

**Puttegowda Vs. Puttaswamygowda**

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**SooperKanoon Citation :** [sooperkanoon.com/383472](http://sooperkanoon.com/383472)

**Court :** Karnataka

**Decided On :** Feb-14-1996

**Reported in :** ILR1996KAR2156; 1996(3)KarLJ486

**Judge :** J. Eswara Prasad, J.

**Acts :** [Code of Civil Procedure \(CPC\) , 1908](#) - Sections 96

**Appeal No. :** RSA No. 91/1990

**Appellant :** Puttegowda

**Respondent :** Puttaswamygowda

**Advocate for Def. :** G. Balakrishna Shastry, Adv.

**Advocate for Pet/Ap. :** Praveenkumar Raikote, Adv.

**Disposition :** Appeal allowed

**Judgement :**

**J. Eswara Prasad, J.**

1. The plaintiff in O.S.No. 32/1986 in the Court of the Munsiff, Hunsur is the appellant. He filed the suit for declaration of title to the plaint schedule property and for recovery of possession from the respondents based on the strength of Exhibit P.1-registered sale deed dated 28.1.1986. The suit was contested by the

defendants on the ground that they have been in long possession of the suit land for about 30 years. The Trial Court dismissed the suit holding that the appellant failed to establish title of his vendor. The appeal filed by the present appellant in R.A.No. 31/1988 was dismissed by the Civil Judge, Hunsur.

2. The learned counsel for the appellant contended that both the Courts below having rightly found that Exhibit P.1 is proved ought to have decreed the suit when it was clearly found that the respondent have not established their right to the suit land. He further contends that the Appellate Court failed to consider the oral evidence and the Judgment is vitiated for that reason.

3. The learned Judge observed that it is not necessary to go into the discussion of oral evidence. A perusal of the Judgment of the Appellate Court would reveal that the learned Judge has not looked into the oral evidence and has completely ignored the same. It is to be noted that an Appellate Court sitting in first appeal has to go into the evidence, both oral and documentary and arrive at conclusions based on appreciation of evidence. If any part of the evidence is overlooked or ignored by the Appellate Court, the Judgment cannot be allowed to stand. May be that the Appellate Court need not discuss the evidence in detail while affirming the Judgment of the trial Court, but the Appellate Court has a duty to go into the evidence and to come to its own conclusions based on the evidence.

4. The judgment of the learned Judge has therefore to be set aside and it is accordingly set aside. The appeal is remanded to the Court of the Civil Judge, Hunsur for hearing afresh in the light of the observations contained in the Judgment. The learned Judge will dispose the appeal within six months from the date of receipt of this order. Appeal allowed. No costs.