[2025] 9 S.C.R. 1539 : 2025 INSC 1159

Singamasetty Bhagavath Guptha & Anr.
v.
Allam Karibasappa (D) by Lrs./Allam Doddabasappa (D) by Lrs. & Ors.

(Civil Appeal No(s). 12048-12049 of 2018)

25 September 2025

[Pamidighantam Sri Narasimha and Atul S. Chandurkar, JJ.]

Issue for Consideration

Whether in the facts and circumstances of the case, the High Court erred in holding that all the acts done by the official receiver between the declaration of the appellant's insolvency and the annulment of the adjudication of insolvency were saved u/s.37(1), Provincial Insolvency Act, 1920 and that notwithstanding the annulment of insolvency against the appellant and his mother, the sale deed executed on 11.03.1983 was valid.

Headnotes†

Provincial Insolvency Act, 1920 – s.37 – Proceedings on annulment – By way of the impugned judgment, High Court *inter alia* held that all the acts done by the official receiver between the declaration of the appellant's insolvency and the annulment of the adjudication of insolvency were saved u/s.37(1) and that, notwithstanding the annulment of insolvency against the appellant and his mother, the sale deed executed on 11.03.1983 was valid:

Held: 1.1 It is only upon a conclusion that the transactions and orders of the court and the receiver are valid and attained finality that the property shall not revert to the debtor upon annulment of adjudication u/s.37. [Para 18]

1.2 Documents in Ex.P.4, the alleged offer and Ex. P.6, the alleged acceptance were fabricated as there were significant contradictions in the said documents – The fact that the documents were fabricated was further strengthened by the failure of the Partner to produce the original correspondence of offer and acceptance despite the Notice from the official receiver for the production of the same. [Para 21]

1.3 The transaction covered by Ex.P.4 and Ex.P.6 were not protected u/s.55 of the Act, as the provision is applicable only to protect *bonafide* transaction earlier to the adjudication of insolvency – Ex.P.4 was not in existence on 08.05.1975, the date of initiation of the insolvency proceedings. [Para 21]

1.4 The deposits of Rs. 35,000/- on 19.04.1981, Rs 60,000/- on 25.05.1981, and Rs. 69,955/- on 07.02.1983 by the Respondent No. 1 as consideration for share acquisition were inconsequential as the transfer deed dated 11.03.1983 was not to survive at all. [Para 21]

1.5 For operation of s.37, there must in fact be a finality of transactions – There must be conclusion of sales, dispositions of property and/or the payments made in that regard – s.37 proceedings cannot partake the character of a civil court deciding a suit for specific performance of an agreement. [Para 22]

1.6 Transfer deed dated 11.03.1983 was executed on the basis of the order passed by the District Court on 04.01.1983 – When the said order dated 04.01.1983 is set aside and the matter is remanded back to the District Court for reconsideration in view of the subsequent annulment order dated 20.04.1996, the High Court was not justified in reversing the findings of the District Court on the ground that the transfer deed remained unchallenged – High Court committed a serious error in drawing these conclusions – It also committed a jurisdictional error in not reappreciating the evidence adduced before the trial court, which as an appellate court the High Court was bound to undertake. [Paras 23, 24]

1.7 High Court committed a serious error in reversing the findings of the District Court – If the judgment of the District Court is upheld, the appeals filed by the purchaser does not survive –Appeals filed against the judgment and order passed by the High Court in M.F.A No. 2873 of 2004 c/w M.F.A No. 2706/2004 dated 25.02.2011 are allowed and the judgement and order passed by the Additional Judge in I.A.NO. XV in I.C. No 2/75 c/w Ms. C.NO.5 /2000 dated 16.02.2004 is restored. [Paras 23, 24, 27]

Case Law Cited

Babu Ram alias Durga Prasad v. Indra Pal Singh **[1998] 3 SCR 1145 : (1998) 6 SCC 358;** *Arora Enterprises Ltd. v. Indubhushan Obhan* **[1997] 2 SCR 857 : (1997) 5 SCC 366;** *Santosh Hazari v. Purushottam Tiwari* **[2001] 1 SCR 948 : (2001) 3 SCC 179;** *Madhusudan Das v. Narayanibai* **[1983] 1 SCR 851 : (1983) 1 SCC 35;** *Sarju Pershad Ramdeo Sahu v. Jwaleshwari Pratap Narain Singh* **[1950] 1 SCR 781 : AIR 1951 SC 120 – referred to.**

Singamasetty Bhagavath Guptha & Anr. v.
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List of Acts

Provincial Insolvency Act, 1920.

List of Keywords

Section 37, Provincial Insolvency Act, 1920; Proceedings on annulment; Annulment of insolvency; Insolvency and the annulment of the adjudication of insolvency; Property shall not revert to debtor; Annulment of adjudication under Section 37, Provincial Insolvency Act, 1920; Duty of appellate court.

Case Arising From

CIVIL APPELLATE JURISDICTION: Civil Appeal No(s). 12048-12049 of 2018

From the Judgment and Order dated 25.02.2011 of the High Court of Karnataka Circuit Bench at Dharwad in MFA Nos. 2873 and 2706 of 2004

With

Civil Appeal No(s). 12050-12053 of 2018

Appearances for Parties

Advs. for the Appellants:
Basava Prabhu S. Patil, ADN Rao, Sr. Advs., Abdul Azeem Kalebudde, Annam Venkatesh, Rahul Mishra, Ms. Agrimaa Singh, Satyarth Singh.

Advs. for the Respondents:
ADN Rao, Basava Prabhu S. Patil, Sr. Advs., V. N. Raghupathy, Annam Venkatesh, Rahul Mishra, Ms. Agrimaa Singh, Satyarth Singh, Abdul Azeem Kalebudde.

Judgment / Order of the Supreme Court

Judgment

1. The present appeals assail the reversing judgment of the Karnataka High Court[1] setting aside the common order passed by the Additional

1 In Miscellaneous First Appeals M.F.A. No. 2873/2004 and M.F.A. No. 2706/2004, dated 25.02.2011.

District Judge Bellary[2] under Provincial Insolvency Act, 1920[3]. For the reasons to follow, we have allowed the appeals filed by the appellants and also dismissed the connected appeals filed by the respondents against the very same judgment of the High Court.

2. The facts relevant to the present appeals are that on 28.06.1963, a partnership in the name of M/s Gavisiddheshwara & Co. came to be constituted by late Sri Allam Karibasappa (the original applicant before the District Court) and Agadi Laxminarayana Setty, the convenor of the firm. The said firm was reconstituted with the inclusion of three more persons, namely, Singamasetty Subbarayudu (father of the present appellant), P. Govindappa Setty and T. G. Sathyanarayana Setty and a deed of partnership was entered. Sri Allam Karibasappa was a major partner in the firm, having a share of 8 anna in a rupee, and Sri Agadi Laxminarayana Setty had a share of five anna in a rupee. The remaining three partners had a share of one anna in a rupee. The firm made losses in the initial years but started to make profits in the early 1970s. It is learnt that the composition of the firm underwent some major changes in the later years, effectuated by clause 9 of the partnership agreement that included devolution of the share of a partner to other partners as a peremptory right.

3. On 31.03.1974, Sri Sathyanarayana Setty retired from the firm, and his share was purchased by Allam Karibasappa for a consideration of Rs. 95,000/- (book value), increasing the latter's share to 9 annas in a rupee. The firm was accordingly reconstituted on 01.04.1974. Soon thereafter, on 20.02.1975, appellant's father Sri Singamasetty Subbarayudu passed away, and appellant was inducted into the partnership on 21.02.1975. It is learnt that at the time of his death, Sri Singamasetty Subbarayudu owed a large sum of money to various creditors. The appellant, in view of his family's indebtedness at the relevant time, is alleged to have sent a letter dated 20.03.1975 to the convenor of the firm offering to sell his share of one anna in a rupee to any of the willing partners.

4. Late Shri Allam Karibasappa, i.e., the Respondent No. 1 (through LRs), has made the case throughout that he intended to purchase the appellant's share. Since other partners were not inclined to

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2 In IA No. XV IN I.C. No. 2/75 Clubbed with Ms. C. No. 5/2000, dated 16.02.2004.

3 Hereinafter referred to as 'the Act'.

purchase appellant's share, Respondent No. 1 accepted appellant's offer and endorsed his acceptance vide letter dated 25.03.1975. On 25.03.1975, Respondent No. 1 addressed a letter to the appellant and mentioned that the consideration for the appellant's share in the firm would be a sum of about Rs 95,000/- and called upon the appellant to receive the said money. It is the case of the Respondent No. 1 that, in view of the communications between the parties, the contract had stood concluded, except for a formal deed for transfer.

5. While the parties were in the process of deliberations, some of the creditors of the appellants filed insolvency proceedings in I.C. No. 2/75 and I.C. No. 3/75 before the District Court at Bellary under the Act, in which the appellant and his mother were arrayed as parties. On 25.06.1977, the District Court declared appellant and his mother insolvent and appointed a receiver to take over appellant's assets.

6. On 09.08.1977, the original applicant, Sri Karibasappa, filed I.A. No. XV in I.C. No. 2/75 under Sections 4 and 5 of the Act, before the District Court seeking direction to the receiver to accept Rs. 95,000/- and transfer the one anna share of late Sri Singamasetty Subbarayudu in his favour and contended that there was a concluded contract prior to adjudication of insolvency and that he was entitled to share of the appellant. The said application I.A. No. XV was allowed by the District Court on 04.01.1983, directing the official receiver to execute a transfer deed in favour of Sri Allam Karibasappa. In terms of the District Court, the official receiver transferred the share of the appellant and the appellant's mother, and the transfer came to be registered on 11.03.1983.

7. Appellants challenged the order dated 04.01.1983 before the High Court vide M.F.A. No. 1048/1983. The High Court on 10.06.1983 passed an order staying the operation of the District Court order dated 04.01.1983.

8. However, subsequently, during the pendency of the proceedings before the High Court in M.F.A. No.1048/1983, the appellants preferred an application under Section 35 of the Act, before the District Court in I.C. No. 2/1975 on the ground that the appellants had discharged the liabilities towards most of the creditors. The said application came to be allowed on 20.04.1996, and the insolvency process as a whole, which was initiated pursuant to the order dated 25.06.1977, was annulled. The District Court also observed that the

pendency of the appeal before the High Court will not come in the way if an order of annulment is passed. The relevant portion of the said order is as follows:

> *"2. According to Section 35 of the Provincial Insolvency Act, if Court is satisfied that the amount of all the creditors is paid, it can pass order of annulment of adjudication. Here in this case, the insolvent has shown that all undisputed debt is paid to the respective creditors or to their heirs. In case of disputed claim, the amount is deposited in the Court.*
>
> *3. It is submitted that some dispute is pending before the Hon'ble High Court of Karnataka regarding one property, i.e. Nataraj Theatre, between Insolvent and some other persons. Pendency of the said case will not come in the way of passing order of annulment. Because that dispute is between insolvent and some other party. Moreover, subject to the decision of the Hon'ble High Court in respect of that property annulment order can be passed. When the insolvent has shown that he has paid the debt amount, if order of annulment is not passed, much hardship would be caused to the insolvent. Hence, in the interest of justice passing annulment order is necessary."*

9. On 13.02.1997, the appeal directed against the District Court order dated 04.01.1983 was allowed by the High Court, and as a consequence, the District Court order, as well as the transfer deed dated 11.03.1983, came to be nullified. However, the High Court remanded the matter back to the District Court for fresh adjudication. The relevant portion of the High Court order dated 13.02.1997 is as under:

> *"In as much as the order made by the learned District Judge has already been annulled without making use of the directions issued earlier by him and which were under appeal before this Court, it becomes necessary to set aside the order made by the learned District Judge and remit the matter for fresh adjudication on this aspect of the matter, if necessary. It is open to the parties to raise all contentions, including the question as to whether an application of this nature is maintainable or not.*
>
> *Appeal shall stand disposed of accordingly."*

10. On remand, appellant and his mother preferred an application Ms. C. No. 5/2000 under Section 151 of the Code of Civil Procedure, 1908 seeking dismissal of the I.A. No. XV filed by Sri Karibasappa and sought cancellation of the sale deed executed by the official receiver. The District Court heard both sides and by its judgment dated 16.02.2004 dismissed I.A. No. XV with costs and allowed the application - Ms. C. No. 5/2000 filed under Sections 144 and 94 read with Section 151 of the Code of Civil Procedure with costs. The District Court thus ordered the official receiver to execute a registered instrument after cancelling the transfer deed dated 11.03.1983 within three months from the date of the order and also granting liberty to the appellants to get such a registered deed through a court Commissioner, in the event the office of the official receiver was lying vacant. The District Court also ordered that the expense for such registration would be made from deposits made earlier to the District Court, and the appellant's family would be entitled to receive the balance amount. The relevant excerpt from the District Court judgement is as under:

> *"47. Before parting this court is bound to assign reasons for imperative need of an instrument cancelling the said deed of transfer dated 11.03.1983. It cannot be disputed that through this transfer deed dated 11.03.1983, the official receiver being Respondent No.1 transferred one anna share of the then insolvent Singmasetty Bhagawath Guptha being Respondent No.3, in the said partnership firm. Under Ex.P.4 being the got up document dated 20.03.1975, the Respondent No.3 was stated as· having offered to the remaining partners of the firm to transfer one anna share of his father. Since Ex.P.4 is unregistered document and as it has already been declared as got up document no further action is essential on this document. But the same cannot be the reasons in regard to the said transfer deed dated 11.03.1983 which is a registered instrument. If it is not cancelled through a necessary instrument, it would create unwarranted confusion and consequences. And at this juncture, it cannot be forgotten that the Respondent No.3 who was inducted as a partner under Ex.P.2 was made to discontinue because of the insolvency proceedings. Now that adjudicated insolvency has been annulled the legal*

position of this Respondent No.3 as a partner in the said firm having a share of one anna is bound to be restored."

11. Aggrieved, the respondents preferred appeals before the High Court. During the pendency of the appeals, appellants also made an application seeking direction to Respondent No. 1 to furnish accounts from the date of transfer till the date of disposal. The application was allowed by the Division Bench of the High Court on 21.11.2005 and the respondents were directed to deposit a sum of Rs. 50,61,000/- being the share of the appellant and also to furnish the accounts, subject to the final result in the appeals. The High Court's interim direction was challenged before this Court in SLP (C) No. 3604 of 2006, which came to be dismissed on 05.05.2011.

12. Finally, by the order impugned before us the High Court allowed the appeals of the respondents. The High Court held that all the acts done by the official receiver between the declaration of the appellant's insolvency and the annulment of the adjudication of insolvency were saved under Section 37(1) of the Act. For the conclusion, the High Court placed reliance on the judgements of this Court in *Babu Ram alias Durga Prasad v. Indra Pal Singh*[4] and *Arora Enterprises Ltd. v. Indubhushan Obhan*.[5] On the basis of these precedents, the High Court held that, notwithstanding the annulment of insolvency against the appellant and his mother, the sale deed executed on 11.03.1983 was valid. The relevant portion of the impugned order is as under:

"20. (…) When the principles laid down by the Hon'ble Supreme Court in the above referred cases are applied to the above said undisputed facts of the case, it is clear that the order of the learned District Judge dated 20.04.1996 annulling his earlier order dated 25.06.1977 adjudicating Singamasetty Bhagavath Gupta and Singamasetty Venkataramaiah and Son as insolvents and the order passed by this Court in M.F.A. No.1048/1983, wherein the order of the learned District Judge passed on I.A.XV dated 04.01.1983 pursuant to which, the sale deed dated 11.03.1983 was executed by the Official Receiver in favour of Allum Karibasappa, has been set aside, would not in any

4 (1998) 6 SCC 358.

5 (1997) 5 SCC 366.

way affect the sale deed dated 11.03.1983 that is executed by the Official Receiver in favour of Allum Karibasappa as the said conveyance is saved as per the principles laid down by the Hon'ble Supreme Court as referred to above. The learned District Judge has proceeded on the basis that Exs. P4 to P7 are concocted and fabricated. The said finding is based upon surmises and conjectures, as it is clear from the order passed by the Insolvency Court that after the declaration of insolvency by the District Judge, Bellary, in I.C. Nos. 2 and 3 of 1975 dated 25.06.1977, all the assets of the insolvents vested with the Official Receiver and the sale deed, which has been executed on 11.03.1983 has not been challenged nor set aside by the order of the Court and only because of the amount deposited creditors could be discharged and order of insolvency could be annulled and now it is not open to contend that sale deed is void. In view of the above said finding on the facts of the case, the decision relied upon by the learned counsel appearing for the respondents is not helpful to the present case. However, the question that is to be considered is as to whether the said sale deed would be binding in respect of the entire extent of one anna share of Singamasetty Subbarayudu in the partnership firm - M/s. Gavisiddeswara and Company."

13. However, on the question as to whether the sale deed dated 1983 can bind both appellant and his mother qua their half-anna share each in the firm, the High Court observed that the execution of the sale deed in 1983 shall bind only the appellant as there was no consent by the appellant's mother regarding sale of her shares. The relevant excerpt of the High Court judgement is as under:

"21. (…) There is no material on record to show that Singamasetty Govindamma had consented to sell her share along with Singamasetty Bhagavath Gupta in favour of partners of the Firm - M/s. Gavisiddeswara and Company. The material on record would show that Singamasetty Govindamma had filed objections by contending that she had not expressed her willingness to sell the share inherited by her. Since Singamasetty Bhagavath Gupta and Singamasetty Govindamma have succeeded to the estate

> *of Singamasetty Subbarayudu including one anna share in partnership firm - M/s. Gavisiddeshwara and Company as class I heirs in equal proportion i.e., half anna share each in the absence of any material whatsoever on record to show that Singamasetty Govindamma, the mother of Singamasetty Bhagavath Gupta had consented to sell the share of her husband in the said partnership firm in favour of the other partners, it is clear that the sale deed dated 11.03.1983 could not have been executed in favour of Allum Karibasappa in respect of the entire extent of one anna share of Singamasetty Subbarayudu of M/s. Gavisiddeshwara and Company. The sale deed dated 11.03.1983 executed by the Official Receiver in favour of Allum Karibasappa, though saved by the provisions of Section 37 of the Provincial Insolvency Act as referred to above, the same would be binding only in respect of the half anna share of Singamasetty Bhagavath Gupta…".*

14. The appellants challenge the reversal of the District Court judgment by filing the present appeals. The respondents have also preferred Special Leave Petitions assailing the findings of the High Court insofar as it entitles the appellant's mother to her half anna share. These Special Leave Petitions were admitted on 11.12.2018. We heard Mr. ADN Rao, learned Senior Advocate and Mr. Annam Venkatesh, Advocate for the appellants and Mr. Basava Prabhu S. Patil, learned Senior Advocate and Mr. Abdul Azeem Kalebudde, Advocate for the respondents.

15. At the outset, Mr. Patil took us through the mandate of Section 37 of the Act and the relevant precedents to argue that the decision of the High Court affirming the legality and validity of transfer of the appellant's share to the Respondent No. 1 by court receiver is unassailable. For this purpose, he also relied on the decision of this Court in *Babu Ram* (supra). The relevant portion of the decision is as under:

> *"35. Summarising the legal position, the position is as follows. In the case of an annulment under Section 37 read with Section 43 of the Act, where the property is not vested in any other person and no conditions are imposed by the Insolvency Court, the property and rights of the insolvent*

stand restored or reverted to him with retrospective effect from the -date of the filing of the insolvency petition and the insolvency gets wiped out altogether. All acts done by the undischarged insolvent between the date of the insolvency petition and the date of annulment get retrospectively validated. However, all sales and dispositions of property and payments duly made and all acts therefore done by the court or Receiver, will remain valid."

16. Mr Patil also relied on *Arora Enterprises* (supra), the relevant portion is as under:

"10. (…) Suffice it to say that the preponderance of judicial opinion is in favour of the view that the effect of annulling the adjudication in insolvency proceedings is to wipe out the effect of insolvency and to vest the property retrospectively in the insolvent. The consequence of annulling an order of adjudication is to wipe out altogether the insolvency and its effect. The property will revest in the insolvent retrospectively from the date of the vesting order. We hold that the law is fairly clear to the above extent. But, this does not solve the problem arising in this case. The effect of the suit (independently) filed by the appellants and the orders passed therein have to be considered. That is a distinct and different matter, which has its own existence and legal impact, unimpaired by the annulment of the insolvency. In other words, by the annulment of the insolvency and wiping out its effect retroactively, in law the suit and the judicial orders passed thereon are not wiped out, or rendered void or a nullity, automatically."

17. Before examining the consequences of annulment as contemplated under Section 37 of the Act, it is necessary to enquire whether *sales and dispositions of the property, and payments* done are duly made or not. Section 37 is reproduced herein for ready reference;

"Section 37. Proceedings on annulment.—(1) Where an adjudication is annulled, all sales and dispositions of property and payments duly made, and all acts theretofore done, by the Court or receiver, shall be valid; but, subject as aforesaid, the property of the debtor who was adjudged insolvent shall vest in such person as the Court may

> *appoint or, in default of any such appointment, shall revert to the debtor to the extent of his right or interest therein on such conditions (if any) as the Court may, by order in writing, declare.*
>
> *(2) Notice of every order annulling an adjudication shall be published in the Official Gazette and in such other manner as may be prescribed."*

18. As it is only upon a conclusion that the transactions and orders of the court and the receiver are valid and attained finality that the property shall not revert to the debtor upon annulment of adjudication under Section 37 of the Act. It is therefore necessary to examine the due conclusion of sales and dispositions, as well as the orders of the court or the receiver.

19. It is the case of the Respondent No. 1 that he is the owner of the share of the appellant by virtue of the transfer deed dated 11.03.1983 executed by the official receiver pursuant to the order of the District Court dated 04.01.1983. The said order and the transfer deed are based on the averments made by respondents in I.A. No. XV before the District Court and that in turn is the basis of the correspondence dated 20.03.1975, 22.03.1975 and 25.03.1975, by which he alleges that the offer and acceptance are complete and there is an enforceable agreement.

20. However, the District Court rejected the said application on the ground that the communications dated 20.03.1975, 22.03.1975 and 25.03.1975, leading to the transfer deed dated 11.03.1983, are not true. One of the issues framed by the learned District Court was, *"Whether the original Petitioner No.1 had been able to prove that the present Respondent No.3 Singamasetty Bhagawath Guptha did execute Ex.P.4 the deed of offer on 20.03.1975, offering to transfer share of one anna of his late father Singamasetty Subbarayadu in the said partnership firm to any one of the remaining partners on record?"*. The court answered this question in the negative after undertaking meticulous analysis of the evidence on record. The court rejected the existence of Ex. P.4 deed of offer as on the date of initiation of insolvency against the appellant and concludes as under:

> *"30(a). It is a definite contention of the original Petitioner No.1 and the then convenor of Petitioner No.2 that on*

20.03.1975 the Respondent No.3 came forward to transfer one anna share in favour of the Petitioner No.1, in as much as, the Respondent No.3 made offer vide Ex.P.4 dated 20.03.1975 and the same came to be accepted by the original Petitioner No.1 on 25.03.1975 under Ex.P.6. This much of reference sounds almost real that there ought to have been such valid offer and valid acceptance. But little probe into the matter would reveal that the contentions of the original Petitioner Nos. 1 and 2 were not only self-serving but were based on fabricated documents.

31. That such documents were fabricated came to be apprehended by none-else but the very responsible the then official receiver, in as much, as he pleaded in his main and then additional counter in regard to said documents as hereunder:-

31(a). The relevant portion of pleadings in the main counter by this official receiver at paragraph No.3(b) reads thus:-

"The Respondent called upon the 1st Petitioner to produce the alleged original correspondence dated 20.03.1975, 22.03.1975, 24.03.1975 and 25.03.1975 in support of the alleged offer and acceptance, by means of a notice dated 7th April, 1975 (with a copy of the - petitioning creditors in I. C. No. 2/75), for his inspection; but, it was not produced, though the Respondent had offered in that letter to take back the originals after comparing them with copies. Even the reminder dated 02.06.1976 (with a copy to the petitioning creditors In I. C. No. 2/75) failed to persuade him to produce the originals. He contended himself by producing only copies, stating that they were true copies. The Respondent apprehends either they were not in existence, or were incomplete. All the available evidence relating this claim - negatives its truth."

Paragraph No.6 of the additional counter reads thus:- "It is submitted that there was no offer for the sale of the share of late Singamasetty Subbarayadu by the 2nd Respondent and that there was no unconditional acceptance of the alleged offer. In law there was no offer much less any unconditional acceptance. The 1st Petitioner has made

these allegations only to suit his illegal and vexatious claim with a view to deprive the rights of the creditors of late S. Subbarayadu. Further the very fact that the documents were not produced along with the application and that they were produced after several months go to show that they were got up to suit his false claim. In any event the said documents were never in existence and they are got up for the purpose of this application."

Paragraph No.13 of the additional counter reads thus:- "The 2nd Respondent alone had no absolute rights to part with the 1/16th share. His mother was not a party to the alleged contract of sale or acceptance. Her share is vested in this Respondent."

31(b). Therefore, this Court shall have to proceed with note of caution in considering the relevant documents, the said Ex.P.4 contended offer and the said Ex.P.6 contended acceptance. Even on a cursory glance on these documents would go to show that if the contended offer is one thing, the contended acceptance is altogether different thing. There is no meeting point. Contrary when this Ex.P4 the contended deed of offer is placed in juxtaposition with the contended deed of acceptance vide Ex.P.6 the divergence emerge.

…….

32. Therefore, the earlier plea taken up by the then official receiver about inaction of the original Petitioner No.1 in not coming up with original documents vide said Exs.P.4 and P.6 had made him to doubt about the existence of these documents and apparently he did plead that they were got up documents. This Court reaffirms that apprehension of this official receiver about the fabrication of the said documents were nothing but true.

…….

37(a). (…) this Court is to repeat that Ex.P.4 was got up document, besides being detriment to legitimate interest of the Respondent No. 4 on succession to the said estate of her deceased husband to the extent of one anna share

in the said firm, therefore, on this count also, Ex.P.4 is bound to be held as invalid, presuming for a while that otherwise it is tenable. And at this juncture, this court deems it essential to refer to Ex.P.7 to come to the conclusion that as the very original Petitioner No.1 had agreed with Respondent No.3 alone who too had no exclusive title in the said share so inherited, opted of the Respondent No.3 to bring Respondent No. 4 to receive the contended amount.

38. The anomalies do not cease to exist only to the aforementioned aspects. Further they stand continued. The very Petitioners they did plead that of them the original Petitioner No.1 came to know of the offer covered by Ex.P.4 dated 20.03.1975 only on 24.03.1975 vide Ex.P.5 letter by the said convenor and he accepted the same on 25.03.1975 as covered by Ex.P.6. If it were to be so, why the original Petitioner No.1 did maintain all along through his IA No. XV that he had accepted the offer vide said endorsement in Ex.P.4 on 22.03.1975? Therefore, even with regard to the date of acceptance, contradictions mount up.

.....

39(a). Besides vide Ex.D.30, the Respondent No.3 did execute Power of Attorney in favour of the original convenor to the Petitioner No.2, among others, authorising to transfer the properties inherited by him through deceased father Singamasetty Subbarayadu which were inclusive of contended share of one anna in the said firm. Seemingly, this Ex.D.30 is being General Power of Attorney at the instance of Respondent No.3, is dated 08/09.04.1975. If Ex.P.4 were to be true the document said to be dated 20.03.1975, this Ex.D.30 ought to have been exclusive of subject covered by it and not inclusive of it.

40. Therefore, viewed from all angles, Ex.P.4 did not come into being at the instance of Respondent No.3 on contended date 20.03.1975. When so, this Court is bound to concede to the plea maintained by the Respondent No.3 that during the financial crisis he did sign on blank papers to overcome mounting pressures of the creditors of his deceased father.

41. Therefore, the transactions covered by Exs.P.4 and 6 were not at all to be protected as contemplated U/s. 55 of the Act as pressed into service by the learned counsel appearing for the Legal Representatives of the said deceased Petitioner No.1. For this provision is applicable only to protect bonafide transaction earlier to adjudication of insolvency. By going through Exs.D.3 and D.30 as on 01.09.1975 and or on 09.04.1975, the said Ex.P.4 was not at all in existence and if at all it was in existence, it was subsequent to initiation of insolvency proceedings, which commenced as far as this case is concerned on 08.05.1975. Once so Ex.P.4 would be nothing but got up document. Consequently, these Legal Representatives of the original Petitioner No.1 cannot even on any stretch of imagination think of applicability of the said provisions."

21. In brief, the District Court rejected the interlocutory application preferred by respondents in view of the following findings:

    a. Documents in Ex.P.4, the alleged offer and Ex. P.6, the alleged acceptance were fabricated as there were significant contradictions in the said documents.

    b. The fact that the documents were fabricated was further strengthened by the failure of the Partner to produce the original correspondence of offer and acceptance despite the Notice from the official receiver for the production of the same.

    c. The transaction covered by Ex.P.4 and Ex.P.6 were not protected under Section 55 of the Act, as the provision is applicable only to protect bonafide transaction earlier to the adjudication of insolvency, further it is clear that the Ex.P.4 was not in existence on 08.05.1975, the date of initiation of the insolvency proceedings.

    d. The deposits of Rs. 35,000/- on 19.04.1981, Rs 60,000/- on 25.05.1981, and Rs. 69,955/- on 07.02.1983 by the Respondent No. 1 as consideration for share acquisition were inconsequential as the transfer deed dated 11.03.1983 was not to survive at all.

22. As against the clear finding of fact, as arrived at by the District Court, the High Court proceeded on the premise that the earlier direction of the District Court dated 04.01.1983, allowing I.A. No.

XV was given effect to, and the transfer deed dated 11.03.1983 was executed. Under the assumption that the said order, as well as the sale deed, continue to subsist, the High Court came to the conclusion that the sale is legal and must be protected under Section 37 of the Act. The High Court committed an error in ignoring the fact that, by virtue of its earlier order dated 13.02.1997, the order dated 04.01.1983 allowing I.A. No. XV was set aside, and I.A. No. XV was remanded for reconsideration. As a consequence, the transfer deed dated 11.03.1983 had no legs to stand. That is how the District Court, on remand, considered the matter in detail and passed final orders on 16.02.2004, dismissing I.A. No. XV. Further, the High Court failed to analyse the findings of the Trial Court with respect to the alleged evidence under Exs.P4 to P7. In fact, there is no analysis by the High Court about Exs.P4 to P7. As indicated earlier, the High Court simply proceeded on the premise that the order dated 04.01.1983, coupled with the execution of the transfer deed having become final, the appellants are bound by the transaction. For operation of Section 37, it is fundamental that there must in fact be a finality of transactions. In other words, there must be conclusion of sales, dispositions of property and/or the payments made in that regard. Section 37 proceedings cannot partake the character of a civil court deciding a suit for specific performance of an agreement.

23. The transfer deed dated 11.03.1983 was executed on the basis of the order passed by the District Court on 04.01.1983. When the said order dated 04.01.1983 is set aside and the matter is remanded back to the District Court for reconsideration in view of the subsequent annulment order dated 20.04.1996, the High Court was not justified in reversing the findings of the District Court on the ground that the transfer deed remained unchallenged. High Court committed a serious error in drawing these conclusions.

24. Apart from the mistake, as indicated hereinabove, the High Court also committed a jurisdictional error in not reappreciating the evidence adduced before the trial court, which as an appellate court the High Court was bound to undertake. All that the High Court did to reverse the findings of facts arrived at by District Court was simply to say that, *"the learned District Judge has proceeded on the basis that Exs. P4 to P7 are concocted and fabricated. The said finding is based upon surmises and conjectures".* There is no independent reasoning

based on the evidence on record. The High Court, while reversing the order of the District Court has concluded in the following terms:

> *"When the principles laid down by the Hon'ble Supreme Court in the above referred cases are applied to the above said undisputed facts of the case, it is clear that the order of the learned District Judge dated 20.04.1996 annulling his earlier order dated 25.06.1977 adjudicating Singamasetty Bhagavath Gupta and Singamasetty Venkataramaiah and Son as Insolvents and the order passed by this Court in M.F.A. No.1048/1983, wherein the order of the learned District Judge passed on I.A.XV dated 04.01.1983 pursuant to which, the sale deed dated 11.03.1983 was executed by the Official Receiver in favour of Allum Karibasappa, has been set aside, would not in any way affect the sale deed dated 11.03.1983 that is executed by the Official Receiver in favour of Allum Karibasappa as the said conveyance is saved as per the principles laid down by the Hon'ble Supreme Court as referred to above. The learned District Judge has proceeded on the basis that Exs.P4 to P7 are concocted and fabricated. The said finding is based upon surmises and conjectures as it is clear from the order passed by the Insolvency Court that after the declaration of Insolvency by the District Judge, Bellary, in I.C. Nos.2 and 3 of 1975 dated 25.06.1977, all the assets of the insolvents vested with the Official Receiver and the sale deed, which has been executed on 11.03.1983 has not been challenged nor set aside by the order of the Court and only because of the amount deposited creditors could be discharged and order of insolvency could be annulled and now it is not open to contend that sale deed is void. In view of the above said finding on the facts of the case, the decision relied upon by the learned counsel appearing for the respondents is not helpful to the present case. However, the question that is to be considered is as to whether the said sale deed would be binding in respect of the entire extent of one anna share of Singamasetty Subbarayudu in the partnership firm M/s. Gavisiddeswara and Company."*
>
> (emphasis supplied)

25. In *Santosh Hazari* v. *Purushottam Tiwari*[6] this court highlighted the important duty that an appellate court exercises, particularly when it seeks to reverse the judgment of the Trial Court. The principles of law laid by this court are extracted for ready reference:

> *"**15.** A perusal of the judgment of the trial court shows that it has extensively dealt with the oral and documentary evidence adduced by the parties for deciding the issues on which the parties went to trial. It also found that in support of his plea of adverse possession on the disputed land, the defendant did not produce any documentary evidence while the oral evidence adduced by the defendant was conflicting in nature and hence unworthy of reliance. The first appellate court has, in a very cryptic manner, reversed the finding on question of possession and dispossession as alleged by the plaintiff as also on the question of adverse possession as pleaded by the defendant. The appellate court has jurisdiction to reverse or affirm the findings of the trial court. First appeal is a valuable right of the parties and unless restricted by law, the whole case is therein open for rehearing both on questions of fact and law. The judgment of the appellate court must, therefore, reflect its conscious application of mind and record findings supported by reasons, on all the issues arising along with the contentions put forth, and pressed by the parties for decision of the appellate court (…) While writing a judgment of reversal the appellate court must remain conscious of two principles. Firstly, the findings of fact based on conflicting evidence arrived at by the trial court must weigh with the appellate court, more so when the findings are based on oral evidence recorded by the same Presiding Judge who authors the judgment. This certainly does not mean that when an appeal lies on facts, the appellate court is not competent to reverse a finding of fact arrived at by the trial Judge. As a matter of law if the appraisal of the evidence by the trial Court suffers from a material irregularity or is based on inadmissible evidence or on conjectures and surmises, the appellate court is entitled to interfere with the finding of fact.*[7] *The*

6 (2001) 3 SCC 179.

7 See, *Madhusudan Das v. Narayanibai*, (1983) 1 SCC 35.

rule is — and it is nothing more than a rule of practice — that when there is conflict of oral evidence of the parties on any matter in issue and the decision hinges upon the credibility of witnesses, then unless there is some special feature about the evidence of a particular witness which has escaped the trial Judge's notice or there is a sufficient balance of improbability to displace his opinion as to where the credibility lie, the appellate court should not interfere with the finding of the trial Judge on a question of fact.[8] *Secondly, while reversing a finding of fact the appellate court must come into close quarters with the reasoning assigned by the trial court and then assign its own reasons for arriving at a different finding. This would satisfy the court hearing a further appeal that the first appellate court had discharged the duty expected of it."*

(emphasis supplied)

26. Having considered the matter in detail, we have no hesitation in holding that the High Court committed a serious error in reversing the findings of the District Court in its judgment. If the judgment of the District Court is upheld, the appeals filed by the purchaser does not survive.

27. We thus allow the Civil Appeal Nos. 12048-12049 of 2018 against the judgment and order passed by the High Court in M.F.A No. 2873 of 2004 c/w M.F.A No. 2706/2004 dated 25.02.2011 and restore the judgement and order passed by the Additional Judge Bellary in I.A.NO. XV in I.C. No 2/75 c/w Ms. C.NO.5 /2000 dated 16.02.2004.

28. For the same reasons, we dismiss the Civil Appeal Nos. 12050-12053 of 2018.

29. Order accordingly.

Result of the case: Appeals disposed of.

†*Headnotes prepared by:* Divya Pandey

8 See, *Sarju Pershad Ramdeo Sahu v. Jwaleshwari Pratap Narain Singh*, AIR 1951 SC 120.