



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 20TH DAY OF DECEMBER, 2024

BEFORE

THE HON'BLE MR JUSTICE HANCHATE SANJEEVKUMAR

MISCELLANEOUS SECOND APPEAL NO. 71 OF 2019 (RO-)

BETWEEN:

1. MANJUNATHA A.C @ JADESWAMY,
S/O CHIKKASWAMY,
R/O AMRUTESHAHALLI VILLAGE,
KASABA HOBLI, MALAVALLI TALUK,
MANDYA DISTRICT - 571 438.
2. PUTTARAJU,
S/O LATE SATHEGOWDA,
AGED 49 YEARS,
R/O AMRUTESHAHALLI VILLAGE,
KASABA HOBLI, MALAVALLI TALUK,
MANDYA DISTRICT - 571 438.
3. PUTTASWAMY M.C,
S/O CHIKKALINGEGOWDA,
AGED 44 YEARS,
R/O AMRUTESHAHALLI VILLAGE,
KASABA HOBLI, MALAVALLI TALUK,
MANDYA DISTRICT - 571 438.
4. MARILINGAIAH,
S/O LATE NINGEGOWDA,
AGED 73 YEARS,
R/O AMRUTESHAHALLI VILLAGE,
KASABA HOBLI, MALAVALLI TALUK,
MANDYA DISTRICT - 571 438.



5. DODDEEREGOWDA @ DODDATHAMMAIAH,
S/O LATE KULLEGOWDA,
AGED 57 YEARS,
R/O AMRUTESHAHALLI VILLAGE,
KASABA HOBLI, MALAVALLI TALUK,
MANDYA DISTRICT - 571 438.
6. NINGEGOWDA,
S/O LATE JAVARAYIGOWDA,
AGED 72 YEARS,
R/O AMRUTESHAHALLI VILLAGE,
KASABA HOBLI, MALAVALLI TALUK,
MANDYA DISTRICT - 571 438.

...APPELLANTS

(BY SRI. PRAMOD R, ADVOCATE)

AND:

1. JAVANEGOWDA @ NARILINGEGOWDA ,
R/O AMRUTESHAHALLI VILLAGE,
AGED 57 YEARS,
KASABA HOBLI, MALAVALLI TALUK,
MANDYA DISTRICT - 571 438.
2. THE CHIEF SECRETARY ,
GOVERNMENT OF KARNATAKA,
VIDHANA SOUDHA, BANGALORE - 01.
3. THE TAHASILDAR ,
MALAVALLI TALUK,
MALAVALLI - 571 428.
4. THE REVENUE INSPECTOR,
KASABA HOBLI, MALAVALLI TALUK,
MANDYA DISTRICT - 571 428.



5. THE VILLAGE ACCOUNTANT,
KEMBOOTHAGERE VILLAGE,
KASABA HOBLI, 2ND CIRCLE,
MALAVALLI TALUK,
MANDYA DISTRICT - 571 428.
6. MARAMMA DIETY TEMPLE ,
REPRESENTED BY ITS ARCHAKA,
SRI MANJUNATHA SWAMY @ JADESWAMY,
R/O AMRUTESHAHALLI VILLAGE,
KASABA HOBLI, MALAVALLI TALUK,
MANDYA DISTRICT - 571 438.
7. DODDEEREGOWDA @ GUNGREGOWDA
S/O KARIGOWDA,
AGED 74 YEARS,
R/O AMRUTESHAHALLI VILLAGE,
KASABA HOBLI, MALAVALLI TALUK,
MANDYA DISTRICT - 571 438.
8. C. RAJANNA,
S/O LATE CHANNEGOWDA,
R/O AMRUTESHAHALLI VILLAGE,
KASABA HOBLI, MALAVALLI TALUK,
MANDYA DISTRICT - 571 438.
9. KEMPEGOWDA,
S/O LATE JAVARAIGOWDA, MAJOR,
R/O AMRUTESHAHALLI VILLAGE,
KASABA HOBLI, MALAVALLI TALUK,
MANDYA DISTRICT - 571 438.
10. DONNEREGOWDA,
S/O LATE JAVARAYIGOWDA, MAJOR,
R/O AMRUTESHAHALLI VILLAGE,
KASABA HOBLI, MALAVALLI TALUK,



MANDYA DISTRICT - 571 438.

11. CHIKKABOREGOWDA,
S/O LATE JAVARAYIGOWDA, MAJOR,
R/O AMRUTESHAHALLI VILLAGE,
KASABA HOBLI, MALAVALLI TALUK,
MANDYA DISTRICT - 571 438.

...RESPONDENTS

(BY SRI. KASHYAP N. NAIK, ADVOCATE AND
SRI. VIVEK B.R, ADVOCATE FOR R1;
SRI. RAJENDRA K.R, AGA FOR R2 TO R5;
R6, R7, R8, R9, R10, R11 ARE SERVED)

THIS MSA IS FILED UNDER ORDER 43 RULE 1(U) OF CPC,
AGAINST THE JUDGMENT AND DECREE DATED 07.03.2018
PASSED IN R.A.NO.30/2017 ON THE FILE OF THE SENIOR
CIVIL JUDGE, MALAVALLI, ALLOWING THE APPEAL AND
SETTING ASIDE THE ORDER DATED 31.10.2017 PASSED ON
I.AS IN O.S.NO.259/2012 ON THE FILE OF THE PRINCIPAL
CIVIL JUDGE, MALAVALLI, ALLOWING THE I.AS FILED UNDER
ORDER 7 RULE 11 AND UNDER ORDER 7 RULE 11(d) R/W
SEC.151 OF CPC FOR REJECTION OF PLAINT AS NOT
MAINTAINABLE.

THIS APPEAL, COMING ON FOR ADMISSION, THIS DAY,
JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR JUSTICE HANCHATE SANJEEVKUMAR



ORAL JUDGMENT

The appeal is filed by defendant Nos.7, 8, 9, 12, 13 and 14 challenging the order passed in RA No.30/2017 dated 07.03.2018 by the Court of Senior Civil Judge, Malavalli, (hereinafter referred to as the 'First Appellate Court' for short) thereby order passed in O.S.No.259/2012 on IA No.14 filed under Order VII Rule 11(d) of CPC by the Court of Prl. Civil Judge at Malavalli (hereinafter referred to as the 'Trial Court' for short) was set aside and remanded the matter to the trial Court for fresh consideration.

2. The ranks of the parties are stated as before the trial Court for easy reference and convenience.

3. The plaintiff has filed suit for declaration seeking to declare that he is the owner of the land bearing Sy. No.106 measuring 1.4 guntas of land. The defendants have filed the written statement by contending that the suit is not maintainable in view of the bar under Section 68 of the Karnataka Hindu Religious Institutions and



Charitable Endowment Act, 1997 (hereinafter referred to as the 'HRI&CE Act' for short) and also under Section 132 of the Karnataka Land Reforms Act, 1961 (hereinafter referred to as the 'KLR Act' for short). Apart from filing the written statement, the defendants have also filed application under Order VII Rule 11(d) of CPC for registration of claim on the ground that the suit is barred by law as per Section 68 of the HRI&CE Act and Section 132 of the KLR Act on the ground that now the matter is seized before the Deputy Commissioner of Mandya and Deputy Commissioner of Mandya has set-aside the alleged grant made in the year 1981. Therefore, prayed to reject the plaint as per Order VII Rule 11(d) of CPC as it is barred by law.

4. The Trial Court has allowed the application I.A.No.14 filed under Order VII Rule 11(d) of CPC and rejected the claim. It is the case of the plaintiff that his grand father was granted the land in the year 1981 by the land Tribunal, Mandya and that is challenged by one



Jawarayi Gowda in WP No.31696/1998 before this Court and this Court has set-aside the order passed by the Land Tribunal and remanded the case to the Deputy Commissioner of Mandya. It is submitted that the land belongs to defendant No.6 - Temple. Therefore, as per Sections 68 of the HRI&CE Act and 132 of the KLR Act, the suit is barred by law. Therefore, rejected the plaint.

5. Being aggrieved by it, the plaintiff has preferred the appeal before the First Appellate Court and the First Appellate Court has set-aside the order and remanded the case to the trial Court for fresh consideration on the reason that the only plaint averments can be looked into but not the written statement, but the trial Court has gone into the contents of the written statement. Thus the rejection of plaint is not correct and accordingly, the matter was remanded to the trial Court.

6. Heard the arguments from both the sides and perused the material on record.



7. The defendants are claiming that the land belongs to 6th defendant - temple, on the other hand, the plaintiff is claiming that the land belongs to him as it was granted in the year 1981 to the grand father of the plaintiff. Therefore, the plaintiff has filed the suit for declaration. The said grant made by the Land Tribunal was challenged by one Jawarayi Gowda by contending that the land belongs to 6th defendant - temple by filing W.P. No.31696/1998 and this Court on 10.09.1999 allowed the Writ Petition and set-aside the grant made by the land Tribunal on 10.09.1999 and remanded the matter to the Deputy Commissioner of Mandya for fresh disposal. Thereafter, the matter was pending before the Deputy Commissioner of Mandya. Therefore, regarding the land, whether it belongs to the plaintiff or belongs to the temple, the matter is seized before the Deputy Commissioner of Mandya. When this being the fact, as per Sections 68 of the HRI&CE Act and 132 of the KLR Act, the suit is not maintainable where the Deputy Commissioner of Mandya has authorized to deal with the matter then as



per Sections 68 of the HRI&CE Act and 132 of the KLR Act, the suit is not maintainable. Further, the issue pertaining to the land, whether it belongs to the Temple or belongs to the plaintiff. Admittedly, the alleged grant made by the Land Tribunal in the year 1981 was set-aside by this Court in WP No.31696/1998 and remanded the case to the Land Tribunal and it is submitted that now the Deputy Commissioner of Mandya has passed order rejecting the application of the plaintiff by holding that earlier the land was not granted in favour of the grand father of the plaintiff. Therefore, the Deputy Commissioner of Mandya held that now the land belongs to the 6th defendant - temple. Therefore, as per Sections 68 of the HRI&CE Act and 132 of the KLR Act, the suit is not maintainable. Therefore, in this regard, the trial Court has correctly passed the order that suit is barred by law by accepting the application filed under Order VII Rule 11(d) of CPC but the First Appellate Court has committed an error only on the reason that the trial Court ought not to have looked into the contents of the written statement. Here, the



defendants have taken contention in their application filed under Order VII Rule 11(d) of CPC demonstrating how the suit is not maintainable as barred by law. Therefore, the trial Court after considering the averments made in the application, has rejected the plaint and it cannot be considered that the trial Court has considered the contents of the written statement. Therefore, in this regard, the approach of the First Appellate Court is not correct. Therefore, the order passed by the First Appellate Court is liable to be set-aside as it is correctly demonstrated by the defendants that the suit is barred by law as per Sections 68 of the HRI&CE Act and 132 of the KLR Act. Therefore, rejection of plaint is well narrated upon acting on the application filed under Order VII Rule 11(d) of CPC. Therefore, the appeal is liable to be allowed and accordingly, it is allowed by confirming the order passed by the trial Court. Hence, I proceed to pass the following:

ORDER

- (i) The Miscellaneous First Appeal is ***allowed***.



- (ii) The order passed in R.A. No.30/2017 dated 07.03.2018 by the Court of Senior Civil Judge, Malavalli, is hereby set aside by confirming the order passed in O.S.No.259/2012 on IA No.14 filed under Order VII Rule 11(d) of CPC by the Court of Prl. Civil Judge at Malavalli.
- (iii) Draw decree accordingly.
- (iv) No order as to costs.

SD/-
(HANCHATE SANJEEVKUMAR)
JUDGE

KA
List No.: 1 Sl No.: 18
CT: BHK