



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD
DATED THIS THE 25TH DAY OF FEBRUARY, 2026
BEFORE
THE HON'BLE MR. JUSTICE HANCHATE SANJEEVKUMAR
REGULAR SECOND APPEAL NO.100171 OF 2024

BETWEEN:

SRI MALLESHAPPA S/O. GURUSIDDAPPA DIVATER,
AGE: 47 YEARS, OCC: BUSINESS,
R/O. SHOP NO.3, VINAYAK ELECTRICALS,
NAGARA GRAHAKAR CO-OPERATIVE SOCIETY LTD.,
COMPLEX, KUKANOOR, TQ. KUKANOOR,
DIST. KOPPAL-583232.

...APPELLANT

(BY SRI DINESH M. KULKARNI, ADVOCATE)

AND:

NAGARA GRAHAKAR CO-OPERATIVE SOCIETY LTD.,
KUKANOOR. TQ. KUKANOOR, DIST. KOPPAL-583232,
REP. BY ITS SECRETARY.

...RESPONDENT

(BY SRI SHRIHARSH A. NEELOPANT AND
SMT. PRIYANKA B., ADVOCATES)

THIS REGULAR SECOND APPEAL IS FILED UNDER SECTION 100 OF THE CODE OF CIVIL PROCEDURE, PRAYING TO SET ASIDE THE JUDGMENT AND DECREE PASSED IN R.A.NO.8/2022 DATED 05.12.2023 BY THE SENIOR CIVIL JUDGE AND JMFC, YELABURGA BY CONFIRMING THE JUDGMENT AND DECREE OF O.S.NO.130/2015 DATED 06.01.2022 PASSED BY THE CIVIL JUDGE AND JMFC, YELABURGA AS NULL AND VOID AND DISMISS THE SUIT AND ETC.

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





ORAL JUDGMENT

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

Though the matter is listed for admission with the consent of both learned counsel matter is taken up for final disposal.

2. This Regular Second Appeal is filed by the defendant calling in question the judgment and decree dated 05.12.2023 passed in R.A.No.8/2022, by the Senior Civil Judge and JMFC, Yelaburga, which confirms the judgment and decree dated 06.01.2022, passed in O.S.No.130/2015, by the Civil Judge and JMFC Yalaburga, thereby suit of the plaintiff society is decreed and directed the defendant to hand over the vacant possession of suit shop to the plaintiff society within a period of one from the date of orders. Further directed to pay damages of Rs.12,000/- per month to the plaintiff society.



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

4. The plaintiff filed a suit for eviction and damages. The undisputed facts, as revealed from the plaint and written statement, are that the plaintiff society is the owner of the suit shop and the defendant is its tenant. The suit property is a shop. The defendant was a tenant from 01.10.2009 to 30.09.2014, having been the highest bidder for leasing the suit shop on a rental basis. The monthly rent was fixed at Rs.6,000/-. The tenure of the tenancy was five years. It is submitted that the tenancy was not extended by the plaintiff society. Therefore, the plaintiff issued a legal notice terminating the tenancy and filed the suit.

5. Upon appreciating the evidence on record, the Trial Court decreed the suit and directed the defendant to hand over vacant possession of the suit shop to the plaintiff. The defendant was also directed to pay damages of



Rs.12,000/- per month to the plaintiff society from 01.10.2014 until delivery of vacant possession.

6. Being aggrieved by the same, the defendant preferred an appeal before the First Appellate Court. The First Appellate Court concurred with the findings of the Trial Court and dismissed the appeal.

7. Being aggrieved by the concurrent findings, the defendant has preferred this Regular Second Appeal, raising various grounds and substantial questions of law.

8. The learned counsel for the appellant/defendant submitted that there was no valid termination of tenancy and that this aspect is not properly considered by both the Trial Court and the First Appellate Court and prays to allow the appeal.

9. Learned counsel for the respondent/plaintiff society contended that when the tenancy period was for five years and upon its expiry the defendant is required to vacate the premises, issuance of a legal notice would be a mere formality and prays to dismiss the appeal.



10. Upon considering these factors and the admitted facts that the plaintiff is the owner of the suit shop, the defendant is the tenant, and the tenancy period has expired, there are no valid grounds available for entertaining the appeal, and no substantial question of law arises for consideration. Therefore, the appeal is liable to be dismissed, with a direction to the defendant to hand over vacant possession of the suit shop.

11. So far as the award of damages is concerned, the Trial Court awarded Rs.12,000/- per month from 01.10.2014, though the agreed monthly rent was Rs.6,000/-. It is submitted that the defendant is in arrears of rent. Considering these factors, it would be just and proper to direct the defendant to pay damages of Rs.8,000/- per month to the plaintiff society from 01.10.2014 until handing over vacant possession of the suit shop. Therefore, ordered accordingly. Further the defendant shall vacate the suit shop within a period of six months from today.



12. The amount of damages payable by the defendant shall be adjusted towards any rent already paid by him.

13. For the above-stated reasons, the appeal does not involve any substantial question of law and is liable to be dismissed. Accordingly, it is ***dismissed***.

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