



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19TH DAY OF DECEMBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

CIVIL REVISION PETITION NO. 300 OF 2018 (IO)

BETWEEN:

SRI. M. MAHADEVAPPA
SON OF LATE MUDDAPPA
AGED ABOUT 50 YEARS
WORKING AS TRAFFIC CONTROLLER
KSRTC TUMKUR DEPOT
TUMKUR TOWN
KARNATAKA - 572 102.

...PETITIONER

(BY SRI. ABHINAY Y.T, ADVOCATE)

AND:

1. M. KUSHAL
S/O M MAHADEVAPPA
AGED ABOUT 21 YEARS
2. M. CHANDAN
S/O M. MAHADEVAPPA
AGED ABOUT 20 YEARS
3. M. RAHU
S/O M MAHADEVAPPA
AGED ABOUT 16 YEARS
SINCE MINOR REPRESENTED BY HIS MOTHER
AND NATURAL GUARDIAN SMT. RAJESHWARI.

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signed by
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Location:
HIGH
COURT OF
KARNATAKA



M. RAHU
LATE A MINOR BY RAJESHWARI
HIS NEXT FRIEND
BUT NOW HAVING
ATTAINED MAJORITY.

4. RAJESHWARI
W/O M MAHADEVAPPA
AGED ABOUT 49 YEARS

ALL ARE RESIDING AT MANASA NILAYA
VIDHYANAGAR, TUMKUR
KARNATAKA - 572 102.

...RESPONDENTS

(BY SMT. LEELAVATI BASAVARAJ MALIGAR, ADVOCATE FOR
SRI. B.H. NETTAKALLAPPA, ADVOCATE;
VIDE ORDER DATED 16.12.02025 R4 IS DISCHARGED)

THIS CRP IS FILED UNDER SECTION 115 OF CPC,
AGAINST THE ORDER DATED 11.06.2018 PASSED ON I.A. IN
OS.NO.69/2009 ON THE FILE OF THE PRINCIPAL SENIOR CIVIL
JUDGE AND CJM, TUMAKURU, DISMISSING THE I.A. FILED
UNDER ORDER VII RULE 11(d) R/W SEC.151 OF CPC.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY,
ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE V SRISHANANDA



ORAL ORDER

Heard Sri.Abhinay Y. T., learned counsel for the revision petitioner and Smt.Leelavati Basavaraj Maligar, learned counsel appearing on behalf of Sri.B.H.Nettakallappa, learned counsel for respondents.

2. Defendant in O.S.No.69/2009 is the revision petitioner challenging the order passed by the Trial Court in the said suit in dismissing the application filed under Order VII Rule 11(d) of Code of Civil Procedure (hereinafter 'CPC' for short).

3. Facts in the nutshell which are utmost necessary for disposal of the present petition are as under:

3.1. A suit for following relief in respect of the following immovable properties came to be filed in O.S.No.69/2009:



PRAYER

Wherefore, the plaintiffs humbly pray for judgment and decree against the defendant:

- a. For partition and separate possession of plaintiff, legitimate share in the suit schedule properties by metes and bounds,*
- b. For costs and such other reliefs as the Hon'ble Court may deem fit to grant to the plaintiffs in the circumstances of the case in the ends of justice.*

SCHEDULE

- 1. Land bearing S.No.56 totally measuring 3-10 acres including karab out of which 0-35 guntas situated at Toreyappanahalli, Kallembella Hobli, Sira Taluk, bounded on East: remaining land in same S.No. belonging to Rangaswamy, West: Chikkananjappa, North: remaining land in same S.No., South: land of Kunta Javarappa*
- 2. Land bearing Sy.No.56, measuring 0.13 guntas situated at Thoreyappanahalli, Sira Taluk bounded on East: Veeranna, West: Chikkananjappa, North: Rangaswamy Hisse, South: item No.1 and Rangaswamy.*



3. *Land bearing Sy.No.59, totally measuring 1-20 acres including karab, out of which 0.39 guntas situated at Toreyappanahalli, Sira Taluk bounded by East: land of Venkatarmaiah, West: Ugrappa, North: Bheemaiah, South: Government halla.*
4. *House property bearing Katha No.256/263 site No.256 measuring East-West: 25, North - south:30 sitauted at Aralimaradapalya extension, TUDA lay out Sira gate, Tumkuru bounded by East, site No.257, West site No.259, North: Road, South: site No.253. In this property, house is constructed both ground floor and first floor.*
5. *Land bearing S.No.5, totally measuring 1-18 acres out of which 0-01.08 guntas (30 x 40 feet) situated at Upparahalli, Tumkuru bounded on East: Gangamma, West: Ettappa, North: Road, South: Remaining land in same S.No."*

3.2. In the plaint, it is contented that plaintiffs are the minor sons of the defendant and they constitute a Hindu Undivided Joint Family.



3.3. It is further contented that suit properties are the ancestral properties and by birth, the plaintiffs are having right in the suit properties and defendant is acting detrimental to the interest of the minor plaintiffs. Therefore, sought for carving out their respective shares in the suit property by metes and bounds and sought for decreeing the suit.

3.4. Defendant entered appearance and filed detailed written statement denying the plaint averments in toto *inter alia* filed an application under Order VII Rule 11(d) of CPC with a prayer to reject the plaint on the ground that suit is not maintainable for want of cause of action.

3.5. It is also contended that suit item Nos.3 to 5 are purchased during the subsistence of their matrimonial relationship and therefore, Civil Court has no jurisdiction to entertain such disputes.



3.6. In respect of such contentions, defendant placed reliance on the judgment of the Hon'ble Apex Court in the case of ***K.A.Abdul Jaleel v. T.A.Shahida*** reported in ***AIR 2003 SC 2525***.

3.7. Same was opposed to by the plaintiff by filing detailed objection and therefore, suit is perfectly maintainable before the Civil Court.

4. Learned Trial Judge after considering the rival contentions, dismissed the application filed by the defendant.

5. Being aggrieved by the same, defendant is before this Court in this revision petition.

6. Learned counsel for the revision petitioner would contend that in respect of the properties earned when the matrimonial relationship was subsisting by either of the spouses and any dispute with regard to such properties needs to be tried by the jurisdictional Family Court and Civil Court has no jurisdiction in such matters.



Therefore, continuation of the suit before the Civil Judge (Senior Division), Tumkur is per se incorrect for want of jurisdiction and thus, sought for allowing the revision.

7. Per contra, learned counsel for the respondents supports the impugned order.

8. In the light of the arguments put forth on behalf of the parties, this Court perused the material on record meticulously.

9. On such perusal of the material on record, it is crystal clear that in respect of only two items of the suit properties, there is a dispute that it is earned by the wife of the defendant. But other suit properties are ancestral properties.

10. Further, Section 7 of the Family Court contemplates the jurisdiction in the Family Court in respect of the dispute between the parties to a marriage.



11. In the case on hand, it is the minor plaintiffs who are seeking their legitimate shares in the suit properties alleging that suit properties are the ancestral properties.

12. At the most, contentions urged on behalf of the revision petitioner could be urged as a defence before the Civil Judge (Senior Division), Tumkuru in respect of such of the items of the suit properties which are not ancestral in nature and which are acquired during the subsistence of the marital relationship.

13. Therefore, dismissal of the application by the learned Trial Judge in the impugned order requires no interference in this revision.

14. Hence, following:

ORDER

- i. Revision petition is ***dismissed***.



- ii. It is made clear that all the contentions available for the defendant is permitted to be urged in accordance with law uninfluenced by the observations made in the impugned order or by this Court in this order.

Sd/-
(V SRISHANANDA)
JUDGE

KAV
List No.: 1 SI No.: 2