT.

...APPELLANTS

(BY SRI BAWAKHAN S. S., ADVOCATE)





AND:

SRI M.S. NAIK.
S/O. MUNIYANAIAK,
AGED ABOUT 61 YEARS,
EMPLOYEE, M.M.T.C. OF INDIA LIMITED,
M.M.T.C. QUARTERS, TORANAGAL,
SANDUR TALUK-583119,
BALLARI DISTRICT.

...RESPONDENT

(BY SRI S. B. HEBBALLI, ADVOCATE)

THIS REGULAR SECOND APPEAL IS FILED UNDER SECTION 100 OF THE CODE OF CIVIL PROCEDURE, PRAYING TO THE JUDGMENT AND DECREE DATED 20.11.2025 PASSED BY THE COURT OF THE PRINCIPLE SENIOR CIVIL JUDGE AND CJM, VIJAYANAGAR, DISTRICT HOSAPETE IN R.A.NO.26/2024 AND JUDGMENT AND DECREE DATED 30.03.2024 PASSED BY THE LEARNED ADDITIONAL CIVIL JUDGE AND JMFC AT HOSAPETE IN O.S.NO.35/20153 AND TO CONSEQUENTLY ALLOW THE ABOVE APPEAL BY DISMISSING THE SUIT FILE BY THE RESPONDENT/ PLAINTIFF IN O.S.NO.35/2015 IN THE COURT OF THE LEARNED ADDITIONAL CIVIL JUDGE AND JMFC AT HOSAPETE AND ETC.

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



ORAL JUDGMENT

(PER: THE HON'BLE MR. JUSTICE HANCHATE SANJEEVKUMAR)

The regular second appeal is filed by defendants Nos.1 to 3 calling in question the judgment decree dated 20.11.2025 in RA No.26/2024 passed by the Principal Senior Civil Judge and CJM, Vijayanagara District, Hosapete, which confirms the judgment decree dated 30.03.2024 in O.S.No.35/2015 passed by the Additional Civil Judge and JMFC, Hosapete, thereby the suit of the plaintiff for eviction is decreed.

2. For the purpose of convenience and easy reference, ranking of the parties is referred to as per their status before the trial Court.

3. The plaintiff filed the suit for eviction contending that he is the absolute owner of the suit schedule property and that defendant No.1 is the husband of defendant No.2 and father of defendant No.3. The defendants are tenants in respect of the suit schedule property and the rent was fixed at Rs.5,000/- per month. Thus, according to the plaintiff, he



is the owner and the defendants are the tenants. It is further submitted that the plaintiff sought financial help and approached defendant No.1, and the defendants paid a sum of Rs.9,00,000/-. Towards security for the said loan, as demanded by the defendants, the plaintiff signed certain documents pertaining to the suit schedule property.

4. It is further the case of the plaintiff, as pleaded in the plaint, that the defendants misused the said signed documents by creating an agreement of sale. However, according to the plaintiff, he has not executed any agreement of sale. It is further pleaded that the defendants filed a suit in O.S.No.122/2012, but the said suit came to be dismissed. Therefore, the plaintiff filed the present suit for eviction.

5. The defendants appeared through their advocate and filed their written statement. In the written statement, they admitted that the plaintiff is the owner of the suit property and also admitted the relationship between defendant Nos.1 to 3. It is the case of the defendants that



the plaintiff was in need of a loan and permitted the defendants to repair the suit schedule property and use the same by paying municipal taxes and electricity charges. It is also pleaded that the plaintiff agreed to return the property once the loan amount was repaid. Therefore, the defendants are in possession of the suit property. It is further pleaded that the plaintiff borrowed money on several occasions and finally executed an agreement of sale in favour of the defendants. According to the defendants, the plaintiff agreed to sell the suit property for a total consideration of Rs.27,00,000/- and executed an agreement of sale. Out of the said amount, a sum of Rs.16,30,000/- was paid by defendant No.3 to the plaintiff and defendant No.3 was always ready and willing to perform his part of the contract. However, the plaintiff failed to execute the sale deed. Therefore, the defendants were constrained to file a suit in O.S.No.118/2013 for specific performance. On these grounds, they prayed for dismissal of the suit.



6. The Trial Court, after considering the evidence on record, decreed the suit and directed the defendants to hand over vacant possession of the suit schedule property to the plaintiff.

7. Being aggrieved by the same, the defendants preferred a regular appeal before the First Appellate Court. The First Appellate Court also dismissed the appeal, thereby confirming the judgment and decree passed by the Trial Court.

8. The concurrent reasoning assigned by both the Trial Court and the First Appellate Court is that there exists a landlord and tenant relationship between the plaintiff and defendant No.1 and that the plaintiff has validly terminated the tenancy. The contention of the defendants that they had filed O.S. No.118/2013 for specific performance was also considered. Both the Courts concurrently held that the plaintiff has proved that he is the owner of the suit property, which fact was admitted by the defendants in their written statement, and that the defendants are



tenants. Therefore, the suit came to be decreed and the judgment and decree passed by the Trial Court was confirmed by the First Appellate Court.

9. Against the concurrent findings of fact, the defendants have preferred this Regular Second Appeal before this Court by raising various grounds and contending that the appeal involves substantial questions of law.

10. The learned counsel for the appellants submitted that the defendants are not tenants but are in possession of the suit property. It is further submitted that, with the permission of the plaintiff, the defendants constructed a building on the suit schedule property and that the plaintiff executed an agreement of sale in favour of the defendants. When the plaintiff refused to perform his part of the contract by executing the registered sale deed, the defendants filed a suit in O.S.No.118/2013. Though the said suit has been dismissed, an appeal is pending before the First Appellate Court. Therefore, on these grounds, it is argued that the appeal deserves consideration and



requested the Court to frame substantial questions of law and allow the appeal.

11. On the other hand, the learned counsel for the respondent/plaintiff submitted that the defendants are tenants. Defendant No.1 is the husband of defendant No.2 and father of defendant No.3, and they constitute one family. The defendants have admitted that the plaintiff is the owner of the property. It is further submitted that the plaintiff had taken financial assistance from the defendants but had never executed any agreement of sale and had no intention to sell the property. Therefore, it is contended that the signed documents given to the defendants were fraudulently converted into an agreement of sale. This aspect has already been considered by the Trial Court as well as the First Appellate Court, in O.S.No.118/2013, it was held that the alleged agreement of sale was not proved and the suit was dismissed. Though an appeal is pending against the judgment and decree in O.S.No.118/2013, the present suit is simply for eviction and the defendants have



admitted that the plaintiff is the owner and they are tenants. Therefore, there exists a landlord and tenant relationship and the termination of tenancy is valid. Both the Trial Court and the First Appellate Court have correctly appreciated the evidence on record and decreed the suit. Hence, it is prayed to dismiss the appeal as no substantial question of law arises for consideration.

12. Upon considering the reasons assigned by the Trial Court and the First Appellate Court in their respective judgments, it is evident that the suit is one for eviction. The plaintiff has contended that he is the owner of the suit property, which has been admitted by defendant No.1 in the written statement. The defendants have also admitted in their notice that they had taken the suit premises on a rental basis. It is their contention that after obtaining possession from the plaintiff they repaired the premises and that subsequently the plaintiff executed an agreement of sale for financial assistance obtained from them. However, according to the defendants, when the plaintiff failed to



execute the sale deed they filed a suit in O.S.No.118/2013 for specific performance. However, Ex.P17 and Ex.P18 establish that the said suit in O.S.No.118/2013 was dismissed. Therefore, it is proved that the plaintiff is the owner and the defendants are tenants. The Trial Court framed Issue No.1 regarding the relationship between the parties and held that the relationship of landlord and tenant is admitted and proved.

13. Defendant No.1 in the written statement has categorically admitted that the plaintiff is the owner of the suit schedule property. Therefore, the plaintiff being the owner and the defendants being tenants, the plaintiff issued a notice as per Ex.P13 terminating the tenancy, which was replied to by the defendants under Ex.P14. Both the Trial Court and the First Appellate Court have correctly appreciated the evidence on record and decreed the suit for eviction directing the defendants to vacate and hand over vacant possession of the suit property.



14. The learned counsel for the appellants has heavily relied on Ex.D4, which is the time extension deed and permission to construct a building dated 27.07.2009. It is further submitted that the defendants constructed a building on the suit property. However, this contention is not substantiated by the defendants by producing any evidence. Ex.D4 is only a certified copy of the time extension deed and permission to construct the building, but there is no evidence to show that the building was actually constructed on the suit property. Therefore, both the Trial Court and the First Appellate Court have correctly appreciated the evidence on record.

15. As discussed above, the plaintiff is the owner of the suit property and the defendants are tenants. The suit filed by the defendants in O.S.No.118/2013 for specific performance has been dismissed. Though an appeal is pending against the judgment and decree in O.S.No.118/2013, that itself is not a ground to interfere with the judgment and decree passed by both the Trial



Court and the First Appellate Court. If the appellants have any remedy, the same is before the Appellate Court in the appeal arising out of O.S.No.118/2013. In the present case, the suit is simply for eviction and both the Trial Court and the First Appellate Court have rightly decreed the suit directing the defendants to hand over vacant possession of the suit property. Hence, there is no perversity or illegality in the judgment and decree passed by both the trial Court and First Appellate Court. There are no good grounds available in the appeal to entertain the same on merits and no substantial question of law arises for consideration. Therefore, the Regular Second Appeal is liable to be dismissed and accordingly it is ***dismissed***.

**Sd/-
(HANCHATE SANJEEVKUMAR)
JUDGE**