



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 2ND DAY OF JUNE, 2025

BEFORE

THE HON'BLE MR JUSTICE ASHOK S.KINAGI

REGULAR SECOND APPEAL NO. 1462 OF 2014

BETWEEN:

SMT MANGALAMMA
W/O LATE CHALUVAIAH,
AGED ABOUT 52 YEARS,
R/AT VRUSHABHAVATHIPURA,
ITTAMADU POST,
BIDADI HOBLI,
RAMANAGARA TALUK AND DISTRICT-562109

...APPELLANT

(BY SRI. S V PRAKASH, ADVOCATE)

AND:

1. SRI RAMAKRISHNAIAH
S/O THIPPARAIAH,
AGED ABOUT 42 YEARS
2. SRI THIPPARAIAH
SINCE DEAD BY HIS LRS.
- 2(A) KEMPAMMA,
W/O LATE THIPPARAIAH,
AGED ABOUT 70 YEARS
- 2(B) CHALUVARAJU
S/O LATE THIPPARAIAH,
AGED ABOUT 58 YEARS





- 2(C) SHIVARAJ
S/O LATE THIPPARAIAH,
AGED ABOUT 30 YEARS
- 2(D) NARAYANA
S/O LATE THIPPARAIAH,
AGED ABOUT 40 YEARS
- 2(E) SUNANDA
D/O LATE THIPPARAIAH,
AGED ABOUT 54 YEARS
- 2(F) CHIKKAMMA
D/O LATE THIPPARAIAH,
AGED ABOUT 38 YEARS,
- 2(G) LEELA
D/O LATE THIPPARAIAH,
AGED ABOUT 38 YEARS

ALL ARE R/AT THIMMEGOWDANA DODDI VILLAGE,
ITTAMADU POST, BIDADI HOBLI,
RAMANAGARA TALUK AND DISTRICT-562 109.

...RESPONDENTS

[BY SRI. S RAJU & ASSTS.,ADVOCATE FOR R1, R2(C-G)
V/O DATED 08.04.2025 APPEAL IS DISMISSED AS ABATED
AGAINST R2(A & B)]

THIS RSA IS FILED U/S. 100 OF CPC AGAINST THE
JUDGMENT & DECREE DTD 6.9.2014 PASSED IN
R.A.NO.15/2014 ON THE FILE OF PRINCIPAL SENIOR CIVIL
JUDGE AND CJM, RAMANAGARA, ALLOWING THE APPEAL AND
SETTING ASIDE THE JUDGEMENT AND DECREE DTD 3.1.14
PASSED IN OS.NO.170/2007 ON THE FILE OF ADDITIONAL
CIVIL JUDGE AND JMFC, RAMANAGARA.



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

CORAM: HON'BLE MR JUSTICE ASHOK S.KINAGI

ORAL JUDGMENT

This Regular Second Appeal is filed by the appellant, challenging the judgment and decree dated 06.09.2014, passed in R.A.No.15/2014 by the learned Principal Senior Civil Judge and CJM, Ramanagara.

2. For convenience, the parties are referred to, based on their rankings before the trial Court. The appellant was the plaintiff, and the respondents were the defendants.

3. Brief facts, leading rise to the filing of this appeal are as follows:

The plaintiff filed a suit against the defendants for declaration, permanent injunction and mandatory injunction. It is the case of the plaintiff that about 30 years back, the Government of Karnataka granted a



vacant site in Khaneshumari No.376, measuring 30X40 ft, situated at Vrushabhavathipura village of Bidadi Hobli, in favour of the plaintiff, who being a widow, and accordingly the khata was transferred in the plaintiff's name. It is contended that the plaintiff became the absolute owner and is in peaceful possession, and enjoyment of the suit schedule property. After the grant, the plaintiff put a shed in the suit property. About six months ago, the said shed was in a dilapidated condition and had collapsed; and at that time, the plaintiff lost the original grant certificate issued in her favour. The defendants, taking undue advantage of the plaintiff's absence in the village, defendant No.1, trespassed into the suit schedule property and unauthorizedly dug the foundation. The plaintiff requested the defendants not to interfere, but the defendants did not heed to the plaintiff's request. Hence, a cause of action arose for the plaintiff to file an instant suit. Accordingly, prays to decree the suit.



3.1. The defendants filed a written statement denying the averments made in the plaint. It is denied that the plaintiff is the absolute owner and in possession of the suit schedule property. It is contended that the Government granted the suit schedule property in favour of defendant No.2, and defendant No.2 dug and laid foundation for construction over the said property. It is contended that, defendant No.2 is in peaceful possession and enjoyment of suit property. Defendant No.2 is paying tax regularly and khata stands in the name of defendant No.2. It is stated that the plaintiff has no right, title or interest over the suit schedule property. Hence, prays to dismiss the suit.

3.2. The Trial Court, based on the pleadings of the parties, framed the relevant issues.

3.3. The plaintiff, to substantiate her case, examined herself as PW-1, examined one witness as PW.2 and marked 26 documents as Exs.P1 and P26. Conversely, defendant No.1 was examined as DW.1,



examined three witnesses as DWs.2 to 4, and marked 30 documents as Exs.D1 to D30. The trial Court, after recording the evidence, hearing both sides, and on the assessing the verbal and documentary evidence, decreed the suit of the plaintiff with costs. It is declared that the plaintiff is the absolute owner and in lawful possession and enjoyment of the suit schedule property. Consequently, it restrained the defendants permanently from interfering with the peaceful possession and enjoyment of the plaintiff over the suit schedule property. The trial Court also directed by way of mandatory injunction to demolish the construction put up in the suit schedule property.

3.4. Defendant No.1 and the Legal heirs of defendant No.2, aggrieved by the judgment and decree passed in O.S.No.170/2007, preferred an appeal in R.A.No.15/2014 on the file of the learned Principal Senior Civil Judge and CJM, Ramanagara.

3.5. The First Appellate Court, on re-assessing the verbal and documentary evidence, allowed the appeal vide



judgment dated 06.09.2014 and set aside the judgment and decree passed by the trial Court, and consequently, dismissed the suit of the plaintiff. The plaintiff, aggrieved by the judgment and decree passed in R.A.No.15/2014, has filed this regular second appeal.

4. Heard the arguments of the learned counsel for the plaintiff.

5. Learned counsel for the plaintiff submits that the plaintiff is the absolute owner of the suit schedule property. The suit schedule property was granted in favour of the plaintiff by issuing a grant certificate. He submits that the house property existing in the suit schedule property was in a dilapidated condition, and the said grant certificate was misplaced. Hence, the plaintiff was unable to produce the grant certificate. He submits that the first Appellate Court has not re-appreciated correctly, the entire evidence on record, and committed an error in passing the impugned judgment. Hence, on these grounds, prays to allow the appeal.



6. Perused the records, and considered the submissions of learned counsel for the plaintiff.

7. The plaintiff has filed a suit for declaration of title, permanent injunction and mandatory injunction. The plaintiff, to prove the title over the suit schedule property, has not produced any title deeds to establish the ownership over the suit schedule property. Though, the plaintiff has contended that the Government has granted the suit schedule property in favour of the plaintiff, the plaintiff has not produced a grant certificate. Though the plaintiff has contended that the original grant certificate was misplaced, nothing prevented the plaintiff from obtaining the certified copy of the grant certificate from the revenue authorities. Admittedly, the suit is one for declaration of title. The plaintiff, except producing the revenue records, has not produced title deeds. It is a well-settled law that a declaration of title based on the revenue entries cannot be granted. The first Appellate Court, placing reliance on the judgment passed by this



Court in the case of **GURUNATH MANOHAR PAVASKAR AND ORS VS. NAGESH SIDDAPPA NAVALGUND AND ORS** reported in **ILR 2008 KAR 1170**, has held that revenue records do not form a document of title, it merely raise a presumption of possession. The plaintiff has failed to produce a copy of the grant certificate to prove her ownership over the suit schedule property. The first Appellate Court has rightly passed the impugned judgment. I do not find any error in the impugned judgment or any substantial question of law that arises for consideration in this appeal.

8. Accordingly, I proceed to pass the following:

ORDER

- i. The Regular Second Appeal is dismissed.
- ii. The judgment and decree passed by the first Appellate Court is hereby confirmed.

No order as to the costs.



NC: 2025:KHC:18587
RSA No. 1462 of 2014

In view of the disposal of the appeal, pending IA,
does not survive for consideration and is accordingly
disposed of.

Sd/-
(ASHOK S.KINAGI)
JUDGE

SKS