

(2025) 08 SC CK 0193

In the Supreme Court Of India

Case No : Civil Appeal Nos. 8544, 8545 Of 2024 And Contempt Petition (Civil)
No. 657 Of 2024

Sri R Raghu

APPELLANT

Vs

Sri G M Krishna & Anr

RESPONDENT

Date of Decision : 25-08-2025

Acts Referred:

Code of Civil Procedure, 1908 — Section 47, Order 21 Rule 54, Order 21 Rule 90State Financial Corporation Act, 1951 — Section 31, 32(8)Limitation Act, 1963 — Section 5Karnataka Land Reforms Act, 1961 — Section 79A, 79B, 79C

Citation : (2025) 08 SC CK 0193

Hon'ble Judges : Vikram Nath, J;Prasanna B. Varale, J

Bench : Division Bench

Advocate : Gopal Sankaranarayan, Sonakshi Malhan, Sajal Jain, Aditi Gupta, Trisha C, Sonakshi Malhan, Siddharth Bhatnagar, Nikhil M Sakhardande, Ashish Venugopal, Nipun Katyal, Shubhra Swami, Nadeem Afroz, Nishchay Johri, Dhananjay Kumar, Aditya Sidhra, Meghraj Singh, Shashank Shekhar, Gopal Sankaranarayan, Sajal Jain, Aditi Gupta, Trisha C, Sonakshi Malhan, Siddharth Bhatnagar, Nikhil M Sakhardande, Ashish Venugopal, Nipun Katyal, Nadeem Afroz, Shubhra Swami, Nishchay Johri, Dhananjay Kumar, Aditya Sidhra, Meghraj Singh, Shashank Shekhar, Kiran Suri, S.J. Amith, Vidushi Garg, Dr. (Mrs.) Vipin Gupta

Final Decision : Dismissed

Judgement

Vikram Nath, J

1. The present appeals arise from the impugned order dated 17.08.2023, passed by the High Court of Karnataka in C.R.P. No. 539/2015. The petitioner before the High Court was R. Raghu, while the respondents were G.M. Krishna and Karnataka State Financial Corporation 'KSFC'. Before this Court, appeals have been filed by both R. Raghu and G.M. Krishna, along with a contempt petition filed by G.M. Krishna. R. Raghu has filed Civil Appeal No. 8544 of 2024 whereas G.M. Krishna has filed Civil Appeal No.8545 of 2024. The

contempt petition has been heard alongside the appeals. For convenience, the parties will be referred to based on their positions in Civil Appeal No. 8544 of 2024 i.e. R. Raghu as appellant and G.M. Krishna as respondent.

2. The facts giving rise to the dispute are that the respondent was the Managing Director of Hoysala Thermo Farmers Pvt. Ltd. 'the Company' that had borrowed money from respondent no.2 KFSC, with the respondent acting as a guarantor. Due to defaults in repayment, KSFC initiated recovery proceedings before the Principal District Judge, Rural District, Bangalore and was granted a decree for Rs. 2,61,28,017.57paise against the Company in Misc. No. 52/1996 vide judgment and decree dated 15.11.1999.

2.1 Subsequently, KSFC filed Execution Petition No. 33/2000 before the Principal District Judge, Rural District, Bangalore, to enforce the decree in Misc. No. 52/1996. As part of this process, agricultural land measuring 5.5 acres in Sy. No. 67 of Agara Village, belonging to the respondent, was put to auction. On 10.04.2000, KSFC filed an application under Order XXI Rule 54 of the Code of Civil Procedure, 1908 'CPC' to restrain the respondent from encumbering the property and also to attach it. The Executing Court allowed the application and directed the attachment of the land. However, when the Court bailiff and a KSFC official attempted to identify the property, they were unsuccessful, leading to the return of the attachment warrant.

2.2 KSFC then filed an application on 01.07.2000 under Section 32(8) of the State Financial Corporation Act, 1951 'The 1951 Act', to appoint a Cadastral Surveyor to demarcate the land. This application remained pending before the Executing Court.

2.3 Meanwhile, the Executing Court ordered the sale of Sy. No. 67. A sale on the spot was conducted, where the appellant placed the highest bid of Rs. 15,50,000/-. The Court, however, deemed this amount to be inadequate given the land's potential and conducted a Court auction on 19.04.2003. The appellant was the sole bidder and increased his bid by Rs. 3,00,000/-, bringing the final price to Rs. 18,50,000/- which was accepted. The appellant subsequently deposited this amount.

2.4 Ved Vignam Maha Vidya Peeth (VVMP), a Trust, filed an application for the issuance of a sale certificate in the execution petition. The application was sworn by the appellant, as a Trustee, claiming that the Trust had purchased the land. The auction was confirmed on 27.08.2005, and a sale certificate was issued in the appellant's favour as a Trustee of VVMP on 09.09.2005.

1st Set of litigation:

2.5 The respondent then filed an application being I.A. No. IV under Order XXI Rule 90 CPC, read with Section 47 thereof, seeking to set aside the sale. He contended that the appellant had participated in the auction as a Trustee rather than an individual agriculturist, which violated the Karnataka Land Reforms Act,

1961 'The 1961 Act'. The Executing Court dismissed the said application on 16.01.2006 on the ground of delay. The operative part of the aforesaid order as contained in paragraph 18 is reproduced hereunder:

"Thus, as already discussed supra, as I.A. No.IV is barred by limitation, the value of the property was made as it stood as on the date of auction, namely on 19.4.2003, as the auction purchaser is an individual and not a trust, as the sale deed is also issued in favour of the individual, as I.A. No.IV falls within the provision of under order 90 rule 3 of CPC and the explanation there under, as the amount is deposited within time; as the property to an extent of 1 acre 24 guntas never vested with the Government and even if vested, the forum or seeking its remedy to the Government is not before this executing court and as the auction purchaser has made out his right to the farm house situate in the land purchased by him, I.A. No. IV and VIII are liable to be dismissed, while I.A. No. VII is entitled to be allowed."

2.6 The above decision was later upheld by the High Court in MFA No. 7981/2006 vide order dated 18.04.2007. The High Court's findings as held in paragraph 21 is as follows:

"The KSFC and the JDR have filed Writ Petitions challenging the validity of the Court auction in favour of the auction purchaser. The JDR had also filed an application under Order XXI 1 Rule 90 of CPC to set aside the sale. The said application is filed almost two years three months after the Court sale. Obviously, the application is not filed within the limitation period of sixty days. The JDR explains that he was out of India and hence, he could not file the application in time. The provisions of Section 5 of the Limitation Act does not apply to the proceedings under Order XXI. Therefore, whether or not the JDR had sufficient cause, the application filed for setting aside the sale is barred by time and cannot be entertained."

2.7 Respondent's SLP (C) Nos. 15832-15834/2007 before this Court was dismissed on 14.09.2007 in limine.

2nd Set of litigation:

2.8 The respondent who owned adjacent survey numbers (70/1st Block, 71/2A, and 179 in Agara Village), commissioned a survey, on the ground that the boundaries mentioned in the sale certificate issued by the Executing Court comprised of not only Sy.No.67 that was sold in execution but also other survey numbers namely Sy.No.71/2A, 179 that were not sold in the execution.

2.9 Respondent executed a gift deed dated 28.01.2006 in favour of his wife Smt. Arathi Krishna transferring the title of this aforesaid adjacent land. The Tahsildar thereafter issued a notice for carrying out a survey of the property on 13.02.2006.

2.10 The appellant challenged this notice in W.P. No. 2173/2006. Additionally, on 22.05.2006, he filed O.S. No. 374/2005 (later renumbered as O.S. No.

1414/2006) seeking a declaration that the Gift Deed in favour of respondent's wife was null and void.

2.11 The High Court, vide order dated 09.04.2007, quashed the survey notice, holding that the appellant had legally acquired the land through a Court auction. However, the survey of other survey numbers remained open. The operative part of the order as contained in paragraph 20 is reproduced hereunder:

"Considering the facts and circumstances of the case and the decisions referred to by the counsel for the petitioner, which aptly applicable to the facts and circumstances of the case and therefore the writ petition is liable to be allowed and the Annexure G notice issued by the Taluka surveyor is liable to be quashed."

2.12 Respondent's Writ Appeals (Nos. 1025/2007 and 3763/2007) challenging the above order were dismissed by the Division Bench, vide order dated 02.11.2012, which held that the survey notice of all properties is illegal as the adjacent property has been gifted by respondent to his wife and as he has no claim over auctioned property i.e. Sy.No.67. The relevant portion of the order as contained in paragraph 7 is reproduced hereunder:

"From the aforesaid material on record it is clear that the land bearing Sy.No.67, 70/1, 70/2 and 179 are all surveyed. An extent of 5 acres 20 guntas in Sy.No.67 is purchased by the petitioner in Court auction with specific boundaries and he has been put in possession. In so far as other survey numbers are concerned, the material on record-shows that 5th respondent has executed gift deed dated 28.01.2006 in favour of Arati Krishna, bequeathing the land in Sy.No.70, 71/2 and 179 which was duly registered on 14.02.2006. Therefore, he has lost title to the said property. Therefore, prima facie, the 5th respondent has no title to-the property. Assuming that he has retained some property, his request should be to bifurcate the property which are purchased or property which he has alienated. That is not the request made in the application. He has requested for survey of all the properties, as if no survey is conducted so far. Such a request for the survey is not permissible. Therefore the learned Single Judge was justified in setting aside the said survey. If the 5th respondent accepts the purchase of the property by the petitioner, accepts the gift in favour of Arati Krishna, he must produce the certified copies of the said documents and then state, out of the property which properly he has retained and then only he can seek for survey for the purpose of bifurcating the property and giving separate survey number to the property which he has retained or to the property which he has alienated. If such a request is made, then the authorities will conduct survey in accordance with law. The learned Counsel appearing for the appellant submits that in so far as Sy.No.67 measuring 5 acres 20 guntas is concerned, which is the subject matter of Court auction in favour of petitioner is concerned, they have no claim whatsoever. Their claim is in respect of other survey numbers."

3rd Set of litigation:

2.13 Nevertheless, the Tahsildar issued another survey notice on 01.10.2014 at

the behest of respondent's wife, prompting the appellant to challenge it in W.P. No. 47527/2014. The High Court, vide interim order dated 09.10.2014, held that the survey could proceed for Sy. No. 71/2A but should not affect Sy. No. 67. The appellant further challenged this in Writ Appeal No. 2700/2014, where the Division Bench reaffirmed that the appellant's ownership and possession over Sy. No. 67 should not be disturbed.

4th Set of litigation:

2.14 Despite this, a subsequent survey revealed that the boundaries in the sale certificate encompassed Sy. No. 71/2A in addition to Sy. No. 67. The Tahsildar, on 10.11.2014, ordered the appellant to return 4 acres and 37 gunthas of land to respondent and his wife within three days.

2.15 The appellant challenged these developments by filing W.P. No. 54468/2014 against respondent and his wife, contesting the survey report, and further filed W.P. No. 52691/2014 against the Tahsildar's order. The High Court, vide common order dated 03.02.2015, allowed the writ petitions and set aside impugned survey report and order passed by the Tehsildar. The respondents were given liberty to approach the Civil Court. The relevant portion of the aforesaid order as contained in paragraph 35 is reproduced hereunder:

"In the result and for the foregoing reasons, these writ petitions are allowed. The impugned survey report and the orders passed by Tahsildar are set aside. Liberty is reserved to the respondents to seek redressal of their grievance by approaching the Civil Court and in accordance with law."

2.16 Respondent and his wife filed W.A. Nos. 1094/2015 and 1096/2015 which were dismissed by the Division Bench vide judgment dated 25.02.2021. It would be pertinent to mention that the State of Karnataka also filed an appeal bearing Writ Appeal No.2175 of 2015 assailing the order of the Single Judge, which was also dismissed by the same order dated 25.02.2021. The Division Bench examined the facts relating to previous litigation inter se parties and other related parties in great detail and passed strictures against the private parties as also the officials of the revenue department. Relevant paragraphs of the aforesaid judgment are reproduced hereunder: -

"25. The dispute involved in the writ petitions as well as in these appeals is between two individuals. The statutory authority has passed an order under the provisions of the Act, 1964. We are rather surprised to notice that the State Government has filed an appeal to justify the order passed by the Tahsildar. The contention that the order of the Tahsildar dated 10.11.2014 is well within the jurisdiction, cannot be accepted. In any case, the dispute is between two individuals. The factum of filing of an application to the said authorities fortifies a conclusion that the revenue authorities have acted with due haste and the instant case is a case of colorable exercise of statutory power and therefore, the learned Single Judge has rightly quashed the order which has been passed by the Tahsildar. The present case reflects a very sorry state of affairs in which

appellant No.2 after losing from Supreme Court has again re-agitated the matter.

26. In the present case, the Corporation had initiated proceedings for recovery of the amount under Section 31 of the State Financial Corporation Act. The auction was held on 19.4.2003, sale certificate was issued on 9.9.2005, it was affirmed by the Executing Court on 27.8.2005 and appellant No.2 was unsuccessful up to the Hon'ble Supreme Court. The Trustee was placed in possession of the property in question, survey was carried out at the behest of the Trustee and after losing the battle up to the Hon'ble Supreme Court, mischievously a new route was adopted by appellant No.2 by executing the gift deed on 28.1.2006 in favour of his wife to keep the lis alive. The gift deed was registered on 14.2.2006 and now it is the wife who has stepped into the shoes of appellant No.2. Such type of practice has to be deprecated. A person who has bought the property through an open auction in the year 2003 is still being subjected to litigation for no rhyme or reason and all kinds of legal jugglery have taken place in the present case to ensure that the Trustee is not able to make use of the property which he has purchased by way of open auction. The appellant No.2 in the garb of gift-deed cannot be permitted to set at naught the rights acquired by the Trustee in an auction, validity of which has been upheld by the Hon'ble Supreme Court.

27. For the aforesaid reasons, this Court is of the considered opinion that the writ appeals are devoid of merits and do not have substance and deserves to be dismissed. It is needless to state that the Trustee shall be entitled to proceed with the use of the land in question in accordance with law.

Writ appeals are dismissed. No orders as to costs.

Pending applications, if any, stand dismissed."

5th Set of litigation:

2.17 On 05.12.2014, respondent filed Misc. Petition No. 157/2014 in Execution Case No. 33/2000 under Section 47 CPC, seeking a declaration that the auction sale and sale certificate were null and void, on the ground that the appellant had misrepresented himself as an agriculturist while purchasing the property for a Trust, which was legally prohibited from holding agricultural land. It was contended that, that the actual purchase was not made by the appellant but by the Trust and fraud has been played on the Court by propping up the appellant to purchase at the Court auction. The Trust was said to be prohibited from holding property in view of Sections 79A and 79C of the 1961 Act. Further, it was contended that the records in the execution petition disclosed that the property to be auctioned was never identified and therefore, sale of such unidentified property was illegal. The appellant filed his statement of objections wherein he stated that the property was purchased by him as a Trustee.

2.18 The Trial Court, in its judgment dated 28.09.2015, ruled in respondent's favour, setting aside the auction sale and declaring it null and void. The Court found that the appellant had acted fraudulently by adopting inconsistent stances

regarding his role in the purchase. The Trial Court also noted that Sections 79A, 79B and 79C of the 1961 Act bar a Trust from acquiring agricultural land. The operative part of the judgement as contained in paragraph 41 is as follows:

"Therefore, considering all. these facts and circumstances of the case, I am of the clear opinion that the petitioner has made out valid grounds to set aside the sale declared on 19/04/2003 and sale certificate issued on 09/09/2005 in Ex.No.33/2000. It is necessary to conduct fresh auction proceedings KSFC has to recover the due amount against the Judgment Debtor. With the above discussion, I answer the Point No. 1 held in the affirmative and proceed to pass the following: The petition filed by the petitioner under Section 47 of CPC is hereby allowed."

2.19 The appellant challenged the aforesaid order dated 28.09.2015 before the High Court by way of C.R.P. No. 539/2015.

2.20 Notably, on 30.12.2020, Sections 79A, 79B, and 79C of the 1961 Act were retrospectively repealed with effect from 01.03.1974.

2.21 In the impugned judgment, the High Court partially allowed the appellant's petition, affirming the finding of fraud against the appellant but modifying the Trial Court's ruling to the extent of the setting aside of the auction sale dated 19.04.2003 and the consequent confirmation of sale and the sale certificate dated 09.09.2005 in respect of Sy.No.67. The High Court has upheld the auction sale of Sy. No. 67 but directed the appellant to pay an additional Rs. 25,00,000/- (Rupees Twenty five lakhs only) per acre to respondent. The District Court was also directed to once again survey the Sy. No. 67, rectifying its boundaries, if necessary, while maintaining status quo until then. The operative part of the impugned judgment is as follows:

"The Petition is allowed in part. The impugned order dated 28.09.2015 passed by the I Additional District Judge, Bengaluru Rural District, Bengaluru in Misc.No.157 /2014 in so far as it relates to setting aside the auction sale dated 19.04.2003 and the consequent confirmation of sale and the sale certificate dated 09.09.2005 in respect of Sy.No.67 of Agara village, Kengeri Hobli, Bengaluru South Taluk is set aside. However, the Petitioner shall pay a further sum of Rs.25,00,000-00 (Rupees Twenty Five Lakh only) per acre to the respondent No.1 as additional sale price within three months from the date of receipt of a copy of this Order. The District Court is directed to conduct a survey of the auctioned property measuring 5 acres 20 guntas in Sy.No.67 of Agara village, Kengeri Hobli, Bengaluru South Taluk and fix its boundaries and thereupon take steps to rectify the boundaries mentioned in the sale certificate dated 09.09.2025, if necessary. Until then, the parties shall maintain status quo."

2.22 Aggrieved by this decision, both parties have approached this Court.

3. The appellant has preferred Civil Appeal No.8544 of 2024 aggrieved by the two directions given by the High Court in the impugned order relating to

additional payment of Rs.25 lakhs per acre to the respondent as additional sale price and secondly, the direction to the District Court to conduct the survey of the auction property measuring 5 acres 20 guntas in Sy.No.67 and to fix its boundaries.

4. The respondent and his wife Arti Krishna have preferred Civil Appeal No.8545 of 2004 aggrieved by the first part of the impugned order of the High Court whereby, the auction sale dated 19.04.2003, its confirmation and the sale certificate dated 09.09.2005 in respect of Sy. No.67 has been confirmed in favour of the appellant.

5. Contempt Petition No.657 of 2024 was filed by respondent alleging that the appellant was proceeding to raise constructions despite interim injunction granted by this Court.

6. We have heard the learned Senior Counsels/Counsels appearing for the parties at length and have also examined the record with due care.

7. At the outset, we record our appreciation that the learned Single Judge of the High Court has carefully considered the long-drawn litigation, involving several rounds inter se the parties, as well as the various contentions raised and the conduct of the parties throughout. The learned Single Judge has rendered a just and equitable judgment by taking into account both the mitigating and aggravating aspects of their conduct. We find that the learned Single Judge has dealt with each and every argument methodically and in the true spirit of law and justice.

8. In view of the above, we do not consider it necessary to deal with the individual submissions in detail. The High Court has already examined these very submissions at length, as noted hereinbefore, and we find ourselves in agreement with its findings. Our reasons for concurring with the same are recorded in the paragraphs that follow.

9. The fact remains that the appellant, auction purchaser had purchased Sy.No.67 comprising of three parts with total area of 5 acres and 20 guntas (5-1/2 acres). Once the area had been specified of the three parts being (a) 1 acre 24 guntas (b) 36 guntas and (c) 3 acres, totalling 5 acres and 20 guntas (5-1/2 acres), the appellant would not be entitled to hold possession of any more area than what was purchased in the auction and as mentioned in the sale certificate.

10. Further, the issue relating to the identification and measurement had been raised in the very beginning and there are reports of the Bailiff, who had gone to deliver the possession stating that there was difficulty in identifying the same. In the garb of boundaries being mentioned, the appellant auction purchaser cannot claim any more area than what was put up for auction and thereafter purchased by him. Therefore, we do not find any justification to interfere with the direction of the High Court to get the survey carried out for specific measurements of the

purchased property.

11. Insofar as the direction for payment of Rs.25 lakhs per acre as additional sale consideration to the respondent is concerned, we do not wish to interfere with the same, considering the conduct of the appellant, whose dual role casts doubt on the entire proceedings. However, since the matter had earlier travelled up to this Court, we are not inclined to disturb the auction or the sale certificate. At the same time, we are of the view that the additional amount directed by the High Court is both well-deserved and justified.

12. The respondent's claim in his appeal for setting aside the auction proceedings and the sale certificate has been rightly rejected by the High Court in view of his conduct. Firstly, he failed to take any steps to challenge the sale for more than two years. In any case, the bar contained in Sections 79A, 79B and 79C of the 1961 Act stood repealed in 2020 with retrospective effect from 01.03.1974, and therefore the objection relating to misrepresentation by the appellant would lose its significance. Further, the application filed under Order 21 Rule 90 read with Rule 47 CPC, wherein all such objections had been raised as far back as 2002, was rejected up to this Court. Hence, commencing a second round of objections on the pretext that the appellant had been shifting his stand as to who is the purchaser which is an issue already raised in the earlier objections, could not have been permitted and is clearly barred in law.

13. For the aforesaid reasons, we agree with the direction of the High Court to confirm the auction sale proceedings.

14. For all the reasons recorded above, both the civil appeals lack merit and are dismissed. Consequently, the contempt proceedings are also closed.