



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 24TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE HANCHATE SANJEEVKUMAR

REGULAR SECOND APPEAL NO.100902 OF 2017 (DEC)

BETWEEN:

1. NINGAPPA
S/O SANNINGAPPA MALLADAD
AGE: 61 YEARS,
OCC: AGRICULTURIST,
R/O: HIREKABBAR,
TQ: HIREKERUR,
DIST HAVERI – 581 110.
2. NANJAPPA
S/O SANNINGAPPA MALLADAD,
AGE: 58 YEARS,
OCC: AGRICULTURIST,
R/O: HIREKABBAR,
TQ: HIREKERUR,
DIST HAVERI – 581 110.
3. VENKAPPA
S/O SANNINGAPPA MALLADAD,
AGE: 54 YEARS,
OCC: AGRICULTURIST,
R/O: HIREKABBAR,
TQ: HIREKERUR,
DIST HAVERI – 581 110.
4. HANUMANTAPPA
S/O SANNINGAPPA MALLADAD,
AGE: 50 YEARS,
OCC: AGRICULTURIST,
R/O: HIREKABBAR,





TQ: HIREKERUR,
DIST HAVERI – 581 110.

- 5.. BASAPPA
S/O SANNINGAPPA MALLADAD,
AGE: 46 YEARS,
OCC: AGRICULTURIST,
R/O: HIREKABBAR,
TQ: HIREKERUR,
DIST HAVERI – 581 110.

...APPELLANTS

(BY SRI. SADIQ N.GOODWALA, &
SRI. S.B.PATIL, ADVOCATES)

AND:

1. MALLURAPPA
S/O HANUMANTAPPA GULANNAVAR
SINCE DECEASED BY HIS LRS,
- 1A. RAMACHNADRAPPA
S/O MALLURAPPA GULANNANAVAR,
AGE: 79 YEARS,
OCC: AGRICULTURAL,
R/O: NARASANAHALLI,
TQ: HONNALI,
DIST: DAVANAGERE-577 002.
- 1B. HANUMANTAPPA
S/O MALLURAPPA GULANNANAVAR,
AGE: 53 YEARS,
OCC: AGRICULTURAL,
R/O: NARASANAHALLI,
TQ: HONNALI,
DIST: DAVANAGERE – 577 002.
- 1C. VENKATESH
S/O MALLURAPPA GULANNANAVAR,
AGE: 42 YEARS,



OCC: AGRICULTURAL,
R/O: KURUVA, TQ: HONNALI,
DIST: DAVANAGERE – 577 002.

- 1D. VIJAY
S/O MALLURAPPA GULANNANAVAR,
AGE: 37 YEARS,
OCC: AGRICULTURIST,
R/O: NARASANAHALI,
TQ: HONNALI,
DIST: DAVANAGERE – 577 002.
- 1E. SARASWATI
W/O NAGARAJ GULANNANAVAR,
AGE: 39 YEARS,
OCC: AGRICULTURIST,
R/O: NARASANAHALI,
TQ: HONNALI,
DIST: DAVANAGERE – 577 002.
2. GIRIYAPPA
S/O HANUMANTAPPA GULANNANAVAR,
SINCE DECEASED BY HIS LRS.
- 2A. GANGAMMA
W/O GIRIYAPPA GULANNAVAR,
AGE: 83 YEARS,
OCC: AGRICULTURIST,
R/O: HIREKABBAR,
TQ: HIREKERUR,
DIST: HAVERI-581110.
- SINCE DECEASED R2(B TO D) AS LR'S
WHO ARE ALREADY ON RECORD VIDE ORDER
DATED 27.02.2018
- 2B. HANUMANTHAVVA
D/O GIRIYAPPA GULANNANAVAR,
AGE: 58 YEARS,
OCC: HOUSEHOLD,
R/O: HIREKABBAR,



TQ: HIREKERUR,
DIST: HAVERI – 581 110.

- 2C. SMT.VIJAYA
W/O MAHESHAPPA GULANNAVAR,
AGE: 43 YEARS,
OCC: HOUSEHOLD,
R/O: HIREKABBAR,
TQ: HIREKERUR,
DIST: HAVERI – 581 110.
- 2D. SMT.JANAVVA
W/O VENKATESHAPPA BANGER,
AGE: 40 YEARS,
OCC: HOUSEHOLD,
R/O: HIREKABBAR,
TQ: HIREKERUR,
DIST: HAVERI – 581 110.
- 3 RUDRAPPA
S/O HANUMANTAPPA GULANNANAVAR,
SINCE DECEASED BY HIS LRS.
- 3A. SHANTAVVA
W/O RUDRAPPA GULANNANVAR,
AGE: 43 YEARS,
OCC: HOUSEHOLD,
R/O: HIREKABBAR,
TQ: HIREKERUR,
DIST: HAVERI – 581 110.
- 3B. CHANDRAPPA
S/O RUDRAPPA GULANNANVAR,
AGE: 38 YEARS,
OCC: AGRICULTURAL,
R/O: GOLLARAHALLI (HOSUR),
TQ: HONNALLI,
DIST: DAVANAGERE – 577 002.
- 3C. LAKSHMAVVA
W/O. TIPPESHAPPA BANGER,



AGE: 33 YEARS,
OCC: HOUSEHOLD,
R/O: KALAGODDI,
TQ: HONNALLI,
DIST: DAVANAGERE – 577 002.

4. LAND ACQUISITION OFFICER
UPPER TUNGA CANAL SCHEME,
RANEBENNUR,
DIST: HAVERI – 581 110.

...RESPONDENTS

(BY SRI. S.G. KADADAKATTI &
SRI.LINGESH.V.KATTEMANI, ADVOCATES FOR C/R2(B) & R3(A))

THIS RSA FILED U/SEC.100 OF CPC, 1908, AGAINST THE JUDGEMENT & DECREE DATED 03.10.2017 PASSED IN R.A.NO.30/2014 ON THE FILE OF THE SENIOR CIVIL JUDGE AND JMFC., HIREKERUR, DISMISSING THE APPEAL AND CONFIRMING THE JUDGMENT AND DECREE DATED 11.07.2014 PASSED IN O.S.NO.27/2004 ON THE FILE OF THE PRINICIPAL CIVIL JUDGE AND JMFC, HIREKERUR, DECREERING THE SUIT FILED FOR DECLEARAITON AND POSSESSSION.

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

CORAM: THE HON'BLE MR. JUSTICE HANCHATE SANJEEVKUMAR



ORAL JUDGMENT

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

The appeal is filed by the defendant Nos.1 to 5 challenging the judgment and decree dated 03.10.2017 passed by the Court of Senior Civil Judge & JMFC, Hirekerur, in R.A.No.30/2014 confirming the judgment and decree dated 11.07.2014 passed by the Court of Prl. Civil Judge & JMFC, Hirekerur, in O.S.No.27/2004, wherein suit filed by the plaintiffs is decreed against defendants.

2. Rank of the parties is referred to as per their rankings before the trial court.

3. The plaintiffs have filed the suit for declaration that the plaintiffs and father of defendant Nos.7 to 11 are owners of the suit land and the suit land was mortgaged in favour of defendant Nos.1 to 5 by way of mortgage by conditional sale. Therefore, filed the suit for redemption of mortgage by conditional sale and also prayed for directing the defendant Nos.1 to 5 to execute the reconveyance deed



by receiving debt amount of Rs.4,000/- from the plaintiffs and defendant Nos.7 to 11 and also for possession of the land. The suit is decreed, which is confirmed in the appeal in R.A.No.30/2014. The Appellate Court in R.A.No.30/2014 has only modified that directing the plaintiffs and defendant Nos.7 to 11 shall repay the debt of Rs.4,000/- with interest at the rate of 6% per annum from 1977-1978, which is challenged in this regular second appeal.

4. Learned counsel for the appellants/defendant Nos.1 to 5 submitted that there is no prayer in the suit directing the defendant Nos.1 to 5 to execute re-conveyance deed by receiving debt of Rs.4,000/- from the plaintiffs and defendant Nos.7 to 11. Therefore, in the absence of such relief both the Trial Court and the First Appellate Court ought not to have passed decree of receiving a sum of Rs.4,000/- from the plaintiffs and defendant Nos.7 to 11. Therefore, prays for interference of



this Court by framing substantial question of law in this regard.

5. Upon considering the concurrent findings of facts arrived at by both the Trial Court and the First Appellate Court, admittedly the plaintiffs and defendant Nos.7 to 11 are the owners. The plaintiffs and father of defendant Nos.7 to 11 had mortgaged the schedule property in favour of defendant Nos.1 to 5 by conditional sale by receiving debt of Rs.4,000/-.

6. The mortgagee was in possession over the suit land for a period of 12 years. Thereafter, the plaintiffs have filed a suit for declaration and possession that the plaintiffs and defendant Nos.7 to 11 are owners of the suit schedule property. The Trial Court decreed the suit declaring that the plaintiffs and defendant Nos.7 to 11 are the owners of the suit land and as the mortgage by conditional sale executed by the plaintiffs in favour of the father of defendant Nos.1 to 5 was redeemed and further issued



direction to defendant Nos.1 to 5 to execute re-conveyance deed by receiving debt of Rs.4,000/- from the plaintiffs and defendant Nos.7 to 11 and directed to handover delivery of possession of the suit schedule property to the plaintiffs and defendant Nos.7 to 11.

7. The Trial Court has decreed the suit and it is confirmed by the First Appellate Court. The only modification done by the First Appellate Court is that the plaintiffs and defendant Nos.7 to 11 are liable to repay the said debt of Rs.4,000/- at the rate of 6% per annum from 1977-78.

8. According to the submissions made by the learned counsel for the appellants/defendant Nos.1 to 5, such relief is not made in the plaint. Therefore, the Trial Court ought not to have granted relief in this regard.

9. In the plaint, the plaintiffs have made a prayer at column 'b' of paragraph No.12, which reads as follows:



"b] The plaintiffs and defendants No.7 to 11 may be directed to execute re conveyance deed by receiving debt of amount of Rs.4,000/- from plaintiffs and defendants No.7 to 11."

10. Upon considering the said prayer at column 'b' of paragraph No.12 in the plaint, it appears that there is a typographical error while mentioning the prayer in the place of plaintiffs and defendant Nos.7 to 11, which ought to have been typed as defendant Nos.1 to 5. Therefore, at the most, this could be considered as a typographical error.

11. Learned counsel for the appellants is much acting upon that at prayer 'b' there is no relief sought for as against defendant Nos.1 to 5. Therefore, there is no question to execute the deed of re-conveyance by receiving debt of Rs.4,000/-.

12. As above discussed, the prayer at column 'b' , at the most, is a typographical error, but in considering the letter and spirit discussed in the judgments of the Trial



Court and the First Appellate Court, it is a direction against defendant Nos.1 to 5 to execute re-conveyance deed by receiving debt of Rs.4,000/-. The Trial Court has not awarded any interest on the debt of Rs.4,000/-, but the First Appellate Court has imposed interest at the rate of 6% per annum on the said debt of Rs.4,000/- for the year 1977-78. Therefore, this imposition of rate of interest by the First Appellate Court certainly enure to the benefit to defendant Nos.1 to 5, as the said defendants are going to receive a considerable amount from the plaintiffs and defendant Nos.7 to 11. Hence, the Trial Court and the First Appellate Court are justified in directing defendant Nos.1 to 5 to execute re-conveyance deed upon receiving a debt of Rs.4,000/-.

13. Furthermore, the interest of defendant Nos.1 to 5 is protected by awarding interest on the debt of Rs.4,000/-. Therefore, in any way, the appellants/defendant Nos.1 to 5 are not prejudiced by the order passed by both the Trial



Court and the First Appellate Court. Moreover, the interest of defendant Nos.1 to 5 is protected by awarding interest at the rate of 4% per annum on the amount of Rs.4,000/- for the year 1977-78. At such an event, as discussed above, the appellants/defendant Nos.1 to 5 will receive some concrete considerable amount as against the order passed by the First Appellate Court granting interest at the rate of 6% per annum is not challenged and such order has attained finality.

14. As such, in no way, the interest of defendant Nos.1 to 5 is prejudiced rather it is protected. Therefore, there is no need to make any interference in the impugned judgments and decrees passed by the Trial Court and the First Appellate Court and also there is no substantial question of law involved in the appeal. Therefore, the appeal is liable to be dismissed. Accordingly, the appeal is ***dismissed.***



15. However, appellants/defendant Nos.1 to 5 are reserved liberty to execute the decree for receipt of debt amount as ordered by the First Appellate Court.

No order as to costs.

Sd/-
(HANCHATE SANJEEVKUMAR)
JUDGE

DR - para 1 to 3
PMP – para 4 to
List No.: 1 Sl No.: 3