



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 11TH DAY OF MARCH, 2026

PRESENT

THE HON'BLE MRS. JUSTICE ANU SIVARAMAN

AND

THE HON'BLE MS. JUSTICE TARA VITASTA GANJU

REGULAR FIRST APPEAL NO. 192 OF 2026 (PAR/DEC)

BETWEEN:

1. SMT.LAKSHMAMMA
W/O LATE K.M. CHIKKANJINAPPA,
AGED ABOUT 58 YEARS.
2. SRI. MUNIRAJU K.C.,
S/O LATE K.M. CHIKKANJINAPPA,
AGED ABOUT 36 YEARS.
3. SRI. SHIVA KUMAR K.C.,
S/O LATE K.M. CHIKKANJINAPPA,
AGED ABOUT 34 YEARS.
THE APPELLANTS NO.1 & 3 ARE
RESIDING AT KODIHALLI VILLAGE,
KONAGHATTA MAJARA,
KASABA HOBLI,
DODDABALLAPUR TALUK,
BENGALURU RURAL DISTRICT - 561 203.
4. MS. ANITHA,
D/O LATE K.M. CHIKKANJINAPPA,
W/O MUNE GOWDA,
AGED ABOUT 49 YEARS,
R/AT CHOUGANDANAHALLI VILLAGE,
MELEKOTE POST,
TUBUGERE HOBLI,

Digitally signed by
SUMATHY KANNAN
Location: HIGH
COURT OF
KARNATAKA



DODDABALLAPURA TALUK,
BENGALURU RURAL DISTRICT - 562 125

...APPELLANTS

(BY SRI. S. KALYAN BASAVARAJ, ADVOCATE)

AND:

1. SRI HANUMANTHARAYAPPA
S/O LATE K.M. MUNIANJINAPPA,
AGED ABOUT 59 YEARS,
2. SRI. NAGARAJU,
S/O LATE K.M. MUNIANJINAPPA,
AGED ABOUT 53 YEARS,
BOTH ARE R/AT KODIHALLI VILLAGE,
KONAGHATTA MAJARA,
KASABA HOBLI,
DODDABALLAPUR TALUK,
BENGALURU RURAL DISTRICT - 561 203.
3. SMT. PRAMILA,
D/O LATE K.M. MUNIANJINAPPA,
AGED ABOUT 57 YEARS,
4. SMT. MANJULA,
D/O LATE K.M. MUNIANJINAPPA,
AGED ABOUT 51 YEARS,
RESPONDENT NO.
5. SMT. SUJATHA,
D/O LATE K.M. MUNIANJINAPPA,
AGED ABOUT 49 YEARS,
THE RESPONDENT NO.3 TO 5 ARE
R/AT C/O PUTTANNA & ANJINAMMA,
JUKKUK VILLAGE, YELAHANKA HOBLI
BENGALURU - 560 064.



6. SMT. PADHMAMMA,
D/O LATE K.M. MUNIANJINAPPA,
AGED ABOUT 49 YEARS,
R/AT GANDARAJAPURA VILLAGE
TUBUGERE HOBLI
DODDABALLAPURA TALUK
BENGALURU RURAL DISTRICT 561 203.
 7. SRI. K.M. RAMANJINAPPA,
S/O LATE MUNISHAMAPPA
AGED ABOUT 74 YEARS,
R/AT KODIHALLI VILLAGE,
KONAGHATTA MAJARA,
KASABA HOBLI,
DODDABALLAPUR TALUK,
BENGALURU RURAL DISTRICT - 561 203.
 8. SRI. VINAY A.,
S/O ANJINAPPA,
AGED ABOUT 43 YEARS
 9. SRI. VIJAY A.,
S/O ANJINAPPA,
AGED ABOUT 40 YEARS
- RESPONDENTS 8 TO 9 ARE
R/AT NO.25, SHOPPING STREET,
KUMARA PARK WEST,
BENGALURU - 560 020.
10. SMT. JAYALAKSHMAMMA
D/O LATE K.M.MUNIANJINAPPA
W/O NARAYANASWAMY
AGED ABOUT 63 YEARS
R/AT KODIHALLI VILLAGE,



KASABA HOBLI,
DODDABALLAPUR TALUK,
BENGALURU RURAL DISTRICT - 561 203.

11. THE SPECIAL LAND ACQUISITION OFFICER,
(KIADB), NO.14/3, 1ST FLOOR, MAHASHREE
ARAVINDA BHAVAN,
NRUPATUNGA ROAD,
BENGALURU - 560 001.

...RESPONDENTS

(BY SRI. M.R.VIJAYAKUMAR, ADV. FOR C/R 8 TO 10)

THIS RFA IS FILED UNDER SECTION 96 OF CPC, AGAINST THE
ORDER DATED 16.12.2025 PASSED ON I.A.NO.14 AND 15 IN
OS.NO.667/2023 ON THE FILE OF THE SENIOR CIVIL JUDGE
AND JMFC, DODDABALLAPURA, ALLOWING THE I.A.NO.14 AND
15 FILED UNDER ORDER 7 RULE 11(A) AND (D) R/W SECTION
151 OF CPC, FOR REJECTION OF PLAINT.

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

CORAM: HON'BLE MRS. JUSTICE ANU SIVARAMAN
&
HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORAL JUDGMENT

(PER: HON'BLE MS. JUSTICE TARA VITASTA GANJU)

1. The present appeal has been filed seeking to
challenge a judgment dated 16.12.2025 passed in
O.S.No.667/2023 by the Senior Civil Judge and JMFC,
Doddaballapura, (hereinafter referred to as the "Impugned



Judgment"). By the Impugned Judgment, IA No.14 filed by respondents No.8 and 9/defendants No.8 and 9 and IA No.15 filed by respondent No.10/defendant No.10, both under Order VII Rule 11(a) and (d) read with Section 151 of Civil Procedure Code, 1908 (hereinafter referred to as "the CPC") for rejection of plaint have been allowed and the plaint has been rejected.

2. Learned counsel for the appellants/plaintiffs submits that the challenge in the present appeal is limited to the order passed in the application filed under Order VII Rule 11 of the CPC by the respondents No.8 to 10/defendants No.8 to 10. Thus, it is contended that service to other respondents be dispensed with. Learned counsel for the respondents No.8 to 10/defendants No.8 to 10 affirms this contention. He further submits that in view of the limited challenge in the present appeal, notice to the remaining respondents is not requisite.



3. Accordingly, and with the consent of the parties, the matter is taken up for hearing and disposal today.

4. The learned counsel for the appellants/plaintiffs makes two submissions. Firstly, he submits that an application under Order VI Rule 17 of CPC seeking amendment of the plaint, was pending adjudication before the Trial Court. However, without passing an order on the application under Order VI Rule 17 of CPC, the learned Trial Court proceeded to reject the plaint. Secondly, he submits that insofar as the issue on limitation is concerned, it is the case of the appellants/plaintiffs in the plaint, that the cause of action arose only in July, 2023 when defendants No.1 to 7/respondents No.1 to 7 approached the plaintiffs to effect a partition. Thus, the plaint is within time. Learned counsel further submits that where evidence is required to be led, the case cannot be dismissed at the threshold under Order VII Rule 11 of the CPC.



5. Learned counsel for the respondents No.8 to 10/defendants No.8 to 10 submits that an IA No.13, under Order XXXIX Rule 1 and 2 of the CPC was filed by the respondents No.8 to 10/defendants No.8 to 10 and this application was also decided by the impugned order. It is contended that the Impugned Judgment *qua* IA No.13 should not be interfered with by this Court. Learned counsel however fairly submits that the issue of limitation was required to be considered by the learned Trial Court.

6. The undisputed facts are that the appellants/plaintiffs filed a suit for partition, for separate possession and declaration. The respondents No.8 to 10/defendants No.8 to 10 claimed to be the subsequent purchasers of the suit Schedule Property.

7. The learned Trial Court has found that since there was a partition in the year 1979, and this partition was not challenged for a period of 45 years, the suit filed is barred by limitation. Although, the learned Trial Court in the



Impugned Judgment has referred to the fact that limitation is a mixed question of fact and law, the Impugned Judgment does not refer to the contentions as have been raised in the plaint with respect to the cause of action.

8. As stated above, the Impugned Order decides two applications. First, under Order XXXIX Rule 1 and Rule 2 of the CPC being I.A.No.13, as secondly I.A. Nos. 14 and 15 filed under Order VII Rule 11(a) and (d) of the CPC. The challenge in the present appeal is however only to the applications seeking rejection of plaint.

9. An examination of the plaint shows that the appellants/plaintiffs have claimed that the appellants/plaintiffs and the respondents no.1 to 7 are all members of a Joint Hindu Family and are in joint possession of the suit schedule property. It further sets out that after the death of the father of respondents No.1 to 6, Khata had been obtained in respect of the suit



schedule property and that a partition took place *inter se* between some of the members of the family, by virtue of a partition deed dated 10.04.1979. It is the case of the appellants/plaintiffs that the suit schedule property was not part of the Partition Deed and was added later on by manipulating the Partition Deed. As per the appellants/plaintiffs, the cause of action in filing the present case arose about a month prior to the filing of the plaint, when a request for a partition was made by the plaintiffs and that the respondents failed to comply with the same.

9.1 The application under Order 7 Rule 11 of the CPC filed by the respondents/defendants, sets out that the partition took place in the year 1979 and that a Relinquishment Deed was also executed by the father of the respondents No.1 to 6 in the year 1991-1992 and subsequently a Gift Deed was executed in the year 2001. It further sets out that the KIADB has notified the suit



schedule property for industrial purposes on 21.04.2022. Thus, it is contented that the suit is barred by limitation.

10. The learned Trial Court has however found that the ancestral and joint families were partitioned in the year 1979 and the same was admitted by the plaintiffs. Since that partition remained unchallenged for 44 years, there is no cause of action to once again seek partition and that the suit is barred by limitation.

10.1 However, a reading of the plaint shows that although the plaintiffs did admit entering into the '*Panchayat Parikat*' or Partition Deed dated 10.04.1979, an allegation is made that certain properties in Survey No.125 were fraudulently manipulated and that this was done without knowledge of the appellants/plaintiffs or their father. It was further states that the entitlement of the appellants/plaintiffs to such land was not undertaken and that despite repeated demands, the partition was not effected. The plaintiffs have thus alleged fraud, which they



have only discovered sometime in July 2023 when the respondent no.11/KIADB notified the lands in the Official Gazette dated 27.02.2023 and awarded compensation. In addition, the cause of action as set out in the plaint is that the plaintiffs were approached by the defendants No.1 to 7/respondents No.1 to 7, requesting for a partition around one month prior to filing the plaint.

11. The appellants/plaintiffs submit that the issue of limitation is a mixed question of fact and law, which can only be decided after a full trial.

12. The learned Trial Court has taken into consideration the averments which have been raised in the application filed by the respondents No.8 to 10/defendants No.8 to 10 and based on the contents of such application, has decided such application and without examining the disputed contentions between the parties, has passed an order rejecting the plaint. It has been held that since the



appellants/plaintiffs have not challenged the partition they are deemed to have accepted the same.

13. However, the issues of fraud and manipulation raised in the plaint have not been examined. It has also not been set out in the Impugned Judgment as to when the limitation would have expired.

14. The Supreme Court in ***Vidya Devi alias Vidya Vati (Dead) by LRs. vs. Prem Prakash and Others***¹ has held that no period of limitation has been prescribed by the Legislature for filing a suit for partition as partition is an incident attached to the property. There is always a running cause of action for seeking partition by one of the co-sharers, when such co-sharer decides not to keep his share joint with other co-sharers. The Court explained that filing of a partition suit is wholly dependent upon the will of the co-sharer and it is because of this reason, the Legislature could not have possibly provided the period of

¹ (1995) 4 SCC 496



HC-KAR

limitation in partition suits. The relevant extract of the Vidya Devi case is set out below:

"20. The legislature has not prescribed any period of limitation for filing a suit for partition because partition is an incident attached to the property and there is always a running cause of action for seeking partition by one of the co-sharers if and when he decides not to keep his share joint with other co-sharers. Since the filing of the suit is wholly dependent upon the will of the co-sharer, the period of limitation, specially the date or time from which such period would commence, could not have been possibly provided for by the legislature and, therefore, in this Act also a period of limitation, so far as suits for partition are concerned, has not been prescribed. This, however, does not mean that a co-sharer who is arrayed as a defendant in the suit cannot raise the plea of adverse possession against the co-sharer who has come before the court as a plaintiff seeking partition of his share in the joint property.

21. Normally, where the property is joint, co-sharers are the representatives of each other. The co-sharer who might be in possession of the joint property shall be deemed to be in possession on behalf of all the co-sharers. As such, it would be difficult to raise the plea of adverse possession by one co-sharer against the other. But if the co-sharer or the joint owner had been professing hostile title as against other co-sharers openly and to the knowledge of other joint owners, he can, provided the hostile title or possession has continued uninterruptedly for the whole period prescribed for recovery of possession, legitimately acquire title by adverse possession and can plead such title in defence to the claim for partition."

[Emphasis Supplied]

15. The respondents No.8 to 10/defendants No.8 to 10, in their application under Order VII Rule 11 CPC, have



contended with reference to the averments in the plaint, that the cause of action arose at various points of time, including the partition in the year 1979, the sale transactions in the year 1989, the subsequent relinquishment in the years 1991–92, the execution of the gift deed in the year 2001, and the KIADB notification in the year 2023. It is thus their case that the suit is barred by limitation. The said contention, however, itself indicates that the question as to when the cause of action arose, is in dispute and involves determination of facts. These are disputed questions of fact and could only be ascertained once a trial in the matter is held. It is settled law that the question of limitation is a mixed question of fact and law since, an Application under Order VII Rule 11 of the CPC can only be decided on a demurrer. From a reading of the plaint, unless there are glaring averments in the plaint which show that a suit is barred by limitation, the Court will not be inclined to dismiss a suit on the ground of limitation at threshold.



HC-KAR

15.1 In ***Balasaria Constructions (P) Ltd v. Hanuman Seva Trust and Others***², the Supreme Court has held that the suit cannot be barred by limitation without proper pleadings, framing of an issue of limitation and taking of evidence as the question of limitation is a mixed question of fact and law. The relevant extract of ***Balasaria Constructions*** case is set out below:

*"8. After hearing counsel for the parties, going through the plaint, application under Order 7 Rule 11(d) CPC and the judgments of the trial court and the High Court, **we are of the opinion that the present suit could not be dismissed as barred by limitation without proper pleadings, framing of an issue of limitation and taking of evidence. Question of limitation is a mixed question of law and fact.** Ex facie in the present case on the reading of the plaint it cannot be held that the suit is barred by time. The findings recorded by the High Court touching upon the merits of the dispute are set aside but the conclusion arrived at by the High Court is affirmed. We agree with the view taken by the trial court that a plaint cannot be rejected under Order 7 Rule 11(d) of the Code of Civil Procedure."*

[Emphasis Supplied]

16. The plaint could not have been dismissed on the ground of limitation and no cause of action. In these circumstances, the Impugned Judgment cannot be sustained and is set aside.

² (2006) 5 SCC 658



17. However, the respondents No.8 to 10/defendants No.8 to 10 are permitted to agitate all the grounds taken in their application under Order VII Rule 11 of the CPC, before the learned Trial Court. It is clarified that this order has been passed without prejudice to the rights and contentions of both the parties, which are kept open to be agitated before the learned Trial Court.

18. The parties shall appear before the learned Trial Court on **27.04.2026**.

19. The appeal is accordingly ***disposed of***. All pending applications stand closed.

Sd/-
(ANU SIVARAMAN)
JUDGE

Sd/-
(TARA VITASTA GANJU)
JUDGE

PN/KS
List No.: 1 Sl No.: 16