



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 10TH DAY OF DECEMBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE C M JOSHI

REGULAR SECOND APPEAL NO.100732 OF 2022 (PAR/POS)

BETWEEN:

SMT. SHANKRAMMA
W/O. BASAPPA SAJJAN,
AGE: 66 YEARS, OCC. HOUSEHOLD,
R/O. KALSAGONAL, TQ. KUSHTAGI,
DIST. KOPPAL.

...APPELLANT

(BY SRI. PRANAV BADAGI, ADVOCATE FOR
SRI. R.H. ANGADI, ADVOCATE)

AND:

GOVINDAPPA
S/O. NINGAPPA VALMIKI (DIED)
LRS ALREADY ON RECORD.

1. GAVISIDDAPPA
S/O. GOVINDAPPA VALMIKI,
AGE: 42 YEARS, OCC. AGRICULTURE,
R/O. KALSAGONAL,
TQ. KUSHTAGI, DIST. KOPPAL.
2. MUTTAPPA
S/O. GOVINDAPPA VALMIKI,
AGE: 43 YEARS, OCC. AGRICULTURE,
R/O. KALSAGONAL,
NOW AT TAVARAGERE POST OFFICE,
TQ. KUSHTAGI, DIST. KOPPAL.

YASHAVANT
NARAYANKAR

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YASHAVANT
NARAYANKAR
Date: 2025.12.12
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3. DODDAPPA
S/O. GOVINDAPPA VALMIKI,
AGE: 33 YEARS, OCC. AGRICULTURE,
R/O. KALSAGONAL,
TQ. KUSHTAGI, DIST. KOPPAL.
4. NINGAPPA
S/O. DODDAPPA SAJJAN,
AGE: 40 YEARS, OCC. LIC AGENT,
R/O. KALSAGONAL,
TQ. KUSHTAGI, DIST. KOPPAL.
5. BASAMMA
W/O. LAXMANA VALMIKI,
AGE: 40 YEARS, OCC. AGRICULTURE,
R/O. HOSUR,
TQ. KUSHTAGI, DIST. KOPPAL.
6. GIRIJAMMA @ LAXMAMMA
W/O. DURGAPPA GUMAGERA,
AGE: 36 YEARS, OCC. AGRICULTURE,
R/O. SALBHAVI, TQ. YELBURGA,
DIST. KOPPAL.
7. YELLAMMA
W/O. HANAMANTAPPA NARIYAR,
AGE: 50 YEARS, OCC. AGRICULTURE,
R/O. KARATAGI, TQ. GANGAVATI,
DIST. KOPPAL.
8. SHARAVVA
W/O. DEVAPPA VALMIKI,
AGE: 48 YEARS, OCC. AGRICULTURE,
R/O. YERGERA, TQ. KUSHTAGI,
DIST. KOPPAL.
9. SHASHIKALA
W/O. LOKAPPA VALMIKI,
AGE: 46 YEARS, OCC. AGRICULTURE,
R/O. TOPALKATTI, TQ. KUSHTAGI,
DIST. KOPPAL.



10. DEVAMMA
W/O. TIMMANAGOUDA VALMIKI,
AGE: 55 YEARS, OCC. AGRICULTURE,
R/O. GANADAL, TQ. KUSHTAGI,
DIST. KOPPAL.
11. RATNAMMA @ LAXMI W/O. YENKOBA,
AGE: 34 YEARS, OCC. AGRICULTURE,
R/O. JYALIHALLI, TQ. DEVDURGA,
DIST. RAICHUR.
12. SHIVAPPA
S/O. DODDAPPA SAJJAN,
AGE: 55 YEARS, OCC.AGRICULTURE,
R/O. KALSAGONAL,
NOW AT DOTIHAL, TQ. KUSHTAGI,
DIST. KOPPAL.

...RESPONDENTS

(BY SRI. SHIVANAND B. BEDSUR, ADVOCATE FOR
SRI. ANAND R. KOLLI, ADVOCATE FOR C/R1)

THIS RSA IS FILED UNDER SECTION 100 OF CPC, PRAYING
TO SET ASIDE THE JUDGMENT AND DECREE DATED 20.12.2021
PASSED BY THE SENIOR CIVIL JUDGE, KUSHTAGI IN
R.A.NO.12/2018 CONFIRMING THE JUDGMENT AND DECREE
DATED 15.02.2018 PASSED BY CIVIL JUDGE AND CJM COURT,
KUSHTAGI IN O.S. NO.10/2009 BY ALLOWING THE APPEAL, IN
THE INTEREST OF JUSTICE.

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



ORAL JUDGMENT

(PER: THE HON'BLE MR. JUSTICE C M JOSHI)

Heard the learned counsel appearing for the appellant and the respondents.

2. The appellant is defendant No.4 in O.S.No.10/2009, which resulted in decree for partition. Impugning the dismissal of the appeal in R.A.No.12/2018, the defendant No.4 is before this Court in the second appeal.

3. The factual matrix of the case for the purpose of this appeal is as below:

(a) The plaintiff No.1 is the father of plaintiff No.2 and defendant No.1 & 2. It was contended that the wife of plaintiff No.1 died in the year 1995. Earlier, the plaintiff No.1 was the owner and possessor of the suit schedule properties. The plaintiffs and defendant No.1 and 2 were in joint possession and enjoyment of the properties and there was no partition among them. The defendant No.1 and 2 behind the back of the plaintiffs manipulated the suit lands in their names and taking advantage of their name appearing in the revenue records, the defendant No.2 sold the portion of the suit property to defendant No.3. The



said defendant No.3, in turn sold the same to defendant No.4. It was contended that defendant No.4 is the *bonafide* purchaser of the property from defendant No.3. The other defendants i.e., defendant No.5 to 12 were also impleaded since they were subsequent purchasers of other properties.

4. The suit was resisted by the defendant No.1 and 2 contending that there was partition of the suit properties about 15 years ago, and the suit properties had fallen to the share of defendant No.1 and 2. Therefore, they denied the right, title and interest of the plaintiffs in the suit schedule properties. They also contended that, for family necessity, they had to sell certain properties in favour of defendant No.3 and rest of the properties are in their possession and as such, there is no cause of action for filing the suit for partition.

5. The defendant No.4, in his written statement, contended that he was the *bonafide* purchaser of portion of the property from defendant No.3 under a registered sale deed dated 13.11.2014 and therefore, the suit is liable to be dismissed.



6. Defendant No.5 to 11, who are the daughters of the plaintiff No.1, were also impleaded. They contended that they are also entitled for share in the suit properties.

7. The Trial Court framed following issues and additional issues :

"ISSUES

1. *Whether the plaintiff proves that, the suit schedule property is ancestral and joint family property of plaintiffs and defendant No.1 and 2?*
2. *Whether defendant No. 2 proves that, plaintiffs and defendants have partitioned about 15 years back as contended at page 2 and 3 of his written statement?*
3. *Whether defendant proves that, suit is bad for non joint of necessary parties as contended in para No.3 of his written statement?*
4. *Whether the plaintiffs prove that, they are entitled 1/4th share in the suit schedule properties?*
5. *Whether plaintiffs are entitled to relief sought for in the plaint?*
6. *What order or decree?*

ADDITIONAL ISSUES

1. *Whether defendant No. 5 to 9, 11 proves that the sale deed No. 2793/2008-09 is not binding on the defendants No. 5 to 9, 11 as alleged para No. 4 of their written statement?*



2. *Whether defendant No. 5 to 9, 11 are entitled for share claimed in the counter claim?*
3. *Whether defendant No. 4 prove that, he purchased the one of the suit property from the defendant No.3 for valid consideration and he is a bonafide purchaser of the same?"*

8. After recording the evidence it held that the plaintiffs and defendant No.5 to 9 and 11 are entitled for 1/11th share in the suit schedule properties.

9. The said judgment of the Trial Court was challenged by the appellant/defendant No.4 in R.A.No.12/2018 and the appeal came to be dismissed by the impugned judgment. Being aggrieved, the defendant No.4 is before this Court.

10. It is pertinent to note that the Trial Court as well as the First Appellate Court have concurrently held that there was no such partition between the plaintiffs and defendant No.1 and 2. The alleged previous partition contended by the defendant No.1 and 2 was rejected by the Trial Court as well as the First Appellate Court. The appellant herein also failed to establish that there was a previous partition entitling the transaction between defendant No.2 and defendant No.3 any validity. When the



defendant No.2 was not held to be in exclusive possession and enjoyment of the property, the defendant No.3 cannot be assumed to be the *bonafide* purchaser. It is apparent that the defendant No.3 and defendant No.4-appellant herein cannot be termed to be *bonafide* purchasers in a partition suit. The concept of *bonafide* purchaser is alien in a suit for partition. It is also to be noted that on the ground that the appellant is a *bonafide* purchaser, he cannot knock off any existing right of any sharer in the property. It may be true that the share of the defendant No.2 would be truncated to the extent of the transaction between defendant No.2 and defendant No.4 if it can be accommodated. Therefore, the defendant No.4 does not have any independent right to challenge the right, title and interest of the plaintiffs in the suit schedule properties.

11. The Trial Court as well as the First Appellate Court concurrently found that the alleged partition between the plaintiffs and defendant No.1 and 2 has not been proved. Such finding being a question of fact cannot be interfered in the second appeal. Moreover, the appellant herein was not party to the alleged partition. The parties to the said partition have not



challenged the finding of the Trial Court and the First Appellate Court. Therefore, on this ground also, the appellant's grievance cannot be raised in this appeal.

12. It is to be noted that the defendant No.4 did not adduce any independent evidence to show that there was a partition between the plaintiffs and the defendant No.1 and 2 about 15 years prior to filing of the suit. Therefore, there is no substantial question of law arise in the present appeal. Consequently, the appeal deserves to be dismissed and accordingly stands dismissed.

13. It is needless to observe that the remedy if any available to the appellant/defendant No.4 would in final decree proceedings to seek equitable partition, if the same is permissible under law.

SD/-
(C M JOSHI)
JUDGE