



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

REGULAR SECOND APPEAL NO.58 OF 2019 (PAR)

BETWEEN:

SRI K GOVINDARAJU
AGED ABOUT 63 YEARS,
S/O LATE G R KRISHNOJI RAO
R/AT D NO.1517, D1, 5TH CROSS,
IRWIN ROAD, LASHKAR MOHALLA
MYSORE-570001.

...APPELLANT

(BY SRI. C M NAGABUSHANA., ADVOCATE)

AND:

1. SRI K SURYANARAYANA RAO
SINCE DECEASED BY HIS LRS
- 1(a) SMT. RADHA MURTHY
AGED ABOUT 46 YEARS
D/O LATE K. SURYANARAYANA RAO
W/O M.G. SRINIVASA MURTHY
R/A NO.7, 6TH BLOCK,
RAMAKRISHNA NAGAR,
NEAR SALUMARADA THIMMAKKA PARK
MYSORE-570022.
(V/O/D/29/06/2022)
2. SMT VEDAVATHI
AGED ABOUT 59 YEARS,
D/O LATE K SAVITHRAMMA &
W/O K ASHOKA
R/AT MIG 37, 2ND STAGE,

Digitally
signed by
MALATESH
K
Location:
HIGH
COURT OF
KARNATAKA



BANNIMANTAP
MYSORE-570001

3. SMT. SUJATHA
AGED ABOUT 57 YARS,
D/O LATE K SAVITHRAMMA
W/O LATE GOPALAKRISHNA,
R/AT NO.1881, AKBAR ROAD
LASHKAR MOHALLA
MYSORE-570001
 4. SMT S SUMA
AGED ABOUT 54 YEARS,
D/O LATE K SAVITHRAMMA
W/O LATE PREMANATH
R/AT NO.1284, MAHADESHWARA BADAVANE BELAVATTA
GRAMA, RBI POST
MYSORE-570001.
 5. S LOKESH SHETTY
AGED ABOUT 52 YEARS,
S/O LATE K SAVITHRAMMA
R/AT HALE KIRANGOOR VILLAGE
PANDAVAPURA ROAD
SRIRANGAPATNA TALUK
MANDYA DISTRICT-571401
 6. K GAYATHRI
AGED ABOUT 69 YEARS,
W/O HARIHARA
R/AT D NO.1985
MISSION HOSPITAL ROAD & CIRCLE,
MANDI MOHALLA
MYSORE-570001
- SINCE DEAD BY HER LRS
- 6(a) SRI. PARVATHA RAJ
AGED ABOUT 54 YEARS
S/O LATE HARIHARA
AND LATE SMT. K. GAYATHRI



6(b) SRI. SRIKANTH
AGED ABOUT 43 YEARS
S/O LATE HARIHARA
AND LATE SMT. K. GAYATHRI

6(c) SMT. H.JYOTHI
AGED ABOUT 50 YEARS
D/O LATE HARIHARA
AND LATE SMT. K. GAYATHRI
ALL ARE R/A NO.1985,
MISSION HOSPITAL ROAD CIRCLE
MANDI MOHALLA
MYSORE-570021.

7. SMT L N CHANDRAMANI
AGED ABOUT 74 YEARS,
W/O K SURYANARAYANA RAO
R/AT NO.1658/1-D2
NEW HOUSE NO.54/1, 1ST FLOOR,
HANUMANTHA RAO STREET
OPP OLYMPIA THEATER
DEVARAJA MOHALLA, MYSORE-570001.
(R1(a) SMT. RADHA MURTHY TREATED AS LR OF R7 V/O
DATED 01.08.2025)

...RESPONDENTS

(BY SRI.S.SUBHASH., ADVOCATE FOR R1
SRI. NARAYAN RAO., ADVOCATE FOR
SRI. P.N.RAJESWARA., ADVOCATE FOR R2 TO R6 (A TO C)
V/O DT. 1/8/2025 R1(A) TREATED AS LRS.
OF DECEASED R7)

THIS RSA IS FILED UNDER SECTION 100 OF CPC FILED
AGAINST THE JUDGMENT AND DECREE DATED 16.07.2018 PASSED
IN R.A.NO.223/2017 ON THE FILE OF THE III ADDL.DISTRICT
JUDGE, MYSURU DISMISSING THE APPEAL AND MODIFYING THE
JUDGMENT AND DECREE DATED 19.07.2017 PASSED IN
O.S.NO.251/2008 ON THE FILE OF THE I ADDL.SENIOR CIVIL JUDGE
MYSURU AND ETC.,



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

CORAM: HON'BLE MR. JUSTICE V SRISHANANDA

ORAL JUDGMENT

Heard Sri C.M.Nagabushana, learned counsel appearing for the appellant and Sri S.Subash, learned counsel appearing for the respondent No.1 and Sri Narayana Rao, for Sri P.N.Rajeshwar, learned counsel appearing for respondents No.2 to 6.

2. Plaintiff's second appeal challenging the dismissal of the suit in O.S.No.251/2008, confirmed in R.A.No.223/2017.

3. The appeal came to be admitted by the Co-ordinate bench by order dated 12.03.2026 on following substantial questions of law;

- i. Whether the Courts below were justified in not considering the tenor of Section 12 proviso (b) of the Act, 1956, which provides that "any*



property vested in the adopted child prior to adoption shall continue to vest in such person subject to the obligations, if any, attaching to the ownership of such property?

ii. Whether the Courts below were justified in denying share to the plaintiff holding that the plaintiff/appellant had been given in adoption?

iii. Whether the Courts below were justified in not recording any finding with regard to Section 12 proviso (b) of the Act, 1956?

iv. Whether the Courts below were justified in holding that adoptee's right to any estate vested in him prior to the date of adoption stands divested on account of such adoption?"

4. Facts of the case are as under;

4.1 Plaintiff filed a suit for partition contending that he is having right in the suit properties being the son of Late G.R.Krishnoji Rao and 1st defendant - Smt. Lakshmi Bai. There is no dispute that he was the second son of the couple Late G.R.Krishnojirao and Smt. Lakshmi Bai. Second defendant is his elder brother. Defendants No.3



and 4 are the sisters. Fifth defendant is the wife of second defendant.

4.2 Plaintiff contended that Sri Makkajaiah and Smt. Akkabayamma being the relatives of G.R.Krishnojirao, reared the plaintiff as a foster son as they had no issues of their own. Plaintiff further contended that after the death of G.R.Krishnaji Rao, suit property being the ancestral properties, plaintiff demanded the share in the suit property; but defendants refused to grant share in the suit property and thus sought for decreeing the suit.

4.3 The suit on contest came to be dismissed by considered judgment dated 19.07.2017. The trial judge noted that plaintiff was given in adoption to Sri Makkajaiah and Smt. Akkabayamma. Therefore, he is not entitled for any share in the suit properties. A finding is also recorded by the trial Court that the documents placed on record contains the overwhelming material evidence to show that



plaintiff was given in adoption to Sri Makkajaiah and Smt. Akkabayamma.

4.4 Being aggrieved by the same, plaintiff filed an appeal before the First Appellate Court in R.A.No.223/2017.

4.5 Learned judge in the First Appellate Court after securing the records, heard the arguments of the parties and on re-appreciation of the material evidence on record, noted the material evidence placed on record would be sufficient enough to hold that the plaintiff was given in adoption to Sri Makkajaiah and Smt. Akkabayamma dismissed the appeal of the plaintiff, by considered judgment dated 16.07.2018.

5. Subsequent thereto, plaintiff has filed the present appeal. As referred to supra, appeal came to be admitted on the aforesaid substantial questions of law.



6. Sri C.M.Nagabhushana, learned counsel for the appellant reiterating the grounds urged in the appeal memorandum, vehemently contented that the very adoption itself is not accepted by the plaintiff and he was only a foster son of Sri Makkajaiah and Smt. Akkabayamma. As such, both the courts recording a finding that there is a valid adoption is incorrect in view of Section 11 of the Hindu Adoptions and Maintenance Act, 1956 (hereinafter referred to as 'Act' for short). Therefore, plaintiff being the natural son of Sri G.R.Krishnoji Rao and defendant No.1 - Smt. Lakshmi Bai is entitled for a share in the suit property as a coparcener and thus sought for allowing the appeal.

7. Further, Sri C.M.Nagabushana would contend that assuming for the sake of arguments that there is a adoption, as per Section 12(b) of the Act, plaintiff cannot be denied the share in the suit property for which the rights in respect of the suit property which has vested in



the plaintiff in the ancestral properties and thus, suit ought to have been decreed.

8. He would further contend that both the courts committed grave error in dismissing the suit of the plaintiff ignoring the statutory provision in proviso(b) to Section 12 resulting in perversity and thus sought for allowing the appeal.

9. It is also his contention that courts below holding that right of the plaintiff ceased to exist soon after the adoption is incorrect proposition of law having regard to Section 12(b) of the Act and therefore sought for allowing the appeal.

10. Sri C.M.Nagabushana would further contend that even though it has been stated in the documents that is placed on record by the defendants that the plaintiff was given in adoption to Sri Makkajaiah and Smt. Akkabayamma, unless there is a material evidence on record to establish the valid adoption, especially when the



first defendant being the mother of the plaintiff failed to step into the witness box and speak about the valid adoption, trial Court and the First Appellate court dismissing the suit of the plaintiff has resulted in grave injustice and thus sought for allowing the appeal.

11. Per contra, Sri S.Subash, learned counsel for the contesting respondents would contend that the adoption is proved not only by placing the material evidence on record, but also on the admission made by the plaintiff himself before the First Appellate Court in his affidavit. Therefore, plaintiff cannot be permitted to now turn around and say that there is no valid adoption, especially when two courts have recorded a categorical factual finding that the plaintiff was given in adoption to Sri Makkajaiah and Smt.Akkabayamma.

12. The relevant portion of the said affidavit is culled out hereunder for ready reference.



" I state on oath that at no point of time, did I deny the factum of my adoption. On the other hand, I have maintained that the adoption has not come in the way of my claiming a share in and upon the property of my biological parents in case such a claim were to be a vested one under law."

13. Sri S.Subash, would further contend that to apply proviso(b) to Section 12 of the Act, when did the right vest in the plaintiff is the legal requirement that the plaintiff has to plea and prove and in the absence of any such pleading and proof thereof, the substantial questions of law raised in the appeal needs to be answered against the appellant and sought for dismissal of the appeal.

14. Sri Narayan Rao, learned counsel representing the legal representatives of defendants No.3 and 4, sisters of plaintiff, would contend that the share granted by the trial Court as confirmed by the First Appellate Court needs modification in view of the principles of law enunciated by the Hon'ble Apex Court in the case of **Vineeta Sharma**



/vs./ Rakesh Sharma reported in ***(2020) 9 SCC 1*** and thus suitable orders be passed.

15. Having heard the arguments of both sides this Court perused the material on record meticulously.

16. On such perusal of the material on record, there is no dispute that plaintiff is the second son of G.R.Krishnoji Rao and first defendant - Smt.Lakshmibai. Second defendant is the elder brother of the plaintiff. Defendants No.3 and 4 are the sisters of the plaintiff. Defendant No.5 is the wife of defendant No.2.

17. Admittedly, plaintiff was not staying with Sri G.R.Krishnaji Rao and Smt. Lakshmi Pai. According to defendants No.1 and 2, he was given in adoption when he was aged about 6 years on 07.02.1960 to Sri Makkajaiah and Smt. Akkabayamma.

18. Plaintiff has denied that he was given in adoption. On this score, parties have joined the issues



before the trial Court and necessary material evidence were placed on record.

19. In the cross-examination of PW1-plaintiff, he has specifically admitted the documents placed on record vide Exhibits D2, D3, D7, D8. Ex.D2 is the certified copy of the plaint filed by Smt.Akkabayamma and the plaintiff in O.S.No.568/1992, which was filed to redeem the mortgage of the property belonging to Smt. Akkabayamma to Sri K.Rajagopal.

20. In the said suit, specific contentions were taken that the plaintiff being the second plaintiff in the said suit is the adopted son of Sri Makkajaiah and Smt.Akkabayamma. Likewise, Ex.D3 is the deed of mortgage that was executed in favour of Sri K.Rajagopal, who was the defendant in O.S.No.568/1992. In the said deed of mortgage, it has been specifically mentioned that first mortgagor is Smt. Akkabayamma, who is wife of Sri Makkajaiah and second mortgagor is the present plaintiff



K.Govindaraju and he has been styled as adopted son of first mortgagor namely Smt. Akkabayamma. It is also shown that he was residing in Door No.779 along with the first mortgagor. In the plaint also, vide Ex.D2, the address shown is as is shown in Ex.D3. Judgment and decree passed in the said suit is also placed on record, wherein the contentions raised by the plaintiffs viz., Smt.Akkabayamma and the present plaintiff being the second plaintiff has been accepted by the court and there was a decree in his favour. In the deposition that has been placed on record by Ex.D6, it has been shown as Sri Govindaraju, S/o Makkajaiah. Second plaintiff is the said Govindaraju, who has been examined as PW1 in O.S.No.568/1992.

21. If he was not a adopted son of Sri Makkajaiah, why would he style himself as son of Makkajaiah at an undisputed point of time before the court of law is a question that needs to be answered by the plaintiff while denying the factum of valid adoption. He has specifically



stated in his examination chief itself on oath that first plaintiff in O.S.No.568/1992 is his mother.

22. He further stated that as on the date of execution of mortgage deed they had vacated the property bearing Nos.779 and 780. These aspects of the matter has been believed by the learned trial judge while decreeing the suit of the plaintiff. Thus, plaintiff cannot now turn around and say that he is not the adopted son of Sri Makkajaiah and Smt. Akkabayamma.

23. Moreover, when there was a redemption of the mortgage pursuant to the decree, Smt.Akkabayamma was no more and therefore second plaintiff, who is the plaintiff in the present matter as well he is the person who got the redemption from K.Rajagopal. In the said document also, it has been mentioned that the plaintiff is the son of Sri Makkajaiah and Smt.Akkabayamma and there is a specific mention that he was the adopted son of Sri Makkajaiah and Smt.Akkabayamma. It is a registered document and



voluntary act of the plaintiff herein to go to the Sub-Registrar Office and get the redemption of the mortgage registered in the office of the Sub Registrar. Again the said document is of the year 2007 which is few months earlier to filing of the present suit.

24. If that is the benefit that the plaintiff had derived from the properties of Sri Makkajaiah and Smt. Akkabayamma, it should not now lie in the mouth of the plaintiff to say that he is not the adopted son of Sri Makkajaiah and Smt. Akkabayamma, but he continues to be the natural son of Sri G.R.Krishnoji Rao and the first defendant Smt. Lakshmi Bai.

25. Thus, the contentions urged on behalf of the appellant that there is no valid adoption, holds no water more-so in view of the specific contention taken by the very same plaintiff after he lost the battle, before the trial Court in O.S.No.251/2008 and when he filed the appeal



before the First Appellate Court in R.A. No.223/2017, that too with the aid of an advocate.

26. This would take this Court to the question of whether any property vested in the plaintiff before he was adopted. Date of adoption is 07.02.1960 as per the Defendant. If it is the case of the plaintiff that there was no adoption at all and therefore the plaintiff cannot deny the date of adoption as 07.02.1960 in one of the foregoing discussions. Admittedly, Sri G.R.Krishnoji Rao, who is the natural father of the plaintiff died on 28.08.1960. Therefore, there was no right which vested with the plaintiff when he was in the family of natural parents.

27. To have the benefit of proviso (b) to Section 12 of the Act, it is necessary and incumbent on the plaintiff to establish that he derived a vested right when he was in the family of natural parents. No such pleading is forthcoming nor any proof thereof is placed on record that he acquired right in respect of the suit property when he



was not adopted to Sri Makkajaiah and Smt. Akkabayamma.

28. Moreover, plaintiff having derived the benefit from the adopted family out of avariciousness has filed the present suit against the public documents, wherein he has been shown as the adopted son of Sri Makkajaiah and Smt.Akkabayamma that too prior to the filing of the suit.

29. Therefore, the substantial questions of law 1 to 4 will have to be answered against the appellant and accordingly they are answered.

30. Insofar as the rights of defendant No.3 is concerned, she herself has already filed a written statement that she does not want share in the suit property. Anyway, if there is any change in the shares of defendants No.3 and 4 being the sisters of plaintiff and defendant No.2, it is up to them to make necessary application before the appropriate forum in accordance with law. If any such application is filed, needless to



emphasize that parties are at liberty to file necessary objections and the appropriate forum is entitled to pass suitable orders in accordance with law.

31. Thus viewed from any angle, this Court does not find merit in any one of the substantial questions of law.

32. Hence, following;

ORDER

Appeal is meritless and hereby ***dismissed***.

**Sd/-
(V SRISHANANDA)
JUDGE**

KLY
List No.: 1 Sl No.: 97