

IN THE HIGH COURT OF KARNATAKA AT
BANGALORE

DATED THIS THE 22ND DAY OF MARCH 2005

BEFORE

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH

MFA.NO.1184/2004

Between:

1.Byyanna,
s/o late Muniyappa,
aged about 70years,

2.Byyamma L.,
w/o Byyanna,
aged about 62 years,

both are r/at No.51,
Hosahalli, II Cross,
Vijayanagar, Bangalore-560 040.

....APPELLANT

(BY SRI V.LAKSHMINARAYANA, ADV.)

And:

1.S.Ravikumar,
s/o M. Shivanna,
aged about 40 years,
r/at no.49, 4th cross,
Binny Layout, II Stage,
Vijayanagar,
Bangalore-560040.

village, Yeshwanthapura Hobli, Bangalore North Taluk and such other orders.

2. Heard the learned Counsel for the appellants and the learned Counsel for the respondents.

3. Learned Counsel for the appellants submit that if the property falls within four acres order of status quo need not be disturbed. On the other hand, learned Counsel for the respondents submitted that if it is beyond four acres, the order of status quo shall not operate. Learned Counsel for the respondents submit that there may be a direction for early disposal since matter is of the year 2003 and passing of any order would affect the parties.

4. It appears that there is dispute in respect of identification of the property as to whether it falls within four acres regarding which GPA is executed in favour of the respondents. If it squarely falls within four acres, for which the GPA is executed

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then the appellants may not disturb them. It is the contention of the appellants that it does not fall within four acres and falls beyond four acres for which GPA has been executed. To clarify this position, authentic report is essential for which, the appropriate authority is Assistant Director of Land Records who would inspect the spot, conduct survey and submit report. That would form the basis for the lower Court to pass appropriate orders. However, in this regard it is for the parties to approach the trial Court seeking such a survey to be conducted and report ^{be} submitted. After the report is submitted the trial Court shall give a finding on the issue or else dispose of the case on merits expeditiously. However depending on the survey report, there may be an order of modification or otherwise. With the above observation, appeal is disposed of. ^{are directed} Parties to approach the trial Court by way of making an application seeking survey of the property in question and also adjacent properties if necessary to find out the identity and the locality of the property. Parties to bear their own costs.

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