



R

IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 27TH DAY OF JANUARY 2026

PRESENT

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

AND

THE HON'BLE MRS JUSTICE GEETHA K.B.

REGULAR FIRST APPEAL NO. 100096 OF 2019 (PAR/POS)

BETWEEN:

SMT. SAROJA
W/O. VASANTRAO MURALKAR,
AGE: 62 YEARS, OCC: HOUSEHOLD WORK,
R/O: GARAG VILLAGE-581105,
TQ/DIST: DHARWAD.

...APPELLANT

(BY SRI. ARUN L. NEELOPANT, ADVOCATE)

AND:

1. SMT. RAJESHWARI
W/O. RAJARAM BETSUR,
AGE: 53 YEARS, OCC: HOUSEHOLD WORK,
R/O: C/O SHRI. GOVIND N. SANGAM,
7-1-397/57/1, NO.MIG 113/3,
SANJEEVARADDY NAGAR,
HYDERABAD-500038,
ANDHRA PRADESH.

2. SMT. KAMALAKSHI
W/O. DEVAPPA MURALKAR,
AGE: 60 YEARS, OCC: HOUSEHOLD WORK,
R/O: STAFF QUARTERS, 211,
BANGUR NAGAR, DANDELI-581325,
DIST: UTTARA KANNADA.

BHARATHI
H M

Digitally signed by
BHARATHI H M
Location: HIGHCOURT
OF KARNATAKA
DHARWAD BENCH
DHARWAD



3. SMT. SHWETA
W/O. DEVAPPA KULKARNI,
AGE: 70 YEARS,
OCC: HOUSEHOLD WORK,
R/O: HULGUR-581126,
TQ: SHIGGAON, DIST: HAVERI.
4. ASHOK
S/O. SHIVASIDDAPPA KOLAR,
AGE: 48 YEARS, OCC: BUSINESS,
R/O: KOLAR PETROL PUMP,
BELUR-580011, TQ/DIST: DHARWAD.
5. ANAND
S/O. TAYAPPA SURYAVANSHI,
AGE: 58 YEARS, OCC: SERVICE,
R/O: H.NO.36, LINGARAJ NAGAR (SOUTH),
31ST CROSS, VIDYA NAGAR-5880031,
HUBBALLI, DIST: DHARWAD.
6. PEERAJI
S/O. TAYAPPA SURYAVANSHI,
AGE: 54 YEARS, OCC: SERVICE,
R/O: ADHYAPAK NAGAR,
NARAGUND-582207, DIST: GADAG.
7. NAMDEV
S/O. TAYAPPA SURYAVANSHI,
AGE: 52 YEARS, OCC: AGRICULTURE,
R/O: TADKOD VILLAGE-581105,
TQ/DIST: DHARWAD.
8. SMT. SHASHIKALA DAKAPPA SURYAVANSHI,
AGE: 53 YEARS, OCC: HOUSEWIFE,



R/O: TADKOD VILLAGE-581105,
TQ/DIST: DHARWAD.

9. SHANKAR
S/O. DAKAPPA SURYAVANSHI,
AGE: 36 YEARS, OCC: AGRICULTURE,
R/O: TADKOD VILLAGE-581105,
TQ/DIST: DHARWAD.
10. MANJUNATH
S/O. DAKAPPA SURYAVANSHI,
AGE: 31 YEARS, OCC: AGRICULTURE,
R/O: TADKOD VILLAGE-581105,
TQ/DIST: DHARWAD.
11. JAYASHREE
D/O. DAKAPPA SURYAVANSHI,
AGE: 33 YEARS, OCC: HOUSEWIFE,
R/O: TADKOD VILLAGE-581105,
TQ/DIST: DHARWAD.
12. IRAPPA
S/O. SHEDAPPA TAVARENAVAR,
AGE: 78 YEARS, OCC: AGRICULTURE,
R/O: TADKOD VILLAGE-581105,
TQ/DIST: DHARWAD.
13. BHIMAPPA
S/O. SHEDAPPA TAVARENAVAR,
AGE: 76 YEARS, OCC: AGRICULTURE,
R/O: TADKOD VILLAGE-581105,
TQ/DIST: DHARWAD.
14. SMT. RUKAMAVVA
W/O. NAGAPPA TAVARENAVAR,



AGE: 58 YEARS, OCC: HOUSEWIFE,
R/O: TADKOD VILLAGE-581105,
TQ/DIST: DHARWAD.

15. SHEDAPPA
S/O. NAGAPPA TAVARENAVAR,
AGE: 36 YEARS, OCC: AGRICULTURE,
R/O: TADKOD VILLAGE-581105,
TQ/DIST: DHARWAD.

16. SHIVAJI
S/O. NAGAPPA TAVARENAVAR,
AGE: 32 YEARS, OCC: AGRICULTURE,
R/O: TADKOD VILLAGE-581105,
TQ/DIST: DHARWAD.

17. GANAPATI
S/O. NAGAPPA TAVARENAVAR,
AGE: 30 YEARS, OCC: AGRICULTURE,
R/O: TADKOD VILLAGE-581105,
TQ/DIST: DHARWAD.
SINCE DECEASED BY HIS LR'S

AMENDMENT IS CARRIED OUT
AS PER ORDER DATED 01-07-2022

THE LEGAL HEIR IS ALREADY ON RECORD
AS PER RESPONDENT NO.14

18. SMT. RUDRAVVA
W/O. RAMESH DHAVALA,
AGE: 34 YEARS, OCC: HOUSEWIFE,
R/O: TADKOD VILLAGE-581105,
TQ/DIST: DHARWAD.



19. SMT. RENUKA
W/O. GURUPRASAD DHAVALA,
AGE: 31 YEARS, OCC: HOUSEWIFE,
R/O: TADKOD VILLAGE-581105,
TQ/DIST: DHARWAD.
20. ASHOK SHEDAPPA TAVARENAVAR,
AGE: 68 YEARS, OCC: AGRICULTURE,
R/O: TADKOD VILLAGE-581105,
TQ/DIST: DHARWAD.
21. SMT. RADHAWWA
W/O. MAHARUDRAPPA TAVARENAVAR,
AGE: 48 YEARS, OCC: HOUSEWIFE,
R/O: TADKOD VILLAGE-581105,
TQ/DIST: DHARWAD.
22. SMT. SHILPA
W/O. BASAVARAJ HARANI,
AGE: 28 YEARS, OCC: HOUSEWIFE,
R/O: TADKOD VILLAGE-581105,
TQ/DIST: DHARWAD.
23. SHANKAR
S/O. MAHARUDRAPPA TAVARENAVAR
AGE: 29 YEARS, OCC: AGRICULTURE,
R/O: TADKOD VILLAGE-581105,
TQ/DIST: DHARWAD.
24. MADIVALLAPPA
S/O. MAHARUDRAPPA TAVARENAVAR,
AGE: 27 YEARS, OCC: AGRICULTURE,
R/O: TADKOD VILLAGE-581105,
TQ/DIST: DHARWAD.



25. NINGAPPA BASAPPA GAMANNAVAR,
AGE: 68 YEARS, OCC: AGRICULTURE,
R/O: TADKOD VILLAGE-581105,
TQ/DIST: DHARWAD.

...RESPONDENTS

(BY SRI. S.N. BANAKAR, ADVOCATE FOR R1, R4, R15 & R25;
SRI. SURESH P. HUDEDAGADDI, ADVOCATE FOR R7;
R2, R3, R5, R6, R9, R12, R13, R14, R16,
R20-R24 ARE SERVED; R17 WAS DEAD R14 IS LR OF R17;
R8, R10, R11, R18, R19 HELD SUFFICIENT)

THIS REGULAR FIRST APPEAL IS FILED UNDER SECTION
96 OF THE CPC, PRAYING TO SET ASIDE THE IMPUGNED
JUDGMENT AND DECREE DATED: 30.10.2018 PASSED IN
O.S.NO.67/2011 PASSED BY THE COURT OF III ADDITIONAL
SENIOR JUDGE AND CJM DHARWAD IN SO FAR AS NOT
GRANTING SHARE TO THE APPELLANT IN SUIT SCHEDULE-A
PROPERTIES AND DECREE THE SUIT BEARING O.S.NO.67/2011
IN ITS ENTIRETY IN THE OF JUSTICE AND EQUITY AND ETC.

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

CORAM: THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ
AND
THE HON'BLE MRS JUSTICE GEETHA K.B.



ORAL JUDGMENT

(PER: THE HON'BLE MRS JUSTICE GEETHA K.B.)

Plaintiff-appellant has filed this appeal under Section 96 of Code of Civil Procedure challenging the judgment and decree dated 30.10.2018 passed in O.S.No.67/2011 on the file of the III Additional Senior Civil Judge and C.J.M., Dharwad (for short, 'Trial Court') in not decreeing the suit in respect of the suit 'A', 'A(i)', 'A(ii)', and 'A(iii)' schedule properties.

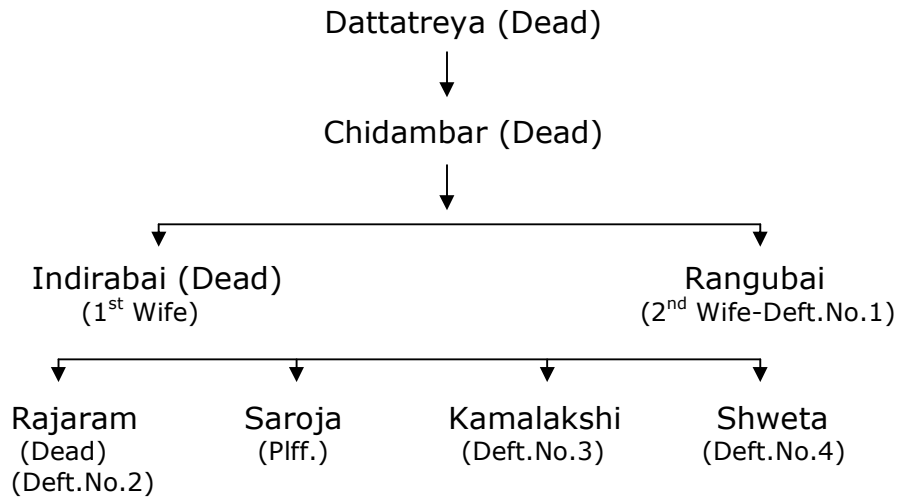
2. Parties would be referred with their ranks, as they were before the Trial Court for the sake of convenience and clarity.

3. Plaintiff has filed the suit before Trial Court praying for partition and separate possession of her 1/5th share in suit 'A' and 'B' schedule properties by metes and bounds; for the reliefs of declaration that the sale deed dated 03.01.2011 in respect of suit 'A' schedule properties, sale deeds in respect of suit 'A(i)', 'A(ii)', and 'A(iii)'



schedule properties are null and void and not binding on her share; for the relief of permanent injunction restraining defendant No.5 from interfering with the peaceful possession and enjoyment over suit 'A' schedule property; for *mesne* profits from defendant No.2; for court costs and for such other reliefs.

4. The case of plaintiff in nutshell before trial Court and the genealogy stated by plaintiff in nutshell is as follows:



5. The plaintiff contended that the plaintiff and defendant Nos.1 to 4 are members of Mitakshara School of Hindu joint family. The plaintiff further contended that the suit schedule properties are ancestral and joint Hindu family properties of



plaintiff and defendant Nos.1 to 4 and they were inherited by her father-Chidambar. Since the plaintiff was born after 17.06.1956 and her father died after 09.09.2005, she is considered as coparcener of the joint family as per Hindu Succession (Amendment) Act, 2005 (in short, 'the Act, 2005').

6. The plaintiff further contended that suit 'A(i)' schedule property bearing Block No.590/2 measuring 3 acres was sold for a sum of Rs.1,75,000/- on 02.03.2006; Suit 'A(ii)' schedule property bearing Block No.590/3 measuring 4 acres was sold in favour of defendant Nos.13 to 25 on 19.04.1994 and suit 'A(iii)' schedule property bearing Block No.590/4 measuring 6 acres 10 guntas was sold for a sum of Rs.10,000/- on 18.04.1981 in favour of defendant Nos.6 to 12 and those sale deeds are not for legal necessity and hence, those sale deeds are not binding on the share of the plaintiff. Chidambar was not the absolute owner of the suit properties to sell them without affecting partition. The family was financially sound and daughters' marriage was performed long back and there was no need to incur expenses to maintain the family. All those registered sale deeds are concocted in collusion with her father



by defendant Nos.6 to 26 and thus, they are *non-est* and not binding on the share of plaintiff.

7. After death of her husband- Rajaram, defendant No.2 got entered her name in respect of suit 'A' schedule property behind the back of plaintiff and defendant Nos.1, 3 and 4 in collusion with revenue authorities and based on the alleged relinquishment deed and Varsa varadi, name of Rajaram was also not entered in revenue records but directly name of defendant No.2 was entered in record of rights as the sole legal heir to late Chidambar. Defendant No.2 taking undue advantage of entries in her name in respect of suit 'A' schedule property, has sold the same to defendant No.5 under registered sale deed dated 03.01.2011 for a sum of Rs.10,94,000/-. The said transaction is illegal, void and not binding on the plaintiff. Defendant No.2 is not the sole and absolute owner of suit schedule property to alienate the same without affecting equitable partition by metes and bounds with co-sharers. She did so, with *malafide* intention to defeat the legitimate share of plaintiff, step-mother and sisters of plaintiff i.e., defendant Nos.3 & 4, in connivance with Village Accountant of Tadakod.



8. The plaintiff has never relinquished her share in favour of defendant No.2 at any point of time. Defendant Nos.2 and 5 have played fraud on the plaintiff. The alleged relinquishment deed and Panchayatdast do not bear the date. The alleged transactions are bogus, void and not binding on plaintiff. Recently during December-2010, plaintiff came to know about these illegal entries and questioned them and also demanded her legitimate share. Instead of effecting partition, defendant No.2 sold suit 'A' schedule property to defendant No.5. Hence, the suit for appropriate reliefs.

9. Defendant No. 1, the step-mother of plaintiff, filed her written statement, wherein, she admitted the allegations made in the plaint and prayed for allotment of 1/5th share to her in suit schedule properties and she is ready to pay requisite Court fee. Defendant Nos.3 & 4 have also filed their separate written statements, wherein, they have also admitted the plaint pleadings and prayed for allotting share in joint family properties to them and they are ready to pay Court fee.

10. Defendant No.2 filed her written statement, wherein, she admitted the relationship between the parties but denied all



other averments made in the plaint. Defendant No.2 further contended that the Court fee paid is not proper as plaintiff is not in joint possession of suit 'A' schedule property and therefore, the suit is liable to be rejected under Order VII Rule 11 of the Code of Civil Procedure. Defendant No.2 also contended that, Block No.590/1 measuring 10 acres 5 guntas, i.e., suit 'A' schedule property, originally belonged to one Dattatreya, who died leaving behind his only son, Chidambar. Chidambar's wife Smt. Indubai died, leaving behind her children i.e., her son- Rajaram, plaintiff and defendant Nos.3 & 4 as her daughters. Rajaram died leaving behind defendant No.2 as his sole legal heir.

11. It is further contended that during lifetime of Rajaram, the plaintiff and defendant Nos.3 and 4 have received a sum of Rs.50,000/- each and relinquished their rights in favour of Rajaram by executing a deed in his favour in respect of suit 'A' schedule property. After his death, the plaintiff and defendant Nos.3 & 4 together have executed relinquishment deed in favour of defendant No.2 by relinquishing their rights in respect of suit 'A' schedule property. By virtue of it, the revenue entries were



certified and the revenue authorities after accepting Rs.1,000/- towards stamp duty for relinquishment deed as per the Government circular have got entered the name of defendant No.2 as per M.R.No.101/2009-10 dated 30.03.2010. Thus, defendant No.2 became the absolute owner of said property and she has executed sale deed dated 03.01.2011 for a sum of Rs.10,94,000/- in favour of defendant No.5 by receiving entire sale consideration amount of Rs.10,94,000/-. Since, from the date of such sale, defendant No.5 is in possession and enjoyment of suit 'A' schedule property. The plaintiff cannot question it; she has no right, title or interest in or over suit 'A' schedule property. Thus, suit is false, frivolous, vexatious and untenable in law. Hence, prayed for dismissal of the suit with compensatory costs of Rs.50,000/-.

12. Defendant No.4 filed her written statement, wherein, she also admitted the relationship between parties and she is sailing with defendant No.2 and contended that she, along with defendant No.3 and the plaintiff have executed relinquishment deed by accepting Rs.50,000/- from their brother and after his death, in favour of defendant No.2, and defendant No.2 sold the



property in favour of defendant No.5. Hence, prayed for dismissal of suit with costs.

13. Defendant No.5 filed his written statement, wherein, he has taken the contention similar to which was taken by defendant No.2 and contended that plaintiff has suppressed true facts and filed false, frivolous, vexatious and untenable suit with the sole object of causing unnecessary inconvenience and harassment to defendant No.5. Hence, prayed for dismissal of suit with exemplary costs.

14. After filing written statement by defendant Nos.1 to 5, the plaintiff amended the suit and included suit 'A(i)' to 'A(iii)' schedule properties and impleaded defendant Nos.6 to 26.

15. Defendant No.8 has filed his written statement, wherein, he denied the plaint averments and contended that defendant Nos.6 to 12 are concerned only in respect of suit 'A(iii)' schedule property, bearing Block No.590/4, measuring 6 acres 10 guntas, which was sold by Chidambar S/o Dattatreya Betasur, in favour of father-in-law of defendant No.9, grandfather of defendant Nos.10 to 12, father of defendant No.6 to 8-Tayappa S/o Dakappa Suryavanshi for a sum of Rs.10,000/-



under registered sale deed dated 18.04.1981. The said sale deed came into existence in the year 1981 and it cannot be challenged in the year 2011. Furthermore, the said sale deed is saved by the Proviso of Section 6 of the Act, 2005. Hence, prayed for dismissal of suit in respect of suit 'A(iii)' schedule property.

16. The written statement of defendant No.8 is adopted by defendant Nos.6, 7, 9 to 12.

17. Defendant No.16 filed his written statement, wherein, he contended that predecessors of defendant Nos.15 to 20, 22 to 25 have purchased the western portion abutting to canal measuring 4 acres in R.S.No.590 under registered sale deed and said sale deed is saved under Proviso to Section 6 of the Act, 2005. Suit challenging the said sale deed is barred by limitation. Hence, prayed for dismissal of suit with costs.

18. Defendant No.26 filed his written statement, wherein, he had taken contention that he has purchased suit 'A(i)' schedule property bearing Block No.590/1 measuring 3 acres of land on eastern portion under registered sale deed dated 02.03.2006. He further contended that only after confirming the title of deceased-Chidambar, who is the absolute owner of the



property and also personally visiting the property and on verification with neighbouring landowners, he has purchased said property for value and said property was standing in the name of Chidambar, he was the absolute owner in possession of it. Revenue records were standing in his name. Since, from the date of purchase, defendant No.26 is in actual, physical and lawful possession and enjoyment of said property. Hence, prayed for dismissal of suit with costs.

19. From the above facts, the trial Court has framed the following issues and additional issues on different dates:

"ISSUES

1. ವಾದಿ ಪ್ರತಿವಾದಿ 1 ಮತ್ತು 3 ರು ತಾವು ಹೇಳುವಂತೆ ದಾವಾ ಆಸ್ತಿಗಳು ವಾದಿ ಪ್ರತಿವಾದಿ 1 ರಿಂದ 4 ರ ಒಟ್ಟು ಕುಟುಂಬದ ಜಂಟಿ ಸ್ವಾಧೀನಾನುಭವದಲ್ಲಿರುವ ಆಸ್ತಿಗಳು ರುಜುವಾತು ಎಂದು ಪಡಿಸುತ್ತಾರೆಯೇ?
2. ಪ್ರತಿವಾದಿ 2, 4 ಮತ್ತು 5 ತಾವು ಹೇಳುವಂತೆ ವಾದಿ ಪ್ರತಿವಾದಿ 1 ಮತ್ತು 3 ದಾವಾ ಆಸ್ತಿಗಳಲ್ಲಿನ ಮೇಲಿನ ತಮ್ಮ ಹಿಸ್ಸೆಯಲ್ಲಿನ ತಲಾ 50 ಸಾವಿರ ರೂಗಳನ್ನು ತಮ್ಮ ಸಹೋದರ ಮೃತ ರಾಜಾರಾಮನಿಂದ ಸ್ವೀಕರಿಸಿ ದಾವಾ ಆಸ್ತಿಗಳಲ್ಲಿನ ತಮ್ಮ ಹಿಸ್ಸೆಯನ್ನು ತಮ್ಮ ಸಹೋದರ ರಾಜಾರಾಮನ ಪರವಾಗಿ ಬಿಟ್ಟುಕೊಟ್ಟಿದ್ದಾರೆಂದು ರುಜುವಾತು ಪಡಿಸುತ್ತಾರೆಯೇ?
3. ಪ್ರತಿವಾದಿ 2, 4 ಮತ್ತು 5 ರವರು ಮುಂದುವರೆದು ತಾವು ಹೇಳುವಂತೆ ದಾವಾ ಪರಿಶಿಷ್ಟ ಎ ರ ಆಸ್ತಿ ಪ್ರತಿವಾದಿ 2 ರ



ಸಂಪೂರ್ಣ ಮಾಲೀಕತ್ವಕ್ಕೆ ಒಳಪಟ್ಟಿದ್ದ ಆಕೆಯ
ಸ್ವಾಧೀನಾನುಭವದಲ್ಲಿದ್ದ ಆಸ್ತಿಯಾಗಿತ್ತು ಎಂದು ರುಜುವಾತು
ಪಡಿಸುತ್ತಾರೆಯೇ?

4. ಪ್ರತಿವಾದಿ 2, 4 ಮತ್ತು 5 ರವರು ಮುಂದುವರೆದು ತಾವು
ಹೇಳುವಂತೆ ದಾವಾ ಪರಿಶಿಷ್ಟ ಎ ರ ಆಸ್ತಿಯನ್ನು ಸರಿಯಾಗಿ
ವರ್ಣನೆ ಮಾಡದೇ ಇರುವುದರಿಂದ ಈ ದಾವೆ ನಾ ಪ್ರ ಸಂ ಕ್ರ 7
ನಿಯಮ 3 ರಿಂದ ಬಾದಿಸಲ್ಪಟ್ಟಿದೆ ಎಂದು ರುಜುವಾತು
ಪಡಿಸುತ್ತಾರೆಯೇ?
5. ಪ್ರತಿವಾದಿ 2, 4 ಮತ್ತು 5 ರವರು ಮುಂದುವರೆದು ತಾವು
ಹೇಳುವಂತೆ, ಈ ದಾವೆಗೆ ಕರ್ನಾಟಕ ನ್ಯಾಯಾಲಯ ಶುಲ್ಕ ಮತ್ತು
ದಾವಾ ಮೌಲ್ಯಮಾಪನಾ ಕಾಯ್ದೆ ಯ ಕಲಂ 38 ರಲ್ಲಿ
ನ್ಯಾಯಾಲಯ ಶುಲ್ಕ ಕಲಂ 35(2) ರಲ್ಲಿ ಭರಿಸಿರುವ
ಭರಿಸಬೇಕಿದ್ದ ಸದರಿ ಕಾಯ್ದೆ ನ್ಯಾಯಾಲಯ ಶುಲ್ಕ ಸರಿ
ಇಲ್ಲದ್ದರಿಂದ ಈ ದಾವೆ ನಾ ಪ್ರಾ ಸಂ ಕ್ರ 7 ನಿಯಮ 11 ರಲ್ಲಿ
ವಜಾ ಯೋಗ್ಯ ಎಂದು ರುಜುವಾತು ಪಡಿಸುತ್ತಾರೆಯೇ?
6. ವಾದಿ, ಪ್ರತಿವಾದಿ 1 ಮತ್ತು 3 ತಾವು ಕೇಳಿರುವ ದಾವಾ
ಆಸ್ತಿಗಳಲ್ಲಿನ 5/1 ಅಂಶದ ಪಾಲು ಮತ್ತು ಪ್ರತ್ಯೇಕ ಸ್ವಾಧೀನತೆಗೆ
ಅರ್ಹರೇ?
7. ವಾದಿ ತಾವು ಕೇಳಿರುವ ಪ್ರತಿವಾದಿ 2 ರು ದಾವಾ ಪರಿಶಿಷ್ಟ ಎ ರ
ಆಸ್ತಿ ಸಂಬಂಧ ಪ್ರತಿವಾದಿ 5 ರ ಪರವಾಗಿ ಜಾರಿಗೊಳಿಸಿರುವ
ಪ್ರಶ್ನಿತ ನೋಂದಣಿ ಕ್ರಯ ಪತ್ರ ದಿನಾಕ 3-1-2011 ತಮ್ಮ ಹಿಸ್ಸೆಗೆ
ಬಂಧನಕಾರಿಯಲ್ಲ ಎನ್ನುವ ಘೋಷಣೆಯ ಪರಿಹಾರಕ್ಕೆ ಅರ್ಹರೇ?
8. ವಾದಿ ತಾವು ಕೇಳಿರುವ ಶಾಶ್ವತ ನಿರ್ಬಂಧಕಾಜ್ಞೆ ಪರಿಹಾರಕ್ಕೆ
ಅರ್ಹರೇ?
9. ವಾದಿ ತಾವು ಕೇಳಿರುವ ಭವಿಷ್ಯದ ಧರ್ಮಾನು ಉತ್ಪನ್ನಕ್ಕೆ
ಅರ್ಹರೇ?



10. ಏನು ಆದೇಶ ಅಥವಾ ಡಿಕ್ರಿ?

ADDITIONAL ISSUES DATED 9-12-2015

1. *Whether the defendant No.5 proves that suit is bad for non joinder of necessary parties?*
2. *Whether the defendant No.5 proves that suit of the plaintiff is suffers from non inclusion of other properties?*

ADDITIONAL ISSUES DATED 7-3-2017

1. *Whether the defendant Nos. 6 to 12 prove that their predecessor Tayappa S/o Dakappa Suryavanshi on 18-4-1981, purchased suit schedule A (iii) property and thereby they are the bonafide purchasers of the said property?*
2. *Whether defendant No. 13, 14 and 21 prove that they and predecessor of defendant No. 15 to 20 and 22 to 25 on 19-4-1994, purchased western portion 4 acres of land in suit property bearing R.S No.590 and thereby they are the bonafide purchasers of the said property?*
3. *Whether defendant No.26 proves that he on 2-3-2006 purchased eastern portion 3 acres of land in suit property bearing R.S No.590/1 and thereby he is the bonafide purchaser of the said property?"*



20. On behalf of plaintiff, plaintiff was examined as PW1, got marked Exs.P.1 to P.24 and closed her side before trial court.

21. On behalf of defendants, totally 11 witnesses were examined as DWs.1 to 11, got marked Exs.D1 to D38 and closed their side before trial Court.

22. After recording evidence of both sides and hearing arguments of both sides, the learned trial judge has decreed the suit in respect of suit 'B' schedule house property and dismissed the suit in respect of suit 'A', 'A(i)' to 'A(iii)' schedule properties on the ground that plaintiff and defendant Nos.3 & 4 have relinquished their rights earlier in favour of husband of defendant No.2 and after his death, in favour of defendant No.2 and thus, they cannot claim any right, title or interest in or over suit 'A' schedule properties and dismissed the suit in respect of suit 'A(i)' to 'A(iii)' schedule properties on the ground that they were executed by father of plaintiff and he has got every right to alienate it and suit is filed long after execution of some of those sale deeds and thus, they bind the share of plaintiff.



23. Aggrieved by said judgment and decree in respect of suit 'A', 'A(i)' to 'A(iii)' schedule properties, plaintiff/appellant has filed the present appeal.

24. Heard arguments of both sides.

25. Learned counsel Sri. Arun L. Neelopant for appellant submitted his arguments that he is not pressing his appeal in respect of suit 'A(ii)' and 'A(iii)' schedule properties because those sale deeds were executed in the year 1994 and 1981 respectively and thus, he is restricting his arguments only in respect of suit 'A' & 'A(i)' schedule properties measuring 10 acres 5 guntas and 3 acres respectively. Learned counsel for appellant submits that the relationship between parties is admitted by both sides. Under those circumstances, plaintiff being the daughter of late Chidambar, has got right by birth as coparcener in suit 'A' and 'A(i)' schedule properties by virtue of the Act, 2005 and that confers coparcenery rights upon plaintiff. Hence, without her consent, her father could not have sold suit 'A(i)' schedule property on 02.03.2006 to defendant No.26 and said sale deed is not for legal necessity or for family benefit. He would further submit that after death of Chidambar and after death of brother



of plaintiff-Rajaram, defendant No.2 being the wife of her brother has got entered her name in revenue records in collusion with revenue officials by concocting several documents and based on such revenue entry, has sold suit 'A' schedule property under registered sale deed dated 03.01.2011 in favour of defendant No.5, which would not bind the share of plaintiff as it is not for legal necessity or family benefit and defendant No.2 cannot be called as Karta of the joint family. However, learned trial judge has misread the provisions of law, especially the Registration Act and only based on a stray admission of receipt of Rs.50,000/- by plaintiff from her brother, came to the wrong conclusion that plaintiff has relinquished her right in respect of suit 'A' schedule property and thus, wrongly dismissed the suit in respect of suit 'A' and 'A(i)' schedule property and hence, prayed for allowing the appeal in respect of those two properties.

26. During pendency of the suit, the second wife of Chidambar i.e., defendant No.1 died and she has no Class-I heirs and thus, her share is devolved upon the remaining sharers i.e., plaintiff and defendant Nos.2 to 4 and thus, prayed for



decreeing the suit by granting 1/4th share in suit 'A' and 'A(i)' schedule property by metes and bounds.

27. Learned counsel Sri. Suresh P. Hudedagaddi for defendant No.8, would submit that long prior to commencement of the Act, 2005 on 18.04.1981, father of plaintiff has sold suit 'A(iii)' schedule property in favour of father of defendant Nos.6 & 7 under registered sale deed. Since then, the father of defendant Nos.6 & 7 and after his death, defendant Nos.6 to 12 being the legal heirs are in joint possession and enjoyment of said property and plaintiff cannot claim any share in said property on the ground of limitation and also on the ground of saving the registered document prior to cut-off date 20.12.2004. Hence, prayed for dismissal of appeal against defendant Nos.6 to 12.

28. Learned counsel Sri. S.N. Banakar for defendant Nos.2, 5, 15 & 26 respectively (respondent Nos.1, 4, 15 & 25) would submit that the plaintiff has relinquished her share in respect of suit 'A' schedule property by receiving a sum of Rs.50,000/- during lifetime of her brother-Rajaram and executed relinquishment deed as per Ex.D.25 and after death of Rajaram, plaintiff and defendant Nos.3 & 4 along with defendant No.1



have executed relinquishment deed as per Ex.D.27 in favour of defendant No.2. At that time, defendant No.2 has paid additional fee of Rs.1,000/- to Tahsildar as per the circular issued by the Government and thus, after such payment of Rs.1,000/- and relinquishment deed executed by the plaintiff and defendant Nos.1, 3 & 4, revenue entries are mutated into the name of defendant No.2 alone. About one year after such revenue entries, defendant No.2 has executed registered sale deed in favour of defendant No.5 in respect of suit 'A' schedule property and thus, said sale deed binds the plaintiff and now, she cannot claim any share in that property after relinquishing her share. During lifetime of father, father has executed registered sale deed in respect of 'A(i)' schedule property in favour of defendant No.26 and that is also for legal necessity and family benefit. Both sale deeds are for legal necessity and family benefit and thus, they bind even the share of plaintiff. Hence, considering this relinquishment deed and other factors, rightly learned trial judge has dismissed the suit in respect of suit 'A', 'A(i)' schedule properties and decreed only in respect of 'B' schedule property. Hence, prayed for dismissal of appeal with costs.



29. In this regard, respondent Nos.1, 4, 15 and 25 relied upon the judgment of Hon'ble Supreme Court between ***Dalip Singh Vs. State Of U.P. & Ors*** in ***Civil Appeal No.5239 of 2002.***

30. Having heard the arguments of both sides, verifying appeal papers along with trial Court records, the points that arise for consideration are:

- 1) Whether the appellant proves that the sale deed executed by defendant No.2 in favour of defendant No.5 does not bind the share of plaintiff?
- 2) Whether the appellant establishes that the sale deed executed by father of appellant Sri Chidambar in favour of defendant No.26 does not bind the share of plaintiff?
- 3) Whether the judgment and decree passed by the learned trial judge is erroneous?
- 4) Whether interference on the above said judgment is required?

31. Our answer to point No.1 in the affirmative;



Point No.2 in the negative;

Point Nos.3 and 4 partly in the affirmative for the following:

REASONS

The relationship between parties is admitted. It reveals that one Chidambar was the son of Dattatreya and he inherited suit A, A(i) to A(iii) and 'B' schedule properties from his father-Dattatreya. This Chidambar died on 11.01.2007, leaving behind his second wife (defendant No.1), plaintiff (his daughter), defendant Nos.3 & 4 (daughters) and his son Rajaram. Chidambar had a first wife called Indrabai. From her plaintiff, Rajaram and defendant Nos.3 & 4 were born. Said Indrabai died in the year 1989. Only after her death, Chidambar married defendant No.1.

32. During pendency of the suit, defendant No.1 also died and she had no issues and thus she had no Class-I heir. Plaintiff and defendant Nos.2 to 4 are her Class-II heirs who would equally succeed to her share.

33. It is not in dispute that the father of plaintiff had executed registered sale deed dated 18.04.1981 in respect of 6



acres 10 guntas of suit-'A' schedule property in favour of father of defendant Nos.6 & 7 and then father of defendant Nos.6 & 7 was in possession and enjoyment of said property. After his death defendant Nos.3 to 6 being his legal representatives are in possession and enjoyment of said property. It is also not in dispute that father of the plaintiff had executed registered sale deed dated 19.04.1994 in respect of 4 acres in favour of defendant Nos.13 to 15 and they are in possession and enjoyment of the said property. Thus, two sale deeds came into existence much earlier to commencement of Act, 2005 and present suit is filed in the year 2011. Hence, challenging those two sale deeds does not arise at all. The suit would be barred by limitation in respect of those two properties. Furthermore, learned counsel for plaintiff fairly submitted that he is not pressing the appeal in respect of those two properties.

34. A(i) schedule property is sold by father of plaintiff to defendant No.26 under registered sale deed dated 02.03.2006. as per Ex.D.18. Defendant No.26 has taken contention that only after verifying revenue records and verifying with neighbors and also by making proper enquiries, he was satisfied that the father



of plaintiff was absolute owner of the properties and thus he purchased said property for valuable consideration.

35. There is a recital in Ex.D.18 that seller was having some family problems and he was in need of money and hence he sold the said property to defendant No.26 for highest market value of ₹.1,75,000/- and hence said property is sold to defendant No.26.

36. Plaintiff is a married daughter of Chidambar. She was born in the year 1959 and married long back and was residing in her husband's house. Under those circumstances, even though, plaintiff was having a right over said property, for family benefit it was being sold in favour of defendant No.26 by her father-Karta of the family. In this regard, in her cross-examination, plaintiff admitted that she has not challenged said sale deed executed by her father in this suit. Only after this evidence, it appears that she had included said property and impleaded defendant No.26. She has deposed that after such purchase, other defendant Nos.13 to 25 have spent huge amount and developed those properties. She also admitted that after such sale, name of purchasers entered in the revenue records. Hence,



the sale by father, being karta of the family binds other coparceners if it is for the family benefit or legal necessity. Hence, we are of the considered opinion that sale deed by father in favour of defendant No.26 definitely binds the share of plaintiff and defendant Nos.3 & 4.

37. The remaining contention of plaintiff is that defendant No.2 got revenue entries in her name by concocting several revenue documents and concocting the signature of plaintiff, defendant Nos.3 & 4 on those documents and obtained revenue entries into her name, without even entering the name of her husband-Rajaram in the revenue entries and after such revenue entry, she has executed registered sale deed in favour of defendant No.5 for value of ₹.10,94,000/- without the consent and knowledge of plaintiff. Immediately after plaintiff came to know about it, she has filed the present suit challenging the same.

38. Exhibit D.11 is the certified copy of registered sale deed executed by defendant No.2 in favour of defendant No.5 for a sum of ₹.10,94,000/-.



39. Defendant Nos.2 & 5 mainly relies upon Ex.D.11, D.25 and D.27 to prove their contention. Ex.P.14, Ex.D.27 and Ex.D.33 are one and the same document; likewise, Ex.D.23 and Ex.D.35 are one and the same document.

40. It is to be noted here that defendant No.5 in his written statement and affidavit evidence has not taken the plea that he is *bonafide* purchaser of the property for value. On the other hand, he has taken only the plea that he is the purchaser of property from defendant No.2 and defendant No.2 was the owner of the property because plaintiff, defendant Nos.3 & 4 have relinquished their share in favour of defendant No.2.

41. On careful perusal of the recitals of Ex.D.25, it is alleged in that document that plaintiff, defendant Nos.3 & 4 have signed the said document. In this document, it is stated that they have received ₹.50,000/- each from their brother in presence of elders and they have no objection to continue possession of the landed properties only with their brother and they have voluntarily executed such document on 15.11.2007. It is signed by three witnesses. The third one was examined as DW.10. DW.10 in his affidavit evidence has stated that he is the



scribe of said document and he has recited the contents of said document in his affidavit evidence. In the cross-examination, he has deposed that he has not signed the document as a scribe. But, deposed in the end of his cross-examination by defendant No.3 that signature found on Ex.D.25 as per Ex.D.25(a) is not his signature and according to him its recitals are written by him.

42. Based on Ex.D.25, no revenue entries were mutated. However, the brother of plaintiff i.e. husband of defendant No.2 died on 03.04.2008. After his death, Ex.D.27 came into existence. Under Ex.D.27, the similar recitals of Ex.D.25 are forthcoming. But there is no mention about receipt of ₹.50,000/- in the said document and it is only stated before the revenue officials that plaintiff and defendant Nos.2 & 3 have relinquished their right in favour of defendant No.2 and they have consented for mutation of property into the name of defendant No.2. Even though, name of defendant No.1 is not mentioned in recitals, but her signature is also forthcoming on the said document.

43. It is the contention of defendant Nos.2 & 5 that at that time the Government has given some relaxation and only by receiving this ₹.1,000/- as stamp duty, the Tahasildar got



mutated the suit 'A' schedule property into the name of defendant No.2. In this regard he relied upon some of the Articles of the Stamp Act.

44. The Karnataka Stamp Act, 1957 was amended in respect of payment of stamp duty in case of transaction within family members. According to Article 48 of Karnataka Stamp Act, 1957 the maximum stamp duty payable on relinquishment deed would be ₹.1,000/- if any family member relinquishes his/her right in favour of other family members. This is the stamp duty payable at the time of registration of the document to sub-Registrar. Tahsildar not being Sub-Registrar cannot receive said stamp duty and enter the name of defendant No.2 in the revenue records. Always relinquishment deed relinquishing the title in immovable property is compulsorily registerable document if the property worth more than ₹.100/- as per Section 17 of the Registration Act, 1908. There is no amendment to this provision of law. The Government cannot relax it.

45. In this regard, learned counsel for the appellant relies upon the judgment of the co-ordinate Bench of this Court in the case of ***Malakappa Vs. Annapurna and others*** reported



in **ILR 2010 KAR 2748**, wherein, at para No.8, it is held as under:

"8. Even otherwise, the 1st defendant having admitted that it was an unregistered deed which in law does not take effect, either for gaining or losing rights in immovable property worth more than one hundred rupees, in view of the provisions of Section 17 of the Registration Act, 1908 (for short, the Act),

17. Documents of which registration is compulsory

(1) The following documents shall be registered, if the property to which they relate is situate in a district in which, and if they have been executed on or after the date on which, Act No. XVI of 1864, or the Indian Registration Act, 1866, or the Indian Registration Act, 1871, or the Indian Registration Act, 1877 or this Act came or comes into force, namely:—

(a) xxx

(b) other non-testamentary instruments which purport or operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest whether vested or contingent, of the value of one hundred rupees, and upwards, to or in immovable property;

(c) xxx

(d) xxx

(e) xxx



read with Section 49 of the Act, which reads as under:

49. Effect of non-registration of documents

required to be registered: *No document required by Section 1732 (or by any provision of the Transfer of Property Act, 1882) to be registered shall-*

(a) affect any immovable property comprised therein, or

(b) xxx

(c) xxx:

the appeal has only to be dismissed, confirming the judgment and decree passed by the trial Court, and it is accordingly dismissed.

Appeal is dismissed."

46. Thus, the relinquishment deed executed by the family member in favour of other family member requires only a little registration fee. But, it is compulsorily registerable document. Under those circumstances, merely mentioning that the Tahsildar has received ₹.1,000/- from defendant No.2 and entered the name of defendant No.2 in revenue records, by relying upon Ex.D.25 is of no consequence and this document cannot be looked into for any purpose, as it is unregistered document.



47. Learned counsel Sri.S.N.Banakar for respondent Nos.1, 4, 15 & 25 would submit that he has paid Stamp duty and penalty of more than ₹.11,000/- in respect of Ex.D.25 and thus, it cures the defect of non-payment of stamp duty on the document and it is admissible in law.

48. In this regard, learned counsel for respondent would rely upon Sections 34 to 37 of the Karnataka Stamp Act, 1957. Under Section 34 of the Karnataka Stamp Act, 1957 any instrument chargeable with duty shall not be admitted in evidence for any purpose unless, such instrument is duly stamped.

49. Under section 35 of Karnataka Stamp Act, 1957 if instrument is insufficiently stamped and even if it is admitted in law then it shall not be called in question at any stage of the suit that such instrument has not been duly stamped.

50. In the instant case, Ex.D.25 was marked by paying stamp duty and penalty as ordered by the Court. Hence, it is admissible in law.



51. Under Ex.D.25, the property was not mutated as discussed above. It is only under Ex.D.27, the property was mutated into the name of defendant No.2. There is a specific recital in Ex.D.27 as follows:

“ ಸಮ್ಮತಿ ಪತ್ರ

ಇದರಲ್ಲಿ ಖಾತೇದಾರರಾದ ಶ್ರೀ ಚಿದಂಬರ ದತ್ತಾತ್ರೇಯ ಬೆಟಸೂರ ಇವರು ದಿನಾಂಕ 11-01-2007 ರಂದು ಪೋತಿಯಾಗಿರುತ್ತಾರೆ. ಸದರೀಯವರಿಗೆ ನಾವು ವಾರಸುದಾರರು ಇರುತ್ತೇವೆ. ವಾರಸಾ ಮಾಡುವ ಕಾಲಕ್ಕೆ ನಮ್ಮ ಹೆಸರುಗಳನ್ನು ದಾಖಲ ಮಾಡಬಾರದು ನಮ್ಮ ಕುಟುಂಬದಲ್ಲಿ ಹೊಂದಾಣಿಕೆ ಆದ ಪ್ರಕಾರ ಜಮೀನು ಖಾತೇದಾರರ ಗಂಡು ಮಗನ ಹೆಂಡತಿಯಾದ ಶ್ರೀಮತಿ. ರಾಜೇಶ್ವರಿ ಕೋಂ ರಾಜಾರಾಮ ಬೆಟಸೂರ ಇವರಿಗೆ ನಮ್ಮ ಹಕ್ಕುಬಿಟ್ಟು ಕೊಟ್ಟಿರುತ್ತೇವೆ. ಸದರ ಆಸ್ತಿಯ ದೇಖರೇಖಿ ಮತ್ತು ಯಾವತ್ತೂ ಕೆಲಸಗಳನ್ನು ಇವರೇ ಮಾಡುತ್ತಾರೆಂಬುದರಿಂದ ವಾರಸಾ ಪ್ರಕಾರ ಹಕ್ಕು ಬದಲಾವಣೆ ಮಾಡುವಾಗ ನಮ್ಮ ಹೆಸರುಗಳನ್ನು ದಾಖಲ ಮಾಡಬಾರದು ಕೇವಲ ನಮ್ಮ ಖಾಸ ಅಣ್ಣನ ಹೆಂಡತಿಯಾದ ಶ್ರೀಮತಿ. ರಾಜೇಶ್ವರಿ ಕೋಂ ರಾಜಾರಾಮ ಬೆಟಸೂರ ಇವರನ್ನು ಹಾಗೂ ಇವರ ಹೆಸರನ್ನು ದಾಖಲಿಸಲು ನಮ್ಮದು ಎಲ್ಲರದೂ ಸಮ್ಮತಿ ಇರುತ್ತದೆ ಅಂತಾ ನಾವು ಎಲ್ಲರೂ ಪೂರ್ತಿ ಒಪ್ಪಿಕೊಂಡು ಸಾಕ್ಷಿದಾರರ ಸಮ್ಮಕ್ಷಮ ಆತ್ಮಸಂತೋಷದಿಂದ ಮತ್ತು ಅಕ್ಕಲ ಹುಷಾರಿಯಿಂದ ಬರಕೊಟ್ಟ ಹಕ್ಕುಬಿಟ್ಟು ಕೊಟ್ಟ ಬಗ್ಗೆ ಸಮ್ಮತಿ ಪತ್ರ ಸಹಿ ತಾರೀಖು :- “

52. Below this document, the date is not mentioned, but only signatures of plaintiff, defendant Nos.3 & 4 and on the next page, the signatures of defendant No.1 and panchas are forthcoming. The recitals of this document clearly and categorically establish that this is a relinquishment deed wherein



plaintiff, defendant Nos.3 & 4 have relinquished their rights in favour of defendant No.2. Hence, it is compulsory registerable document as discussed above. Without such registration, no rights would be conferred upon defendant No.2 to call her as absolute owner.

53. Merely because the document is admissible in law, it will not create or extinguish any right to the party, unless the instrument is registered as it is compulsorily registerable instrument as per the Section 17 of the Registration Act, 1908 because, it is pertaining to immovable property and its worth is more than Rs.100/-.

54. Section 17 of Registration Act, 1908 reads as follows:-

17. Documents of which registration is compulsory

(1) The following documents shall be registered, if the property to which they relate is situate in a district in which, and if they have been executed on or after the date on which, Act No. XVI of 1864, or the Indian Registration Act, 1866, or the Indian Registration Act, 1871, or the Indian



Registration Act, 1877 or this Act came or comes into force, namely:—

(a) xxx

(b) other non-testamentary instruments which purport or operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest whether vested or contingent, of the value of one hundred rupees, and upwards, to or in immovable property;

(c) xxx

(d) xxx

(e) xxx

55. The effect of non-registration of a document under this Section is explained in section 49 of Registration Act, 1908.

56. Section 49 of Registration Act, 1908 reads as follows:

49. Effect of non-registration of documents required to be registered: *No document required by Section 1732 (or by any provision of the Transfer of Property Act, 1882) to be registered shall—*



- (a) affect any immovable property comprised therein, or*
- (b) xxx*
- (c) xxx:*

57. As per Section 49 of Registration Act, 1908 if document required by Section 17 of Registration Act, 1908 to be registered shall not affect the transfer of any immovable property comprised therein.

58. The only exception to this rule is enumerated in its Proviso that in a suit for specific performance of the contract, the unregistered sale agreement may be received as evidence and evidence of any collateral transaction not required to be effected by registered instrument may be received in evidence. Thus,, these Ex.D.25 & 27 are being compulsorily registerable documents under Section 17 of the Registration Act,1908 and non-registration of the instruments cannot be cured by paying duty and penalty or by paying Rs.1,000/- to Tahasildar for change of mutation. Under those circumstances, those documents will not confer any right, title or interest to the person in whose favour relinquishment is being done and it will



not take away the right, title and interest of the party who relinquishes his right on the property.

59. Based on revenue entry standing in her name, defendant No.2 has executed sale deed in favour of defendant No.5. It will not confer any right, title or interest in favour of defendant No.5, except what defendant No.2 possessed. Defendant No.2 possessed only 1/4th share in suit 'A' schedule property. The sale deed is valid only in respect of her share i.e. 1/4th share.

60. Defendant No.2 cannot be called as Karta of the family at any stretch of imagination because she is only the daughter-in-law of the original propositus and she is the sister-in-law of plaintiff, defendant Nos.3 & 4. Hence, the sale deed executed by defendant No.2 cannot bind the shares of plaintiff and defendant Nos.3 & 4.

61. Even though, the plaintiff and defendant No.4 in their respective cross-examinations admitted the receipt of ₹.50,000/- from their brother; that would not mean that they have relinquished their right in respect of suit 'A' schedule property. The said amount of ₹.50,000/- might have been given to plaintiff



and defendant Nos.3 & 4 for some other purpose also or at least even if it is presumed that it is given in lieu of their rights in suit 'A' schedule property, as the document is not a registered one, that would not take away their rights in suit 'A' schedule property and will not confer right upon defendant No.2 in respect of said property.

62. Under those circumstances, revenue entries in favour of defendant No.2 and in turn, sale by defendant No.2 in favour of defendant No.5 would only bind the share of defendant No.2 and not the share of plaintiff and defendant Nos.3 & 4. Without considering this legal aspect in a proper manner, the learned trial Judge has dismissed the suit in respect of the suit 'A' schedule property on the ground that relinquishment deed is executed by plaintiff and defendant Nos.3 & 4 and mutation entries were not challenged by the plaintiff.

63. It is to be noted here that mere mutation entry will not confer any right, title or interest OR take away the right, title or interest of the party. Mutation entry and revenue entries are only for the collection of tax on the property and not to confer title on the property. Under those circumstances, challenging the



mutation entry by plaintiff would not arise at all. Furthermore, within a span of 1-1-½ years of such mutation, plaintiff has filed the present suit. Hence, said reasoning assigned by the learned trial Judge is completely erroneous and not in accordance with the proposition of law. Accordingly, the points raised are answered as above and we proceed to pass the following:

ORDER

The appeal filed by the appellant/plaintiff under Section 96 of CPC is ***partly allowed*** by modifying the judgment and decree of the trial Court as follows:

- i) Suit of plaintiff in O.S.No.67/2011 on the file of III Addl. Senior Civil Judge and Chief Judicial Magistrate, Dharwad is partly decreed in respect of suit 'A' schedule property bearing Block No.590/1 measuring 10 acres 5 guntas along with suit 'B' schedule property.
- ii) Suit in respect of A(i) to A(iii) schedule property is dismissed by confirming the judgment and decree of trial Court on that point.



iii) Plaintiff is entitled for 1/4th share in suit 'A' and 'B' schedule property excluding A(i) to A(iii) properties by metes and bounds.

Draw preliminary decree accordingly.

Sd/-
(MOHAMMAD NAWAZ)
JUDGE

Sd/-
(GEETHA K.B.)
JUDGE

SH-1 to 3
RKM-4 to 28
HMB-29 to end
CT-MCK , LIST NO.: 1 SL NO.: 20