



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 9TH DAY OF JULY, 2018

BEFORE

THE HON' BLE MR.JUSTICE R DEVDAS

RSA NO.573/2016 (DEC/INJ)

BETWEEN

1. SMT. M.S. ANURADHA
AGED ABOUT 63 YEARS,
W/O LATE SRI.D.K.ANJAN @
D.K.SONNE GOWDA
2. SRI.H.A. VINAY
AGED ABOUT 35 YEARS,
S/O LATE SRI.D.K.ANJAN @
D.K.SONNE GOWDA
3. SRI.H.A.VIVEK
AGED ABOUT 25 YEARS,
S/O LATE SRI.D.K.ANJAN @
D.K.SONNE GOWDA

ALL APPELLANTS ARE R/A
NO.31, 6TH CROSS, S.S.A ROAD,
HEBBAL, BANGALORE-560 024

... APPELLANTS

(BY SRI G PAPI REDDY, ADV.)

AND

1. SMT S V RAMANUJAMMA
AGED ABOUT 85 YEARS
W/O LATE SRI H.N.MUNISWAMY GOWDA
2. SMT.H.M.VINUTHA
AGED ABOUT 66 YEARS,
D/O LATE SRI.H.N.MUNISWAMY GOWDA
W/O SRI.Y.K.KALE GOWDA
3. SRI.H.M.RAVINDRA
AGED ABOUT 62 YEARS,
S/O LATE SRI.H.N.MUNISWAMY GOWDA

RESPONDENT 1, 2 &3 ARE
R/AT NO.43, JAIN TEMPLE STREET,
V.V.PURAM, BANGALORE-560 004

4. SMT.KEMPAMMA
AGED ABOUT 80 YEARS,
W/O SRI.MUNISONNAPPA
R/AT ISHTOOR HOSAHALLI
SULIBELE HOBLI,
HOSAKOTE TALUK
BANGALORE RURAL DISTRICT-562114
5. SMT. VIJAYAKUMARI
AGED ABOUT 54 YEARS,
D/O LATE SMT. NANJAMMA
W/O SRI.NARAYANASWAMY

R/AT HOSAHUDYA VILLAGE
KASABA HOBLI
CHIKKABALLAPURA TALUK
CHIKKABALLAPURA
DISTRICT-562101

6. SRI RAJENDRA
AGED ABOUT 52 YEARS,
S/O LATE SMT.NANJAMMA
BELLUTI VILLAGE,
KASABA HOBLI
SIDLAGHATTA TALUK
CHIKKABALLAPURA
DISTRICT - 562105
7. SMT.SAKAMMA
AGED ABOUT 73 YEARS,
W/O LATE SRI.RAMAKRISHNAPPA
R/AT RAJAKALLAHALLI
VEMAGAL HOBLI,
KOLAR TALUK
KOLAR DISTRICT- 563131
8. SRI.H.K.ABHINANDAN @
H.K.NANJUNDE GOWDA
AGED ABOUT 71 YEARS,
S/O LATE SRI.N.KENCHE GOWDA
R/AT NO.704, 3RD 'A' CROSS
7TH MAIN, 1ST BLOCK,
HRBR LAYOUT
KALYANANAGARA POST
BANGALORE-560 043

9. SRI.H.K.RAMACHANDRA GOWDA
AGED ABOUT 63 YEARS,
S/O LATE SRI N.KENCHE GOWDA
R/AT HINDIGANALA
NANDAGUDI HOBLI
HOSAKOTE TALUK
BANGALORE RURAL DISTRICT-562114
10. SMT.H.K.SAROJAMMA
AGED ABOUT 62 YEARS,
W/O SRI.GOVINDARAJU
R/AT NO.2/R, 100FT RING ROAD,
BANASHANKARI 3RD STAGE,
BANGALORE - 560 085
11. SMT. SUSHEELAMMA
AGED ABOUT 59 YEARS,
W/O SRI.H.K.RAMACHANDRA GOWDA
R/AT HINDIGANALA
NANDAGUDI HOBLI
HOSAKOTE TALUK
BANGALORE RURAL DISTRICT-562114
12. SRI. GOVINDA GOWDA
AGED ABOUT 49 YEARS,
S/O SRI. IPPENNA
R/AT RAJAKALLAHALLI
VEMAGAL HOBLI
KOLAR TALUK AND DISTRICT-563131
13. SMT. NEELAMMA
AGED ABOUT 47 YEARS,
D/O SRI.IPPENNA
R/AT RAJAKALLAHALLI
VEMGAL HOBLI
KOLAR TALUK AND DISTRICT-563131

14. SRI. PRAKASHA
AGED ABOUT 44 YEARS,
S/O SRI.IPPENNA
R/AT RAJAKALLAHALLI
VEMAGAL HOBLI
KOLAR TALUK AND DISTRICT-563131

... RESPONDENTS

(BY SRI G V SHASHIKUMAR, ADV. FOR
CAVEATOR/RESPONDENT NOS.1 &2)

THIS RSA FILED UNDER SEC.100 OF CPC., AGAINST
THE JUDGMENT AND DECREE DATED 19.12.2015 PASSED
IN RA NO.100/2013 ON THE FILE OF THE II ADDL.
DISTRICT AND SESSIONS JUDGE, BANGALORE RURAL
DISTRICT, BANGALORE DISMISSING THE APPEAL AND
CONFIRMING THE JUDGMENT AND DECREE DATED:
04.02.2013 PASSED IN OS/FR NO. 502/12 ON THE FILE OF
THE PRINCIPAL SENIOR CIVIL JUDGE, BENGALURU RURAL
DISTRICT, BENGALURU.

THIS APPEAL COMING ON FOR ADMISSION THIS DAY,
THE COURT DELIVERED THE FOLLOWING:

JUDGMENT

R.DEVDAS J., (ORAL):

This regular second appeal is directed against the judgments of the Trial Court in O.S.No.257/1992 dated 24.05.1999 passed by the Civil Judge (Jr.Dn.) & JMFC, Hoskote, and the First Appellate Court in R.A.No.100/2013 dated 19.12.2015 passed by the II Addl. District & Sessions Judge, Bangalore Rural District, Bangalore, which dismissed the suit filed by the appellants herein on the ground of maintainability.

2. The brief facts of the case are as follows:

O.S.No.257/1992 was filed by H.N.Muniswami Gowda, against his brother's wife and children. Defendant No.6 was the husband of appellant No.1 and father of appellant Nos.2 and 3 herein. The suit was filed for partition and separate possession. Even before the decree was passed, admittedly, defendant No.6 passed away. No application was filed to bring the legal representatives of deceased defendant No.6 on record.

3. O.S.No.502/2012 was filed by the appellants herein seeking a declaration that the preliminary decree dated 24.05.1999 passed in O.S.No.257/1992 is a nullity and the same

is inoperative; and for grant of permanent injunction preventing the defendants No.1 to 3 from proceeding with FDP No.4/2010 effecting the division of the suit schedule properties and for putting the parties therein in possession of half share by metes and bounds.

4. The Trial Court at the first instance, without issuing notice to the defendants, on the basis of objections raised by the office, heard the plaintiffs and passed an order holding that the suit is not maintainable and ordered for return of the plaint to the plaintiffs. Being aggrieved by the said order, the plaintiffs approached the first appellate court by presenting a regular appeal. The first appellate court framed the following points for consideration:

- i) Whether the findings given by the Trial Court in the order dated 04.02.2013 on the maintainability of the suit are erroneous and opposed to law as urged by the appellants in the grounds of appeal?
- ii) Whether the order of the Trial Court calls for interference by this Court?
- iii) What order or decree?

5. The First Appellate Court also dismissed the appeal in R.A.No.100/2013 and consequently upheld the decision of the Trial Court.

6. Sri G.Papi Reddy, learned Counsel for the appellants while placing reliance on the following judgments, submits that the reasoning assigned by the first appellate court is incorrect and the suit could not have been dismissed as not maintainable:

- i) ***Khetrabasi Biswal Vs. Ajaya Kumar Baral And Others*** reported in **(2004) 1 SCC 317**
- ii) ***Khadir Saheb Jaffar Saheb Nagarboudi, Dead by L.Rs. Vs. Amin Saheb Hussain Saheb Inamdar Dead by L.Rs.*** reported in **1981 ILR KAR 342**
- iii) ***State of Punjab Vs. Nathu Ram*** reported in **AIR 1962 SC 89.**
- iv) ***Azeez & Co. Vs. Marithimmiah*** reported in **1974 SCC OnLine Kar 203** or **(1975) 1 Kant LJ 143**
- v) ***Elisa and others Vs. A.Doss,*** reported in **AIR 1992 Madras 159**

- vi) ***Gurubasappa Siddappa Kampli (deceased by LRs.) and another Vs. Nagendrappa Veerabhadrapa Angadi (deceased by L.Rs.),*** reported in **AIR 1984 Karn. (1)**

7. Learned Counsel Sri G.V.Shashi Kumar, appearing for the caveator-respondent Nos.1 and 2 submits that in view of Sections 34 and 41 of the Specific Relief Act, the suit was rightly dismissed by the Courts below since the declaration sought by the plaintiffs cannot be granted and the suit was rightly dismissed as not maintainable. He further submits that in view of Section 96 of the Code of Civil Procedure, the plaintiffs should approach the appellate Court by filing a regular appeal and the Trial Court has rightly held that a separate suit seeking a declaration that the decree is a nullity cannot be maintained. He further urges that in view of Section 47 of the Code of Civil Procedure, the plaintiffs could have raised their objections before the Trial Court in the final decree proceedings and a separate suit is not maintainable.

8. Heard the learned Counsels for the parties.

9. The substantial question that arises for consideration in this appeal is "whether a separate suit could be maintained by the legal representatives of the deceased defendant, seeking a declaration that the decree passed against a dead person is a nullity and therefore the decree is not enforceable on the legal representatives of the deceased defendant?"

10. A Full Bench of the Allahabad High Court in the case of ***Mahabir Singh Vs. Dip Narain Tewari And Others And Chandī Tewari*** reported in **ILR 1931 Allahabad 25** was considering a similar question, whether the heirs of a deceased defendant, who died before the suit terminated and whose heirs were never brought on the record within the prescribed period, can challenge the decree on the ground that it was never passed against their ancestor and is null and void as against them? Whether they are deemed to be the representatives of a party to the suit and to be raising questions relating to the execution, discharge or satisfaction of the decree within the meaning of section 47 of CPC so as to bar a separate suit? While dealing with the question as to whether an objection could be raised by

the legal representatives of the deceased defendant under Section 47 of CPC, His Lordship Ag. Chief Justice Sulaiman held as follows:

“The expression ‘arising between the parties to the suit’ undoubtedly contemplates their having continued to be parties to the suit, at any rate up to the stage at which the question arises. The present participle ‘arising’ is the word used, and the expression ‘arising between the parties to the suit’ would be inappropriate if it should be referable to a question arising between one who is a party to the suit and another who has ceased to be a party to it by an order of the court....

..... The legislature has added an explanation to the new Section 47 of the Code of Civil Procedure which brings a defendant, against whom a suit has been dismissed within the purview of the section. But that explanation does not take us further so as to include the case of a defendant who was exempted from the suit and whose name was struck off from the record, or who died and whose heirs were never substituted.”

11. His Lordship refers to another case in ***Beni Prasad Kunwar Vs. Mukhtesar Rai*** which had held that the heirs of a deceased defendant who had died and whose heirs had not been substituted were entitled to bring a separate suit, and their suit was not barred by the provisions of Section 244 (new Section 47).

12. Reference is also made to a judgment of the Privy Council where it was held that "an operative decree, obtained after the death of a defendant, by which the extent and quality of his liability, already declared in general terms, are for the first time ascertained, cannot bind the representatives of the deceased, unless they were made parties to the suit in which it was pronounced."

"The court had no jurisdiction to sell the property of persons who were not parties to the proceedings or properly represented on the record. As against such persons the decrees and sales purporting to be made would be a nullity and might be disregarded without any proceeding to set them aside."

13. His Lordship also dealt with a case where the High Court was of the opinion that an objection could be raised by the

legal representatives to the execution of the decree and therefore they could raise objections under Section 244 of the Code of Civil Procedure (new Section 47) and not by a separate suit.

14. Reference is made to a judgment of the Privy Council in the case of ***Gopi Narain Khauna Vs. Bansidhar***, where their Lordships of the Privy Council had held that Section 244 would not apply where the questions between the parties were not such as could have been determined by the Court in execution of the decree, but a new decree would be required for the purpose.

15. Adverting to many such judgments of the Privy Council His Lordship Ag. Chief Justice Sulaiman concludes that where the question is either that a decree was passed against a dead person or was not passed against him at all and therefore it is a nullity, pure and simple, the dispute does not relate to the execution of the decree but aims at its utter destruction. The dispute as to the execution of a decree contemplates the existence of a valid decree. Where a decree is without jurisdiction or is otherwise utterly null and void, can therefore be

ignored by a person, his protest is not merely as to its execution, he impeaches the decree itself. Such a dispute is not within the purview of Section 47 at all.

16. His Lordship also observes that it does not follow that when a person, against whom no decree exists, finds that his property has been seized, he cannot go to the Court and put his complaint before it. Nor does it follow that if the attention of the Court is drawn to the fact that the decree is a nullity, it must blindly proceed to execute it regardless of the utter absence of its jurisdiction. The Court would certainly have power to refuse to execute a decree of this kind when it is a nullity or has been passed without jurisdiction. But the complaint of the aggrieved party would not be an objection within the meaning of Section 47 of the CPC, so as to bar a separate suit by him but would rather be in the nature of a petition to the Court by an aggrieved party or at the worst an objection under order XXI rule 58 of the Code of Civil Procedure, which can be filed by a stranger to the litigation. In such cases no further appeal would lie because the order passed in favour or against the aggrieved person would

not be a decree within the meaning of section 2 of the Code of Civil Procedure.

17. In the same case Justice Boys also agrees with the decision of the Hon'ble Ag. Chief Justice that Section 47 is not an impediment in the way of the plaintiff's suit.

18. Justice Banerji who is the third Judge of the Full Bench also concurs with this view that in the present case, the question is as to whether the decree declaring that the property of the respondents was liable to sale was a nullity or not. This is not a question relating to the execution or satisfaction of the decree. The question relates to the very root of the decree, and this is a matter which an executing court cannot decide.

19. In the case of ***Abdul Rahim Vs. Ezekiel*** reported in **ILR 1935 Calcutta 472** where a suit for a declaration that a final mortgage decree, passed against the mother of the plaintiffs after her death, was a nullity and for setting aside the decree and the sale under it, their Lordships relied upon another Full Bench decision of the Patna High Court in the case of ***Jungli Lall Vs. Laddu Ram Marwari***, (1919) 4 Pat.L.J.240. In that case, the decision of Calcutta High Court in the case of ***Kalipada***

Sarkar Vs. Hari Mohan Dalal (1916) ILR 44 Cal 627 was sought to be relied upon since it was held that where a mortgagor defendant died after the preliminary decree had held that the executing court could not consider this aspect of the matter but was bound to execute the decree as it stood.

20. The Full Bench in the case of ***Jungli Lall*** (supra), declined to accept such contention and emphasized the distinction between the decrees that are voidable, that is to say valid until set aside, and decrees void *ab initio*. Their Lordships concluded that since the real question at issue is the validity and not the satisfaction of the decree, it can properly be raised in an independent suit, and that the plaintiffs should not be prejudiced by the fact that their interest were technically represented by the administrator in the execution proceedings.

21. In another Full Bench decision, in the case of ***A.Venkateshaya and Others Vs. A.Virayya and others*** reported in **AIR 1958 AP (1) or 1957 SCC OnLine AP 225**, the question decided was "whether Section 47 of the CPC is a bar to the maintainability of the suit?"

22. In the course of the decision, it is pointed out, that if an executing Court could go behind the decree and hold that an alienation was void, it would be incongruous to hold that, the decision in that suit would be res judicata in another suit. The Full Bench preferred to adhere to the strict rule barring the executing court going behind the decree rather than to stretch the rule to a breaking point to sustain principles of public policy.

23. Under similar circumstances, the Full Bench held that the question raised, therefore, does not relate to the execution of the decree but to the validity of the decree itself. Under Section 47, all questions arising between the parties to the suit in which the decree was passed or their representatives and relating to the execution, discharge or satisfaction of the decree, shall be determined by the Court executing the decree and not by a separate suit. To invoke this section, the question raised shall relate to the execution, discharge or satisfaction of the decree. It was held that the question raised by the plaintiffs in that case does not relate to the execution of the decree for they attacked the decree itself on the ground that it was void. Again relying upon the case of ***Mahabir Singh Vs. Dip Narain***

Tewari, their Lordships held that Section 47 of CPC is not a bar for the legal representatives of the deceased defendant to file a separate suit.

24. The Hon'ble Supreme Court in the case of **Dhurandhar Prasad Singh Vs. Jai Prakash University And Others** reported in **(2001) 6 SCC 534** was dealing with a similar situation, but a case not arising under Order 22 Rule 3 or 4, but was a case arising under Order 22 Rule 10 of the CPC.

25. Their Lordships while trying to make a distinction between the provisions of Rules 3, 4 and 10 of Order 22, observed that the legislature while enacting Rules 3, 4 and 10 has made a clear-cut distinction. In cases covered by Rules 3 and 4, if right to sue survives and no application for bringing the legal representatives of a deceased party is filed within the time prescribed, there is automatic abatement of the suit and procedure has been prescribed for setting aside abatement under Rule 9 on the grounds postulated therein. On the other hand, it was observed that under Rule 10, the legislature had not prescribed any such procedure in the event of failure to

apply for leave of the Court to continue the proceeding by or against the person upon whom interest has devolved during the pendency of a suit which shows that the legislature was conscious of this eventuality and yet has not prescribed that failure would entail dismissal of the suit as it was intended that the proceeding would continue by or against original party although he ceased to have any interest in the subject of dispute in the event of failure to apply for leave to continue by or against the person upon whom the interest has devolved for bringing him on the record.

26. Their Lordships referred to the case in ***Kiran Singh Vs. Chaman Paswan***, where the question was raised as to whether a decree passed by a Court is nullity and whether execution of such a decree can be resisted at the execution stage which would obviously, mean by taking an objection under Section 47 of the Code.

27. Their Lordships referred to the decision of Justice Venkatrama Ayyar, speaking for himself and on behalf of the Justices B.K.Mukherjea, Vivian Bose, Ghulam Hasan and held "it is a fundamental principle well established that a decree passed

by a Court without jurisdiction is a nullity, and that its invalidity could be set up whenever and wherever it is sought to be enforced or relied upon, even at the stage of execution and even in collateral proceedings.” It is beneficial to extract the judgment referred to in the case of **Vasudev Dhanjibhai Modi Vs. Rajabhai Abdul Rehman**, where at paragraphs 6 and 7 it is held as follows:

“6. A court executing a decree cannot go behind the decree: between the parties or their representatives it must take the decree according to its tenor, and cannot entertain any objection that the decree was incorrect in law or on facts. Until it is set aside by an appropriate proceeding in appeal or revision, a decree even if it be erroneous is still binding between the parties.

7. When a decree which is a nullity, for instance, where it is passed without bringing the legal representatives on the record of a person who was dead at the date of the decree, or against a ruling prince without a certificate, is sought to be executed on (sic ‘an’) objection in that behalf may be raised in a proceeding for execution. Again, when the decree is made by a court which has no inherent jurisdiction to

make it, objection as to its validity may be raised in an execution proceeding if the objection appears on the face of the record: where the objection as to the jurisdiction of the court to pass the decree does not appear on the face of the record and requires examination of the questions raised and decided at the trial or which could have been but have not been raised, the executing court will have no jurisdiction to entertain an objection as to the validity of the decree even on the ground of absence of jurisdiction.”

28. Their Lordships also referred to the observations of Lord Denning M.R. in the case of ***R. vs. Paddington Valuation Officer, ex. P Peachey Property Corpn. Ltd.*** {(1965) 2 All ER 836} where His Lordship held, “it is necessary to distinguish between two kinds of invalidity. One kind is where the invalidity is so grave that the list is a nullity altogether. In which case there is no need for an order to quash it. It is automatically null and void without more ado. The other kind is when the invalidity does not make the list void altogether, but only voidable.....”

29. After discussing about void and voidable decrees and orders, their Lordships go on to hold that under Section 47 of the Code, the power exercisable is microscopic and lies in a very narrow inspection hole. Thus it is plain that executing court can allow objections under Section 47 of the Code to the executability of the decree if it is found that the same is void *ab initio* and a nullity.

30. Their Lordships also held that the validity or otherwise of a decree may be challenged by filing a properly constituted suit or taking any other remedy available under law on the ground that the original defendant absented himself from the proceeding of the suit after appearance as he had no longer any interest in the subject of dispute or did not purposely take interest in the proceeding or colluded with the adversary or any other ground permissible under law.

31. But it has to be borne in mind that their Lordships were dealing with a situation where the successor-in-interest should have brought himself on record under Order 22 Rule 10. But the case on hand is not one that falls under Order 22 Rule 10 but falls under Order 22 Rule 4.

32. In the case of ***Government of Orissa Vs. Ashok Transport Agency and Others*** reported in **(2002) 9 SCC 28**, one of the Hon'ble Judges who was on the bench in the case of ***Dhurandhar Prasad Singh*** was also deciding this case where similar question arose.

33. His Lordship Justice B.N.Agrawal, who had decided the case of ***Dhurandhar Prasad Singh*** reiterated his opinion that the successor-in-interest could raise an objection under Section 47 of the Code of Civil Procedure. However, another Judge on the Bench did not agree with this opinion and therefore the matter was referred to a larger Bench.

34. The larger Bench gave its opinion which is reported in **(2005) 1 SCC 536**. Their Lordships held that the Corporation and the State of Orissa should have been impleaded in the suit prior to the decree on the terms of the Amalgamation Order. Since the learned Counsel for the appellant only wanted an opportunity to defend the suit consistent with the stand adopted in the written statement filed by the defendant subject to any additional pleas that may be available to be raised by the appellant, the Hon'ble Supreme Court set aside the orders of the

executing court and the High Court on the objections raised by the appellant. The execution petition was closed and in the interest of justice the ex parte decree was set aside and the matter was remanded to the Court of the subordinate Judge for a fresh trial.

35. In a recent judgment of the Supreme Court in the case of **Gurnam Singh Vs. Gurbachan Kaur (Dead) By Legal Representatives** reported in (2017) 13 SCC 414, their Lordships have again referred to the judgment in the case of **Kiran Singh Vs. Chaman Paswan** and extracted the judgment rendered by Justice Venkatarama Ayyar to drive home the point that on the death of a party to the appeal, if no application is made by the party concerned to the appeal or by the legal representatives of the deceased on whom the right to sue has devolved for substitution of their names in place of the deceased party within 90 days from the date of the death of the party, such appeal abates automatically on expiry of 90 days from the date of the death of the party. Order 22 Rule 4(3) implies that in case of the respondent-defendant, the consequences for not filing the application of substitution of legal representatives by

the parties concerned within the time prescribed, the legal effect of non-compliance of Rules 3(2) and 4(3) of Order 22 of the Code, came into operation resulting in dismissal of second appeal as abated on the expiry of 90 days from the date of death of the party.

36. Again reiterating the judgment in **Kiran Singh's** case, the Hon'ble Supreme Court held that if it is a nullity, its validity can be questioned in any proceeding including in execution proceedings or even in collateral proceedings whenever such decree is sought to be enforced by the decree holder. The reason is that the defect of this nature affects the very authority of the court in passing such decree and goes to the root of the case.

37. This principle, in the opinion of the Hon'ble Supreme Court, is settled principle of law that the decree passed by a Court for or against a dead person is a "nullity". While concluding it is held that the question regarding legality could be raised in appeal or even in execution proceedings arising out of such a decree.

38. In the light of the affirmation of law supra, this Court is of the opinion that a separate suit can be maintained by the

heirs of deceased defendant, seeking a declaration that the decree passed is a nullity and not enforceable against them.

39. The learned Counsel for the respondents submits that in the case on hand at least one of the legal representatives of deceased-defendant No.6 was already on record. It is his submission that the mother of defendant No.6 who is a class I heir was already on record and therefore it cannot be said that the suit abated as against defendant No.6.

40. All these contentions can be urged before the trial Court. Once it is held that the suit is maintainable, the defendants can raise all objections available under law to rebut the claim of the plaintiffs that the decree is a nullity.

41. In the light of the above, the judgments passed by the Courts below holding that the suit is not maintainable, is contrary to law and therefore, they are set aside. The appeal is accordingly allowed and the Trial Court is directed to re-hear the matter on merits affording an opportunity to both the parties since the suit was dismissed without issuance of notice to the defendants on the ground that the suit was not maintainable.

42. Keeping in mind the time consumed and the final decree proceedings are underway before the Trial Court, the Trial Court is directed to complete the trial and pass a judgment within a period of one year from today.

43. No order as to costs.

In view of the aforesaid order, I.A.1/2016 does not survive for consideration and the same stands disposed of accordingly.

JT/-

**SD/-
JUDGE**