

Rangappa vs Laxman

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Court : Karnataka Dharwad

Decided On : Apr-24-2025

Judge : Umesh M Adiga

Appeal No. : MFA/100517/2024

Appellant : Rangappa

Respondent : Laxman

Judgement :

-1- IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH DATED THIS THE 24TH DAY OF APRIL, 2025 BEFORE THE HON'BLE MR. JUSTICE UMESH M ADIGA MISCELLANEOUS FIRST APPEAL NO. 100517 OF 2024 (CPC) BETWEEN: RANGAPPA S/O. TIMMAPPA BIRADAR PATIL, 61 YEARS, AGRICULTURIST, CHIKKASUMSHI-587204, APPELLANT (BY SRI. HARSH DESAI, ADVOCATE) AND:

1. LAXMAN S/O. TIMMAPPA BIRADAR PATIL , ADVOCATE, 59 YEARS, Digitally signed by VISHAL NINGAPPA VIDYAGIRI, 17TH CROSS, PATTIHAL Location: High BAGALAKOTE-587102. Court of Karnataka, Dharwad Bench.

2. TUNGA W/O. NARASIMHAPPAGOUDA PATIL, HOEMAKER, 55 YEARS, TULSIGERI-587204,

3. ARJUN S/O. TIMMAPPA BIRADAR PATIL, 51 YEARS, AGRICULTURIST, CHIKKASUMSHI-587204, -2-

4. MANJUNATH S/O TIMMAPPA BIRADAR PATIL, 45 YEARS, AGRICULTURIST, CHIKKASUMSHI-587204 BAGALAKOTE TALUK AND DIST.

5. BASAPPA S/O HANAMAPPA MANTUR, 54 YEARS, AGRICULTURIST, KHAJJIDONI-587204, BAGALAKOTE TALUK AND DIST

6. GOUDAPPAGOUDA S/O RANGANAGOUDA PATIL, 49 YEARS, AGRICULTURIST, BYADAR ARALIKATTI-587313, MUDHOL TALUK, BAGALAKOTE DISTRICT.

7. SHEKHARAYYA S/O. ADIVAYYA HIREMATH,

63 YEARS, AGRICULTURIST, 402/A, 1ST CROSS, SAPATGIRI LAYOUT, GADDANAKERI-587102, RESPONDENTS (BY SRI. GIRISH A. YADWAD, ADVOCATE FOR R2; SRI. B. S. KAMATE, ADVOCATE FOR R5; NOTICE TO R1, R3, R4, R6 AND R7 ARE SERVED) THIS MISCELLANEOUS FIRST APPEAL IS FILED U/O.43 RULE

1(r) OF CPC, PRAYING TO SET ASIDE THE ORDER DATED 25.01.2023 PASSED BY THE COURT OF THE PRINCIPAL SENIOR CIVIL JUDGE AND CJM AT BAGALAKOTE IN OS NO. 301/2023 ON IA-2, AND ALLOW IA -2 WITH COSTS, IN THE INTEREST OF JUSTICE. THIS MISCELLANEOUS FIRST APPEAL, COMING ON FOR ADMISSION, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER: -3-

ORAL JUDGMENT

(PER: THE HON'BLE MR. JUSTICE UMESH M ADIGA)

1. Heard the learned counsel for the appellant, respondent No.2 and the learned advocate appearing for respondent No.5.

2. The plaintiff has filed suit for partition and

separate possession. It appears that Sy.No.58/6 measuring 4 acres 16 guntas was purchased by defendant No.5 under registered sale deed dated 23.03.2015 from defendant Nos.1, 3 and 4 and the said property was later on acquired by the Government for public purpose.

3. It appears that defendant No.5 filed reference

petition that was registered in LAC No.309/2018 and compensation was enhanced. The Acquisition Authority deposited the said amount before the Court in accordance with law. Plaintiff filed application under Order XXXIX Rule 1 and 2 of CPC seeking relief of ad-interim injunction restraining respondent No.5 from receiving the said amount of compensation.

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4. It was seriously objected by defendant No.5. The trial Court by the impugned order and by assigning reasons, dismissed I.A.No.2 filed under Order XXXIX Rule 1 and 2 of CPC.

5. Most of the facts of the case are not in dispute. Defendant Nos.1, 3 and 4 who sold the property in favour of defendant No.5 did not appear before the trial Court or opposed the said application or opposed the sale transaction. The persons who were opposing the said transaction are plaintiff as well as defendant No.2.

6. For the sake of discussion, even if the suit is

decreed, plaintiff and defendant No.2 are entitled for 1/5th share each as per the present genealogy stated by the parties and defendant No.5 has right to an extent of 3/5th share, since he has purchased entire property for valuable consideration. Whether the said sale binds the right of plaintiff and defendant No.2 is to be decided during the course of trial, or whether right of defendant No.5 could be

-5- protected by allotting some other of property has to be decided proceedings of the suit.

7. If defendant No.5 withdrew entire amount of

compensation deposited by the concerned Acquisition Authority and in the event if the suit is decreed, then plaintiff and defendant No.2 would be put to loss and hardship in case defendant No.5 is unable to re-pay the said amount. Therefore to protect the interest of both plaintiff and defendant No.5, limited injunction shall be granted which shall be subject to result of the suit.

8. For the aforesaid discussions, following orders are passed:

ORDER

a. Appeal is disposed off. b. As an interim measure, without going into the merits of the matter following interim arrangements are made. The said interim arrangements are made without -6- affecting contention of both the parties before the trial Court and it shall be subject to the result of the suit. i. Defendant No.5 is restrained from withdrawing the compensation to an extent of 2/5th share in the total compensation amount awarded and deposited before the Reference Court in LAC No.309/2018, pending on the file of I Addl.District and Sessions Judge, Jamakhandi. ii. The said amount of 2/5th share of compensation amount shall be deposited in fixed deposit, initially for a period of one year which shall be renewed till disposal of the suit. Needless to mention that whoever succeeds in the suit would get the benefit of interest. iii. This interim arrangement is made without entering into the merit of the suit. The trial Court shall not be influenced by only of the observation made above. -7- iv. Send a copy of the judgment to the trial court forthwith. Pending I.A.No.1/2025 is rejected, as do not survive. Sd/- (UMESH M ADIGA) JUDGE KGK /CT-AN List No.: 1 Sl No.: 48

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