



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19TH DAY OF DECEMBER, 2025

BEFORE



THE HON'BLE MR. JUSTICE PRADEEP SINGH YERUR

WRIT PETITION NO.34574 OF 2025 (GM-CPC)

BETWEEN:

1. SRI SHIVARUDRAPPA
S/O LATE VEERABHADRAPPA,
AGED ABOUT 94 YEARS,
R/AT SARAGUR VILLAGE,
PALYA HOBLI, KOLLEGAL TALUK,
TQ. AND DIST.CHAMARAJANAGAR-571313.
2. SRI. S. SOMASHEKHAR
S/O SHIVARUDRAPPA,
AGED ABOUT 56 YEARS,
R/AT SARAGUR VILLAGE,
PALYA HOBLI, KOLLEGAL TALUK,
TQ. AND DIST.CHAMARAJANAGA-571313.

...PETITIONERS

(BY SRI. KARUNAKARA P., ADVOCATE)

Digitally signed
by NJAMUDDIN
JAMKHANDI

Location: HIGH
COURT OF
KARNATAKA

AND:

SRI S. MADESH
S/O SHIVARUDRAPPA,
AGED ABOUT 65 YEARS,
R/AT SARAGUR VILLAGE, PALYA HOBLI,
KOLLEGAL TALUK,
CHAMARAJANAGAR DIST. - 571313.

...RESPONDENT

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF
CONSTITUTION OF INDIA PRAYING TO SET ASIDE THE ORDER



DATED 24/01/2012 PASSED IN O.S.NO.24/2011 ON IA No.VII FILED UNDER ORDER 22 RULE 3 OF CPC AND TO SET ASIDE THE COMPROMISE DECREE DATED 24/01/2012 PASSED BY THE HON'BLE SENIOR CIVIL JUDGE AND JMFC AT KOLLEGAL IN ABOVE SUIT AT ANNEXURE-A AND B.

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

CORAM: HON'BLE MR. JUSTICE PRADEEP SINGH YERUR

ORAL ORDER

This petition is filed by the petitioners who were defendants Nos.1 and 3 challenging the order dated 24.01.2012 passed in O.S.No.24/2011 on I.A.No.VII filed under Order XXII Rule 3 of CPC and to set aside the compromise decree dated 24.01.2012 passed by the Senior Civil Judge and JMFC Court, Kollegal taluk, Chamarajnagar district.

2. It is the case of the petitioners that the respondent No.2 is none other than the brother of the petitioners initiated a suit for partition and separate possession against the petitioners and their mother.



During the pendency of the suit, a compromise petition came to be filed under Order XXII Rule 3 of CPC. Based on the said compromise petition, the suit came to be decreed by virtue of compromise petition. It is further contended by learned counsel for the petitioners that petitioners got a notice from the Chief Judicial Magistrate Kollegal on the case filed by the respondent in O.S.No.254/2025 based on which the petitioners approached his lawyer and on examining the documents, he realised that compromise decree was executed in O.S.No.24/2011 and after going through the compromise petition and decree, he realised that what was not intended by his father, respondent had misled the petitioners and cheated them. It is further contended that first petitioner who is the father wanted to give properties bearing Sy.No.176/2 measuring 0.83 cents and property 177/C4 measuring 0.83 cents to his younger son i.e. second petitioner. In this regard, the first petitioner had executed a will dated 14.05.2010 in favour of second petitioner and also executed a gift deed for the



same property on 06.04.2021. It is also contended that based on the said will and the gift deed, mutations were changed to the name of second petitioner.

3. This being the state of affairs, the petitioners were shocked and surprised to know the respondent played fraud on the petitioners and cheated them. In view of the fraudulent act of the respondent in cheating the petitioners and mother of petitioner No.2 which was not brought to their notice and having now realised by virtue of the summons received in the later suit i.e. O.S.No.254/2025 has preferred this petition seeking to set aside the compromise decree which is obtained by fraud and suppression of fact.

4. It is contended that the compromise decree is tainted with fraud and the signatures are created, forged by taking advantage of the illiteracy of the petitioners. Therefore, he seeks intervention of this Court by setting aside the compromise decree dated 24.01.2012.



5. This Court is not inclined to notify the respondent as this Court is of the opinion that the matter requires to be disposed of by providing liberty to the petitioners to approach the trial Court to consider the application if any filed by the petitioners challenging the said compromise before the same Court which passed the compromise decree, so also for the reason that no adverse order is passed against the respondent. It is not in dispute that the petitioners are seeking to challenge the compromise decree passed by the Senior Civil Judge and JMFC at Kollegal in O.S.NO.24/2012.

6. The compromise petition was filed by all the parties to the proceedings. The same has been accepted by the learned Trial Judge and having recorded the terms and conditions of the compromise, the suit came to be decreed and a compromise decree is passed on 24.01.2012. Therefore, when a compromise petition is filed before the Court and thereafter, the suit is decreed on the said basis, it becomes necessary for the parties



challenging the said compromise decree, on the ground of fraud, suppression of facts, misleading, forgery and on any other ground to approach the very same Court which passes the compromise decree by way of an application or petition and agitate/urge all grounds before the same Court.

7. In the present case on hand, apparently, the petitioners are defendant Nos.1 and 3 before the trial Court which passes the compromise decree. The trial Court has accepted the compromise petition based on their signatures and affixed and passed a compromise decree. The contentions, veracity and genuinity of the said compromise petition and whether fraud has been played in obtaining the said compromise decree are all matters which would have to be dealt with/adjudicated by the very same Court and all contentions will have to be urged by the petitioners herein before the said Court rather than before this Court by invoking the writ jurisdiction under Articles 226 and 227 of the Constitution of India.



8. In the case of ***Triloki Nath Singh v. Anirudh Singh (D) through Lrs. and Ors.*** reported in ***AIR 2020 Supreme Court 2111***, the Hon'ble Apex Court in paragraph Nos.17 and 22 as held as under:

"17. Finality of decisions is an underlying principle of all adjudicating forums. Thus, creation of further litigation should never be the basis of a compromise between the parties. Rule 3A of Order 23 CPC put a specific bar that no suit shall lie to set aside a decree on the ground that the compromise on which the decree is based was not lawful. The scheme of Order 23 Rule 3 CPC is to avoid multiplicity of litigation and permit parties to amicably come to a settlement which is lawful, is in writing and a voluntary act on the part of the parties. The Court can be instrumental in having an agreed compromise effected and finality attached to the same. The Court should never be party to imposition of a compromise upon an unwilling party, still open to be questioned on an application under the proviso to Rule 3 of Order 23 CPC before the Court.

22. In other words, the appellant can only claim through his predecessor Sampatiya, to the extent of rights and remedies available to Sampatiya in reference to the compromise decree. Merely because the appellant was not party to the compromise decree in the facts of the present



case, will be of no avail to the appellant, much less give him a cause of action to question the validity of the compromise decree passed by the High Court by way of a substantive suit before the civil Court to declare it as fraudulent, illegal and not binding on him. Assuming, he could agitate about the validity of the compromise entered into by the parties to the partition suit, it is only the High Court, who had accepted the compromise and passed decree on that basis, could examine the same and no other Court under proviso to Rule 3 of Order 23 CPC. It must, therefore, follow that the suit instituted before the civil Court by the appellant was not maintainable in view of specific bar under Rule 3A of Order 23 CPC as held in the impugned judgment."

9. Division Bench of Hon'ble Apex Court in the case of **Shri Mukund Bhavan Trust and Ors. v. Srimanth Chhatrapati Udyan Raje Pratasinh Maharaj Bhonsle and Another**, reported in **(2024) 15 SCC 675** in paragraph No.39 has held as under:

"39. Admittedly the plaintiff is a stranger to the suits which ended in compromise. Therefore, in view of the direct bar under Order 23 Rule 3-A CPC, he cannot seek a declaration "that the compromise decrees passed in Special Civil Suits



Nos. 152 of 1951 and 1622 of 1988 and Civil Appeal No. 787 of 2001, Pune are void ab initio, null and void and the same are liable to be set aside". The law on this point is also already settled by this Court in Triloki Nath Singh v. Anirudh Singh. The bar under Order 23 Rule 3-A CPC is applicable to third parties as well and the only remedy available to them would be to approach the same court. In the present case, such an exercise is also not possible in view of the bar of limitation. Hence, we find the suit to be unsustainable."

10. Several judgments are passed by this Court and various Courts and the Hon'ble Apex Court, in the case of **Triloki Nath Singh** (supra) and **Shri Mukund Bhavan Trust and Ors.** (supra) very specifically dealt with challenge by a stranger to the compromise decree, whether to be done by way of separate suit or in the same Court, which passed the compromise decree. The question has been raised in the following manner- "The question arises in the appeal for our consideration is as to whether on a decree passed in a compromise petition can be challenged by the stranger to the proceedings in a separate suit?" and the



same has been answered in the negative, in view of the specific bar under Rule 3A of Order XXIII of Code of Civil Procedure. The said opinion of the Hon'ble Apex Court in 2020 is further fortified by the later judgment, dealing with the very same issue in the case of **Shri Mukund Bhavan Trust and Ors.** (supra), by holding "The law on this point is already settled by this Court in **Triloki Nath Singh** the bar under Order XXIII Rule 3-A CPC is applicable to third party as well. The only remedy available to them would be to approach the very same Court, which drew compromise decree."

11. Division Bench of Hon'ble Apex Court in the case of **Manjunath Tirakappa Malagi and Anr. V. Gurusiddappa Tirakappa Malagi (dead through Lrs.)**, reported in **2025 INSC 517** at paragraph Nos.12 and 15 as held as under:

12. The only remedy against a compromise decree is to file a recall application. This Court in Pushpa Devi Bhagat v. Rajinder Singh, (2006) 5 SCC 566 summed up the position of law as follows:



"17. The position that emerges from the amended provisions of Order 23 can be summed up thus:

(i) No appeal is maintainable against a consent decree having regard to the specific bar contained in Section 96(3) CPC.

(ii) No appeal is maintainable against the order of the court recording the compromise (or refusing to record a compromise) in view of the deletion of clause (m) of Rule 1 Order 43.

(iii) No independent suit can be filed for setting aside a compromise decree on the ground that the compromise was not lawful in view of the bar contained in Rule 3-A.

(iv) A consent decree operates as an estoppel and is valid and binding unless it is set aside by the court which passed the consent decree, by an order on an application under the proviso to Rule 3 Order 23.

Therefore, the only remedy available to a party to a consent decree to avoid such consent decree, is to approach the court which recorded the compromise and made a decree in terms of it, and establish that there was no compromise. In that event, the court which recorded the compromise will itself consider and decide the question as to whether there was a valid compromise or not. This is so because a consent decree is nothing but contract between parties superimposed with the seal of approval of the court. The validity of a



consent decree depends wholly on the validity of the agreement or compromise on which it is made..."

Thus, even if he accept the contention of the appellant that their father was coerced by his brothers and father (appellants' grandfather) to enter into a compromise, which led to the passing of the consent decree, a fresh suit is still not a valid remedy. In that situation, the appellants' father should have filed a recall application before the Court that had passed the decree. The appellants' father has never done so! Moreover, he had admitted the consent decree and never questioned its validity.

15. In view of the above, we see no reason to interfere with the impugned order dated 23.09.2022 passed by the High Court.

Accordingly, this appeal is dismissed."

12. In the case of **Manjunath Tirakappa Malagi and Anr.** (supra), the Hon'ble Supreme Court has held that the fresh suit is still not valid remedy against compromise decree. The only remedy would be to file an application before the same Court, which passed the compromise decree.



13. In view of the several judgments of this Court and Hon'ble Apex Court and a finality having been arrived at by the Hon'ble Apex Court in the cases of **Triloki Nath Singh** (supra), **Shri Mukund Bhavan Trust and Ors.** (supra), **Manjunath Tirakappa Malagi and Anr.** (supra), it is no more res integra that when a person/party to compromise the decree challenges the compromise decree before any Court other than the very same Court, which passed the compromise decree, such petition would not be maintainable.

14. Under the circumstances, this Court is of the opinion that petitioners will have to agitate the matter before the very same Court which passed the compromise decree.

15. Accordingly, I pass the following:



ORDER

- i) The petition is ***disposed of***;
- ii) Liberty is reserved to the petitioners to approach the Senior Civil Judge, JMFC, Kollegala in O.S.No.24/2011 by filing an application to agitate the matter with regard to the compromise decree dated 24.01.2012.
- iii) In the meanwhile, till such application is filed by the petitioners and the same is decided by the learned trial judge, the parties shall maintain *status quo* with regard to suit schedule property.

Sd/-
(PRADEEP SINGH YERUR)
JUDGE

RCK/VNR
List No.: 1 Sl No.: 6
CT:MH