



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF DECEMBER, 2025

PRESENT

THE HON'BLE MR. JUSTICE JAYANT BANERJI

AND

THE HON'BLE MR. JUSTICE K. V. ARAVIND

REGULAR FIRST APPEAL NO. 1399 OF 2012 (PAR)

BETWEEN:

KEMPAMMA,
D/O HOMBALE @ HONBALE SHETTY,
AGED ABOUT 57 YEARS,
MOSAMBAYANAHALLI,
VARUNA HOBOLI, MYSOORU TALUK.

...APPELLANT

(BY SRI.H.M.MANJESH ADVOCATE)

AND:

1. SOTHAMMA,
D/O AGASARA HOMBALE,
AGED ABOUT 61 YEARS,
SINCE DEAD BY LRS.
- 1(A) MAHADEVASHETTY,
AGED ABOUT 20 YEARS,
S/O MAHADEVASHETTY AND
LATE MAHADEVAMMA,
- 1(B) CHIKKATHAYAMMA,
AGED ABOUT 35 YEARS,
W/O LATE RACHU
(LATE S/O R.1-SOTHAMMA)

Digitally signed
by K G
RENUKAMBA
Location: HIGH
COURT OF
KARNATAKA



1(C) PUTTI,
AGED ABOUT 14 YEARS,
D/O LATE RACHU
(LATE S/O R1-SOTHAMMA)

1(D) SOWMYA,
AGED ABOUT 13 YEARS,
D/O LATE RACHU,
(LATE S/O R1-SOTHAMMA)

R(C) & R(D) BEING MINORS REPRESENTED
BY THEIR MOTHER RESPONDENT NO.1(A)

R(A) TO R(D) ARE R/AT: HADINARU VILLAGE,
NANJANGUD TALUK, MYSURU DISTRICT,

1(E) PUTTALINGA,
AGED ABOUT 37 YEARS,
S/O MANCHESHETTY AND
RESPONDENT NO.1,
R/AT UDBUR VILLAGE,
JAYAPURA HOBLI,
MYSURU TALUK & DIST.

(VIDE ORDER DATED 27.11.2024
CAUSE TITLE AMENDED)

2. KEMPASHETTY,
AGED ABOUT 59 YEARS,
S/O AGASARA HOMBALE,

3. JAYAMMA,
AGED ABOUT 51 YEARS,
W/O MAHADEVA SHETTY,



4. RENUKA,
AGED ABOUT 24 YEARS,
D/O MAHADEVA SHETTY,
5. SAGARA,
AGED ABOUT 23 YEARS,
S/O MAHADEVA SHETTY,
6. MANJU,
AGED ABOUT 20 YEARS,
S/O MAHADEVA SHETTY,
7. SIDDAPPA,
AGED ABOUT 39 YEARS,
S/O LATE KENCHHA SHETTY,
8. RACHAPPA @ K.RAJU,
AGED ABOUT 36 YEARS,
S/O LATE KENCHHA SHETTY,

RESPONDENT NO.2 TO 8 ARE R/OF:
MOSAMBAYANAHALLI,
VARUNA HOBLI,
MYSOORU TALUK-570 001.

9. SIDDAMMA @ MA,
AGED ABOUT 39 YEARS,
D/O LATE KENCHHA SHETTY,
W/O MAHADEVA SHETTY
YEDATHALE VILLAGE
NANJANAGUDU TALUK,
MYSORE DISTRICT-570 001.
10. NAGAMMA,
AGED ABOUT 39 YEARS,



D/O LATE KENCHAS SHETTY,
W/O SOMANNA,
CHINNADAGUDI HUNDI,
NANJANAGUDU TALUK,
MYSOORU DISTRICT-570 001.

11. RATHNAMMA,
AGED ABOUT 31 YEARS,
D/O LATE KENCHAS SHETTY,
KADAGATTI VILLAGE,
NANJANAGUDU TALUK,
MYSOORU DISTRICT-570 001.

12. CHAMUNDI ENTERPRISES,
NO.9, ASHWINI, VIII MAIN,
RMV EXTENSION,
BENGALURU-560 080,
REP. BY ITS PARTNER
ASHWINI PAI.

13. MAHADEVA SHETTY,
AGED ABOUT 48 YEARS,
S/O PUTTAMADAMMA,

14. MANCHAMMA,
AGED ABOUT 46 YEARS
D/O PUTTAMADAMMA

RESPONDENT NO.13 AND 14 ARE R/O/F:
MOSAMBAYANAHALLI, VARUNA HOBLI,
MYSORE TALUK-570 001.

...RESPONDENTS

[BY SRI.C.K.RUDRAMURTHY, ADVOCATE
FOR R1(B TO E) & R3 AND R4 (ABSENT);
SRI.S.MAHESH, ADVOCATE FOR R12;
R2, R5 TO R8 AND R10, R11, R13 AND
R14 ARE SERVED UNREPRESENTED;



V/O/DTD. 15.10.2024 NOTICE TO PROPOSED
R1(A) AND R9 ARE HELD SUFFICIENT]

THIS RFA IS FILED U/SEC.96 R/W ORDER-41, RULE-1
OF CPC, AGAINST THE ORDER DATED:31.03.2012 PASSED
IN O.S.NO.914/2011 ON THE FILE OF THE PRL. SENIOR
CIVIL JUDGE AND CJM, MYSORE, REJECTING THE I.A. FILED
U/O-VII, RULE-11(a) AND (d) OF CPC.

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

CORAM: HON'BLE MR. JUSTICE JAYANT BANERJI
AND
HON'BLE MR. JUSTICE K. V. ARAVIND

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE JAYANT BANERJI)

Heard the learned counsel for the appellant and
learned counsel for respondent No.12, though the name of
learned counsel Sri. C.K.Rudramurthy for R1 (B) to (E) is
shown and all the other respondents have been served, and
other counsel appear for the other respondents.

2. The learned counsel for the parties have
consented that despite the matter being listed for admission,
since a short question of law is involved and the original
record is available, this case may be considered at this stage
itself, for disposal.



3. Learned counsel for the plaintiff/appellant Sri.H.M. Manjesh has submitted that the learned trial Court has rejected the plaint of the appellant on the basis of an application moved under Order VII Rule 11(a) and (d) of the Civil Procedure Code¹ on the ground that neither any cause of action is reflected in the plaint, nor is the plaint within limitation. It is submitted that the issue of limitation is a mixed question of fact and law that is required to be adjudicated at the time of consideration of the suit itself during trial. It is further submitted that as is the settled law, it is only the plaint that is required to be looked into for the purpose of deciding whether a plaint is to be rejected. He contends, this has not been done by the learned trial Court which has been delved into the merits of the matter and conducted a mini trial while rejecting the plaint.

4. The learned counsel for the appellant has placed reliance on Paragraph Nos.6 and 8 of the plaint as well as the reliefs sought in the plaint. In support of his submissions, he has also referred to the various paragraphs

¹ CPC



of the order passed by the trial Court, which is impugned in the present appeal. It is his admitted case that the property was the self-acquired property of the father of the plaintiff and the trial Court has entered into the issue of co-parcenary rights of the successors of her father. It is further contented that the suit, *inter alia* is one of partition and the cause of action in such suits would arise when the possession or the *status quo* with regard to each successor is sought to be disturbed and therefore, the suit cannot be said to be barred by limitation and the trial Court has committed a jurisdictional error in rejecting the plaint.

5. Learned counsel for respondent No.12/defendant has stated that the plaint is an example of suppression of material facts. He has stated that as is evident from paragraph No.13 of the impugned order, a sale deed had been executed by the father of the plaintiff himself way back in 1950 which fact was concealed by the plaintiff. He has referred to the conduct of the plaintiff and the false case being set up by her only to harass and subject the defendants to unnecessary strain by filing this suit. It is



contented that the trial Court was justified in rejecting the
plaint under the facts and circumstances of the case.

6. We have perused the plaint and the application
moved by defendant No.12 under Order VII Rule 11(a) and
(d) of CPC as well as the impugned orders.

7. The point for determination would be: *'whether
the trial Court was justified in rejecting the plaint?'*

8. In paragraph No.2 of the plaint, it is stated that
the property bearing Sy.No.46 measuring 8 acres situated in
Janthagalli Village, Varuna Hobli, Mysore Taluk more fully
described in the schedule to the plaint originally belonged to
Agasara Hombale more precisely, father of the plaintiff. The
said land was purchased by the father of the plaintiff through
registered sale deed dated 15.08.1921 and he was the
absolute owner in possession of the property. His father had
two wives Kempamma and Devamma. Smt.Kempamma had
two children. After the death of Smt.Kempamma, the
plaintiff's father married Smt.Devamma and got four
children, one of them being the plaintiff. Thereafter, the
names of the successors and their entitlements is



mentioned. The sale deed of 22.09.2009 executed in respect of the property is also mentioned.

9. It is stated, *inter alia*, that the plaintiff and defendant Nos.1 to 6 are in joint possession of the plaint schedule property and the plaintiff being Class-I heir of the property, still holds the joint possession of the property without any obstruction from any person.

10. In paragraph No.8 of the plaint, it is mentioned to the effect that the cause of action for the suit arose on 01.10.2011 when the 12th defendant started to dig the agricultural land for the formation of a layout and the plaintiff resisted and enquired about her right and when she demanded her legitimate right with 2nd to 6th respondent and when she conveyed Panchayat in the village and when they refused to effect partition subsequently the case was filed within the jurisdiction of the trial Court.

11. The suit was filed seeking the following reliefs:

"a. *Pass a judgment and decree in favour of the plaintiff and against the defendant for the relief of partition and separate of plaint schedule property by meets and bounds and the plaintiff is entitle to 1/7th in the plaint schedule property.*



- b. Put the plaintiff in possession of the property by drawing a Final Decree in accordance with order XX rule 12 of CPC.*
- c. Declare that, the sale deed dated, 22/9/2009 or 11/2/1965 is not binding on the plaintiff to her extent and void to an extent of her share.*
- d. Cost of the proceedings.*
- e. Grants such other relief as this Hon'ble courts deems fit in the circumstances of the case, in the best interest of justice and equity."*

12. The trial Court has considered the submissions of the power of attorney holder of 12th defendant in which he stated that according to the plaint averments, the succession opened to the plaintiff in the year 1963 and the suit was filed in the year 2011 and therefore, the suit is apparently barred by limitation. It was argued that the suit valuation is incorrect for which the plaint is liable to be rejected. Objections were filed by the plaintiff. The point framed for consideration of the trial Court is as follows:

"Whether the 12th Defendant has made out sufficient and reasonable grounds for rejection of the plaint as required under order VII Rule 11(a) & (d) of C.P.C.?"

The point was answered in the affirmative.



13. After noting the plaint contents, the Court recorded that it was admitted and undisputed fact that the plaintiff's father had purchased the suit schedule property on 15.08.1921. The trial Court referred to the xerox certified copy of the sale deed dated 14.11.1950 produced by the 12th defendant which showed that the plaintiff's father had himself sold a portion of the said land bearing Sy.No.46, measuring 4.00 acres of land out of 8 acres of land in favour of Siddashetty @ Kenchashetty. But in the plaint, the plaintiff had not stated anything regarding the execution of sale deed dated 14.11.1950. The Court then went on to consider the recitals of the xerox certified copy of the sale deed dated 11.02.1965 which revealed that, after the death of the plaintiff's father, his legal heirs had sold the remaining 4 acres of land in the land bearing Sy.No.46 in favour of Kenchashetty and delivered possession of the said property in favour of the purchaser. The trial Court noted that if the plaintiff was aggrieved by the execution of the aforesaid sale deed dated 11.02.1965, she could have challenged it within three years from the date of execution of registered sale



deed dated 11.02.1965 or soon after attaining her majority within three years. But, that was not done.

14. The argument of the learned counsel appearing on behalf of defendant No.12 was considered, who stated that on 12.06.1969, the aforesaid Sri. Kenchana Shidda Shetty and other family members, partitioned their joint family properties and the same is evidence in a memorandum of partition dated 12.06.1969, in which partition of the land was shown. The learned counsel for defendant No.12 had further argued that under a registered sale deed dated 09.11.2011, one of the parties to the aforesaid memorandum of partition had sold a portion of the land to one Madaiah @ Thammaiah and put him in possession and enjoyment thereof. The arguments of the learned counsel for defendant No.12 regarding consequent mutation proceedings and other sale deeds were also noticed by the Court. In its findings, the trial Court noted that the sale deed dated 14.11.1950 undoubtedly demonstrates that the plaintiff's father himself had sold 4 acres out of 8 acres of land in the land bearing Sy.No.46 in favour of Shiddashetty under a registered sale deed dated



11.02.1965. Other legal representatives of the plaintiff's father, who had died, Smt. Devamma and her sons had sold the remaining 4 acres of land in favour of Kenchashetty. It was stated that it has not been disputed by the plaintiff or defendants that the legal representatives of Kenchashetty have sold the suit schedule property in favour of the 12th defendant under a registered sale deed dated 22.09.2009.

15. The trial Court has also noted that the residential address of the plaintiff has not been furnished and the statement required under Order VI Rule 14(a) of CPC in the prescribed form as provided in Rule 14 regarding the address of the party has not been furnished. A judgment of this Court reported in ***Yellappa by his LRs. vs. Smt. Yashodabai***² was referred to. It was observed that in the instant case, the required details pertaining to the residential address of the plaintiff and her marital status has not been pleaded in the plaint.

² ***ILR 2003 KAR 3881***



16. It is further noted that at the time when the suit property was sold on 14.11.1950 and again on 11.02.1965, the plaintiff was not a coparcener and she had no right to claim partition in suit schedule property by birth. It was observed that the coparcener's right for the first time was given to daughter in the ancestral property of her father by virtue of an amendment made to Section 6 of Hindu Succession Act by the State of Karnataka and that amendment also does not apply to the plaintiff. It was stated that as per the proviso to Section 6(1) of the Hindu Succession Act, the plaintiff cannot claim the share in the suit property for the simple reason that the suit schedule property has been alienated by her father and by the legal representatives of the plaintiff's father.

17. The trial Court therefore found that alienation had already taken place and already a partition had taken place in respect of the suit schedule property in question before 20.12.2004 (the date mentioned in the proviso to Section 6(1) of the Hindu Succession Act) and admittedly the plaintiff had not challenged the alleged sale deeds dated 14.11.1950 and 11.02.1965 with respect to the suit schedule



property. Therefore, within the limitation period, the plaintiff never attempted to challenge the sale deeds and the sale deeds executed before 20.12.2004. It was therefore held that she cannot challenge the sale deeds, since there is a clog on her right created by the proviso to Section 6(1) of the Act. Accordingly, the plaint was rejected.

18. While considering an application under Order VII Rule 11 of CPC, the Court is mandated to look into the contents of the plaint alone. However, if a replication is filed to the written statement, then, that replication can also be taken into account by the trial Court.

19. However, on perusal of the impugned order we find that the trial Court has considered not only the plaint, but also the oral submissions made by the learned counsel for the defendant. The contents of the submissions on behalf of the defendant, as narrated by the trial Court in the impugned order, largely, do not find place in the plaint. Though a written statement was filed, however, no replication was filed on behalf of the plaintiff and therefore, it was only the averments made in the plaint that were



required to be seen by the trial Court. If any documents were enclosed with the plaint, the same also could have been seen. However, we find from the perusal of the plaint that no documents have been enclosed.

20. We note that various sale deeds that do not find mention in the plaint, have been referred to by the trial Court and the manner of transfer of the suit property to various persons has been narrated. The trial Court has also gone into the issue of coparcenership of the plaintiff. The trial Court has proceeded to record its observations and findings in a manner as if it was conducting a mini trial. The trial Court has considered the issue of limitation holding that the succession open to the plaintiff in the year 1963 and the suit was filed in the year 2011 and therefore, the suit is barred by limitation. It was held that within the limitation period, the plaintiff never attempted to challenge the sale deeds or sale deeds executed before 20.12.2004 (i.e., the date mentioned in the proviso to Section 6(1) of the Hindu Succession Act). The issue of limitation can be a mixed question of fact and law, which may require leading evidence to give a correct finding. Even otherwise, the suit has been



filed primarily seeking partition and the plaint averment with regard to the cause of action is that it arose on 01.10.2011 when the 12th defendant started to dig the agricultural land for formation of a layout, which was resisted by the plaintiff. The suit was filed on 15.11.2011.

21. A suit for partition can be filed at any time when the cause of action arises. Evidently, a perusal of Paragraph-8 depicts that the cause of action arose on 01.10.2011. Therefore, *prima facie*, the limitation period will start to run with effect from 01.10.2011. Though, as stated above, the issue of limitation can be decided at the appropriate stage after evidence is led.

22. Accordingly, we find that the impugned order of the trial Court rejecting the plaint cannot be sustained. It is therefore, set aside. The parties are directed to appear before the trial Court on 13.01.2027 on which date, the trial Court may take such steps as may be required for proceeding with the suit.

23. However, there is another aspect of the matter regarding the observations of the trial Court pertaining to



non-compliance of Order VI Rule 14-A of the CPC. The trial Court has referred to a judgment in the case of ***Yellappa***. It is noted that in the aforesaid judgment, the learned Single Judge of this Court had observed that the verification of the cause title in particular with reference to the address of the parties, is being over-looked by the office, as a routine, address given in the cause title is vague. As a result of this, 20 to 25 per cent of the litigation gets stagnated at the process level for non-compliance of the provisions of Rule 14-A. In the appeals also, the same mistake is committed.

24. It was observed that the provisions of Rule 14-A of Order VI of CPC are mandatory and postulate a disastrous consequence to the party who does not furnish the correct and proper address. It was observed that, if the plaintiff furnishes incomplete, false or fictitious address, the Court can stay the further proceedings of the suit and if the defendant commits fault in not giving the proper and correct address, the defence is to be struck off and the defendant is placed in a position as if he has not put up any defence.



25. Therefore, non-compliance of Rule 14-A of Order VI of CPC would have consequences other than it being a ground for rejection of a plaint under Order VII Rule 11 of CPC. This aspect is to be kept in mind by the trial Court.

26. This appeal is accordingly ***allowed***. Pending IAs if any, stand disposed of.

Sd/-
(JAYANT BANERJI)
JUDGE

Sd/-
(K. V. ARAVIND)
JUDGE

KG/KGR
List No.: 1 Sl No.: 3