

VENKAPPA GURAPPA HOSUR
v.
KASAWWA C/O. RANGAPPA KULGOD

APRIL 3, 1997

[K. RAMASWAMY AND D.P. WADHWA, JJ.]

Limitation Act, 1963 : Article 54.

Suit—Dismissal for filing after expiry of limitation period—Appellant's claim that he had entered into a sale agreement with respondent on August 9, 1959—In the meanwhile suit filed by respondent for possession of the said properties—Suit decided in favour of respondent on November 9, 1971—On August 22, 1972 appellant issued notice to respondent—Appellant filed suit on November 5, 1972—Respondent denied execution of sale agreement—Held mere issuance of notice does not stop the running of limitation period—Once the same has begun to run it runs its full course—Appellant having filed the suit after the expiry of three years from the date of knowledge of denial the suit was barred by limitation.

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2837 of 1986.

From the Judgment and Order dated 30.7.84 of the Karnataka High Court in R.S.A. No. 646 of 1976.

Manoj Kumar Mishra for A.S. Bhasme for the Appellant.

P.R. Ramasesh for the Respondent.

The following Order of the Court was delivered :

This appeal by special leave arises from the judgment of the learned Single Judge of the Karnataka High court, made on July 30, 1984 in Second Appeal No. 646 of 1976.

The appellant had filed a suit for specific performance of the sale agreement dated August 9, 1959 in respect of the land in Village Lingaur for a consideration of Rs. 10,200. It is the case of the appellant that he paid as part consideration a sum of Rs. 501 on the said date and a further sum

- A of Rs. 700 on March 4, 1960. In the meanwhile, the defendant filed suit No. 9/60 for possession of the said properties. The suit was decided in his favour on November 9, 1971. The appellant, therefore, issued notice for the first time on August 22, 1972. Thereon, the respondent denied execution of agreement. Then the appellant filed the suit on November 5, 1972.
- B Thus, according to the plaintiff the suit was filed within limitation. The respondent has denied the execution of the agreement of sale, but the courts below have found that it is one of money transaction. It is, therefore, clear from Suit No. 9/60 itself that he had asserted to be the owner of the property and the property is unencumbered property. Therefore, no one has a right to interfere with his possession. Thus, it could be seen that the
- C suit document itself was denied as early as in 1960. As a consequence, mere issuance of notice dated August 22, 1972 does not stop the running of limitation period. Once the same has began to run, it runs its full course. Therefore, the suit having been filed after the expiry of 3 years from the date of the knowledge of denial, by operation of Article 54 of the Schedule to the Limitation Act, 1963, the suit is hopelessly barred by limitation.
- D The High Court, therefore, is right in dismissing the suit in the second appeal.

The appeal is accordingly dismissed. No costs.

T.N.A.

Appeal dismissed.