

IN THE HIGH COURT OF KARNATAKA AT
BANGALORE

DATED THIS THE 24TH DAY OF MAY 2012

BEFORE

THE HON'BLE MR. JUSTICE ANAND BYRAREDDY

REGULAR FIRST APPEAL No.831 OF 2009

BETWEEN:

Janab M.I.A. Parveez,
Aged 48 years,
Son of Late Captain Mohammed
Allemulla,
Resident of Northern portion of
the ground floor,
No.1298/14, Housing Board Colony,
Govindaraj Nagar,
Magadi Road Extension,
Bangalore – 560 079.

...APPELLANT

(By Shri. K.C.Shantha Kumar, Advocate)

AND:

1. Janab M.S.A. Javeed,
Aged 50 years,
Son of Late Captain Mohammed
Allemulla,
Resident of First Floor,
No.1298/14, Housing Board Colony,
Govindaraj Nagar,

Magadi Road Extension,
Bangalore – 560 079.

2. Janab M.L.A. Saleem,
Aged 45 years,
Son of Late Captain
Mohammed Allemulla,
Resident of Southern portion of
The ground floor,
No.1298/14,
Housing Board Colony,
Govindaraj Nagar,
Magadi Road Extension,
Bangalore – 560 079.

...RESPONDENTS

(By Shri. Rajashekar .K. Advocate for Respondent Nos.1 and
2)

This Regular First Appeal is filed under Section 96 of Code of Civil Procedure, 1908, against the judgment and decree dated 30.06.2009 passed in O.S.No.7263/1997 on the file of the XVII Additional City Civil Judge, Bangalore, dismissing the suit for permanent injunction and mandatory injunction.

This Appeal coming on for Orders, this day, the court delivered the following:

JUDGMENT

The Counsel and the parties are present before the Court.

The matter having been referred to mediation, the parties have

arrived at a settlement and the same is drawn-up as a memorandum of agreement, which reads as follows:-

“ MEMORANDUM OF AGREEMENT UNDER SECTION 89 OF THE CODE OF CIVIL PROCEDURE READ WITH RULES 24 AND 25 OF THE KARNATAKA CIVIL PROCEDURE (MEDIATION) RULES, 2005.

The parties above named beg to submit as follows:

I. The aforesaid Regular First Appeal was referred to mediation for resolving the dispute between the parties. During the course of mediation, the appellant and the respondents have resolved their dispute and have agreed to the following terms and conditions:

- (1) At the outset, both the parties state that the appellant herein was the plaintiff and the respondents herein were the defendants in the Suit filed by the appellant/plaintiff, in O.S.No.7263/1997 which was pending on the file of the XVII Additional City Civil Judge, (CCCH.No.16), Bangalore City, praying for a judgment and decree against defendants 1 and 2 for the relief of permanent injunction and for mandatory

injunction by directing the defendants to remove the obstruction and the illegal construction put up on the portions described as 'illegal obstruction' and the 'illegal constructions' in Schedule "C" and "E" respectively, among other reliefs. After hearing the parties to the case, the Hon'ble Court, by its order dated 30.06.2009, was pleased to dismiss the suit. Being aggrieved by the said judgment and decree dated 30.06.2009, the appellant/plaintiff has come up with the above Regular First Appeal. After hearing the parties to the case, the above Regular First Appeal has been referred to Bangalore Mediation Centre for resolving the dispute between the parties. During the Course of mediation, both the parties have amicably resolved all their disputes, as hereunder:

- (i) Both the parties have resolved all their dispute amicably and agree to perform/comply with the terms and conditions of the agreement entered into between them on 06.08.1989 out of Court as out of Court settlement.

- (ii) Both the parties state that, as per the agreement entered into between them on 06.08.1989, have left common passage to use the same as common passage to all the parties to the proceedings measuring 10ft. x 60ft. and all the parties agree to maintain the same on as it is basis without effecting any alteration/changes in future.
- (iii) Both the parties also state that the portico and small garage situated on the suit schedule-E property mentioned as EFGH shall be removed within a period of three months from the date of this settlement/agreement and the entire expenses towards the same shall be shared by both the parties equally.
- (iv) It is further agreed between the parties that the additional cost of the land, registration fee and other incidental charges are incurred by the first respondent herein, in obtaining the document on 03.02.2012 for and on behalf of the appellant as per the sale agreement and the appellant hereby agrees and undertakes to pay a sum of

₹1,00,000/- (Rupees One Lakh only) towards his share in four instalments of ₹25,000/- (Rupees Twenty Five Thousand only) each commencing from May, 2012, without fail. The first respondent has agreed for the same.

(v) Both the parties agree that on their own free will and volition and without any coercion, threat or undue influence have entered into this agreement / settlement and have subscribed their signatures to this agreement / settlement.

(vi) Both the parties state that this is the full and final settlement and apart from this, they do not have any other claim/s of whatsoever nature either past, present or future as against each other.

II. In view of the aforesaid agreement / settlement entered into between them, both the parties pray that the Hon'ble Court be pleased to dispose of the above Regular First Appeal in terms of the aforesaid agreement / settlement.

III. Parties will appear on 24.05.2012 before the Hon'ble High Court of Karnataka, Bangalore, for

reporting settlement and for passing Orders, in terms of the aforesaid settlement / agreement. ”

Accordingly, the appeal stands disposed of in terms of the above agreement. The judgment and decree of the court below stand modified in terms as above.

Sd/-
JUDGE

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