NC: 2024:KHC:49222
RSA No. 1422 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF NOVEMBER, 2024

BEFORE

THE HON'BLE MR JUSTICE ASHOK S.KINAGI

REGULAR SECOND APPEAL NO. 1422 OF 2023 (INJ)

BETWEEN:

1. G.M. GANGADHARAPPA
   S/O G MALLAPPA
   AGED ABOUT 64 YEARS,

2. G M RANGANATHAPPA
   S/O G MALLAPPA
   AGED ABOUT 61 YEARS

   BOTH ARE AGRICULTURISTS
   R/O RANGAPURA VILLAGE,
   RAMAGIRI HOBLI, HOLALKERE TALUK,
   CHITRADURGA DISTRICT 577526

...APPELLANTS

(BY SRI. SIDDAPPA B M., ADVOCATE)

Digitally signed by B VEENA KUMARI
Location: HIGH COURT OF KARNATAKA

AND:

SMT. G.K. SAKAMMA
W/O PUTTASWAMY
AGED ABOUT 59 YEARS,
AGRICULTURIST,
R/O RANGAPURA VILLAGE,
RAMGIRI HOBLI, HOLALKERE TALUK,
CHITRADURGA DISTRICT 577526

...RESPONDENT

THIS RSA IS FILED UNDER SECTION 100 OF CPC, AGAINST THE JUDGMENT AND DECREE DATED 23.05.2023

PASSED IN RA No. 41/2020 ON THE FILE OF THE SENIOR CIVIL JUDGE AND JMFC, HOLALKERE, DISMISSING THE APPEAL AND CONFIRMING THE JUDGMENT AND DECREE DATED 17.07.2020 PASSED IN OS No. 93/2014 ON THE FILE OF THE PRINCIPAL CIVIL JUDGE, HOLALKERE.

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 appellants challenging the judgment and decree dated 23.05.2023 passed in R.A.No.41/2020 by the Senior Civil Judge, Holalkere and the judgment and decree dated 17.07.2020 passed in O.S.No.93/2014 by the learned Principal Civil Judge, Holalkere.

2. For convenience, the parties are referred to according to their ranking before the trial Court. The appellants were the defendants, and the respondent was the plaintiff.

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

The plaintiff filed a suit against the defendants for a permanent injunction restraining the defendants from interfering with the peaceful possession and enjoyment of the plaintiff of the suit schedule property. It is the case of the plaintiff that the plaintiff is in possession and enjoyment of the suit schedule property and the same was acquired by her under a registered Will dated 23.11.2000. The revenue records stand in the name of the plaintiff, and the plaintiff is cultivating the suit schedule property. The defendants have no right, title or interest over the suit schedule property. During the first week of August 2014, the defendants tried to interfere with the plaintiff's possession over the suit schedule property. The plaintiff requested the defendants not to interfere, but the defendants refused. Hence, a cause of action arose for the plaintiff to file a suit for permanent injunction. Accordingly, prays to decree the suit.

4. The defendants filed a written statement denying the averments made in the plaint and contended that, Sy.No.78 of Rangapura village consisting of 23 acres 2 guntas, and out of the said total extent, 3 acres 6 guntas towards the northern side was allotted to one Nanjappa S/o Ujjanappa and the said 3 acres 6 guntas was renumbered as Sy.No.78/1. It is contended that the 5 acres 28 guntas of land in Sy.No.78 towards its southern side was granted in favour of one Gurusiddaiah S/o Panchaiah and the said land was recognized as Sy.No.78/2 and they denied the existence of the suit schedule property. It is contended that, the defendants have never interfered with the suit schedule property and the plaintiff is taking undue advantage of wrong revenue entries made in her name. Hence, prays to dismiss the suit.

5. The trial Court, based on the above-said pleadings, framed the relevant issues.

6. To prove the case of the plaintiff, the plaintiff examined herself as PW.1, examined 2 witnesses as PWs.2

and 3, and marked 5 documents as Exs.P1 to 5. On the other hand, defendant No.1 examined himself as DW.1. No documents were marked. The trial Court, considering the oral and documentary evidence, decreed the suit of the plaintiff with cost, and a decree for permanent injunction was granted restraining the defendants from interfering with the peaceful possession and enjoyment of the plaintiff over the suit schedule property. The defendants, aggrieved by the judgment and preliminary decree passed in O.S.No.93/2014, preferred an appeal in R.A.No.41/2020 on the file of learned Senior Civil Judge, Holalkere.

7. The first Appellate Court, on reassessing oral and documentary evidence, dismissed the appeal vide judgment dated 23.05.2023. The defendants, aggrieved by the impugned judgments passed by the courts below, filed this regular second appeal.

8. Heard the learned counsel for the defendants.

9. Learned counsel for the defendants submits that, the plaintiff has failed to establish the alleged interference by the defendants in the suit schedule property. He submits that, the courts below have committed an error in passing the impugned judgments, holding that, the defendants have interfered with the peaceful possession and enjoyment of the plaintiff over the suit schedule property. He submits that the findings recorded by the courts below regarding the alleged interference are arbitrary and erroneous. Hence, on these grounds, prays to allow the appeal.

10. Perused the records and considered the submissions of the learned counsel for the defendants.

11. The plaintiff is in possession of the suit schedule property, and the said fact has not been disputed by the defendants. The defendants have admitted the plaintiff's over the suit schedule property. During the cross-examination of PW.1, learned counsel for the defendants suggested that, the defendants never

interfered with the possession of the plaintiff over the suit schedule property. The said suggestion is sufficient to hold that, the plaintiff is in possession of the suit schedule property. Insofar as the interference is concerned, the defendants in the written statement have clearly stated that the suit schedule property is non existent and the plaintiff is making false claims upon the created and concocted revenue records.

12. From the perusal of the cross-examination of PW.1 and in the written statement, it shows that, the defendants have taken a different contention in the cross-examination and in the written statement. The defendants have denied the existence of the suit schedule property, which is sufficient to hold the interference by the defendants. The courts below, have concurrently recorded a finding of facts that, the plaintiff is in possession of the suit schedule property, and the defendants tried to interfere with the peaceful possession of the plaintiff over the suit schedule property. The courts below, were

justified in passing the impugned judgments. Hence, I do not find any error in the impugned judgments or any substantial question of law that arises for consideration in this appeal.

13. Accordingly, I proceed to pass the following:

ORDER

The appeal is dismissed.

The judgments and decrees passed by the courts below are hereby confirmed.

No order as to the costs.

In view of the dismissal of the appeal, I.A.No.1/2023 does not survive for consideration and is accordingly disposed of.

Sd/-
(ASHOK S.KINAGI)
JUDGE