

(2013) 07 KAR CK 0060

In the Karnataka High Court

Case No : Regular Second Appeal No. 210 of 2013 (INJ)

Smt. Shanthamma, C.V. Vishwanatha and C.V. Vijayakumar APPELLANT

Vs

Sri. Manjunatha, Sri. Nagesha and Sri. Lok Reddy RESPONDENT

Date of Decision : 29-07-2013

Acts Referred:

Citation : (2013) 07 KAR CK 0060

Hon'ble Judges : S.N. Satyanarayana, J

Bench : Single Bench

Advocate : P.N. Nanja Reddy, for the Appellant;

Final Decision : Dismissed

Judgement

S.N. Satyanarayana, J.—Plaintiffs in O.S. No. 83/2005 on the file of the Additional Civil Judge (Jr. Dn.), Hoskote, have come up in this second appeal impugning the concurrent findings of both the Courts below in dismissing their suit for injunction so far as land bearing Sy. No. 274/1 (Old No. 142) measuring 2 acres 38 guntas of Devanagudhi Village, Anugondanahalli Hobli, Hoskote Taluk, Bangalore Rural District. The said suit is filed against the defendants who are admittedly owner of adjacent land bearing Sy. No. 5 situated at Medahalli Village, though it is stated to be situated adjacent to the land belonging to different villages. In the said suit, plaintiffs, who have filed the suit for permanent injunction, failed to establish the boundaries and possession so far as suit schedule property, which is said to have purchased by them under registered Sale Deed from one Seetharamaiah at Ex. P-1. It is also contended that the said Seetharamaiah purchased the said land from one Venkataramaiah under Sale Deed vide Ex. P-2. It is also contended that Venkataramaiah is not the owner of suit schedule property bearing Sy. No. 274/1, but he is the owner of adjacent land bearing Sy. No. 274/2 and that the said land is converted land and that there is interference by the defendants into the property of plaintiffs.

2. In the proceedings before the Trial Court, based on the evidence, led on issues

framed therein, the Trial Court has held that the plaintiffs have failed to establish their possession over suit schedule property with reference to boundaries shown in the Sale Deed. In that view of the matter, issues framed regarding possession is answered in the negative and also regarding cause of action for initiating suit for permanent injunction is also answered in the negative, consequently suit of the plaintiffs is dismissed. As against this, an appeal is filed in R.A. No. 217/2012.

3. The Lower Appellate Court on re-appreciation of pleadings, oral and documentary evidence and finding of the Trial Court has reiterated the same holding that the plaintiffs have failed to establish interference by defendants No. 1 to 3 so far as suit schedule property is concerned. In the light of finding on facts by both the Courts below regarding interference by defendants into Sy. No. 274/1 and plaintiffs having failed to establish interference to their possession with reference to boundary, finding of both the Courts below on fact cannot be assailed in this second appeal inasmuch as no grounds are made out to consider admission of this second appeal. In that view of the matter, this second appeal is dismissed. Consequently, the Judgment and Decree passed by both the Courts below are hereby confirmed.