

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17th DAY OF JULY, 2026

PRESENT

THE HON'BLE MRS. JUSTICE ANU SIVARAMAN

AND

THE HON'BLE MR. JUSTICE VENKATESH NAIK T

REGULAR FIRST APPEAL NO. 803 OF 2019 (DEC)

BETWEEN:

SMT. LAKSHMAMMA,
D/O LATE VENKATA REDDY,
W/O LATE MUNI REDDY,
AGED ABOUT 65 YEARS,
R/AT DADDATHAGGALI VILLAGE,
JADIGENAHALI HOBLI,
HOSAKOTE TALUK
BENGALURU RURAL DISTRICT.

...APPELLANT

(BY SRI. NANJA REDDY P.N., ADVOCATE)

AND:

1. SHRI ANNIAH REDDY,
S/O LATE VENKATA REDDY,
R/AT NO.773, 3RD CROSS,
P.M. REDDY ROAD,
VIJAY BANK COLONY,
BANASAVADI,
K.R. PURAM,
BENGALURU - 560 087.
2. SHRI. V. NARAYANA REDDY,
S/O LATE VENKATA REDDY,
AGED ABOUT 60 YEARS.
3. SHRI. V. SRINIVASA REDDY
S/O LATE VENKATA REDDY,
AGED ABOUT 55 YEARS.
4. SMT. AKKEMMA

W/O LATE MUNI REDDY,
AGED ABOUT 60 YEARS.

5. SHRI. MANJUNATHA REDDY,
W/O LATE MUNI REDDY,
AGED ABOUT 32 YEARS.

6. SHRI. SURESH
W/O LATE MUNI REDDY,
AGED ABOUT 30 YEARS,

RESP.2 TO 6 ARE
R/O CHIKKATHAGGALI VILLAGE,
JADIGENAHALLI HOBLI,
HOSAKOTE TALUK
BENGALURU RURAL.

7. SMT. SHOBHAMMA
D/O LATE MUNI REDDY,
AGED ABOUT 40 YEARS,
R/AT CHANNAGARAYAPURA,
KASABA HOBLI, MALUR,
MALUR TALUK.

8. SMT. AMRAVATI
D/O LATE MUNI REDDY,
AGED ABOUT 37 YEARS.

9. SMT. SARASAMMA
D/O LATE MUNI REDDY,
AGED ABOUT 35 YEARS,
R/AT KYASAMBALLI VILLAGE,
BANGARAPET TALUK.

10. SMT. BHAGYAMMA
D/O LATE MUNI REDDY,
AGED ABOUT 29 YEARS,
R/AT DODDANAGAMANGALA VILLAGE,
BENGALURU SOUTH TALUK.

11. SHRI. RAMAKRISHNA REDDY
S/O LATE GURUVA REDDY,
AGED ABOUT 55 YEARS,
R/AT CHIKKATHAGGALI VILLAGE,
JADIGENAHALLI HOBLI,
HOSAKOTE TALUK
BENGALURU RURAL DISTRICT.

12. SMT. ANKAMMA
D/O LATE VENKATA REDDY,
W/O KRISHNA REDDY,
AGED ABOUT 60 YEARS.
13. SMT. CHINNAMMA
D/O LATE VENKATA REDDY,
W/O ASHWATHA REDDY
AGED ABOUT 42 YEARS.
14. SMT. MUNIYAMMA
D/O LATE GURUVA REDDY,
W/O OBALA REDDY
AGED ABOUT 65 YEARS.
15. SMT. VENKATAMMA
D/O LATE GURUVA REDDY,
W/O NARAYANA REDDY
AGED ABOUT 60 YEARS,
RESPTS.NO.12 TO 15 ARE
R/O PURAMAKANAHALLI VILLAGE,
DODDAKADATHUR POST,
KASABA HOBLI, MALUR TALUK
KOLAR DISTRICT.
16. CHIKKA ANKA REDDY
S/O LATE THAYAPPA REDDY,
AGED ABOUT 78 YEARS.
17. SHRI. RAMACHANDRA REDDY
S/O CHIKKA AKA REDDY,
AGED ABOUT 50 YEARS.
18. SHRI. PILLA REDDY
S/O CHIKKA ANKA REDDY,
AGED ABOUT 42 YEARS.
19. SHRI. C. MANJAPPA,
S/O CHIKKAANKA REDDY,
AGED ABOUT 46 YEARS,
RESP. NO.16 TO 19 ARE
RESIDING AT DODDATHAGGLI VILLAGE,
JADIGENAHALLI HOBLI,
HOSAKOTE TALUK,
BENGALURU RURAL DISTRICT.

20. THE SPECIAL LAND ACQUISITION OFFICER
AND COMPETENT AUTHORITY,
NATIONAL HIGHWAYS AUTHORITIES OF
INDIA (NHAI), BENGALURU CHENNAI
EXPRESS WAY, NO.678/3,
NEERUBAVI KEMPANNA,
BADAVANE, HEBBAL,
BENGALURU - 560 024.

...RESPONDENTS

(BY SRI. K.S. MALLIKARJUNA REDDY, ADVOCATE FOR R2 & R3
SMT. SHILPA SHAH, ADVOCATE FOR R20
V/C/O DTD: 24/09/2021 NOTICE TO R10 IS HELD SUFFICIENT
AND UNREPRESENTED
R1, R11 TO R15 ARE SERVED AND UNREPRESENTED
V/C/O DTD: 14/09/2022 R4 TO R9, R16 TO R19 ARE DELETED)

THIS RFA IS FILED UNDER SECTION 96 OF CPC, AGAINST THE
JUDGMENT AND DECREE DATED 21.03.2019 PASSED IN
O.S.NO.201/2018 ON THE FILE OF THE SENIOR CIVIL JUDGE AND
JMFC, MALUR, KOLAR DISTRICT AND DISMISS THE APPLICATION
FILED IN I.A.NO.5 FILED BY THE RESPONDENT NOS.2, 5 AND 11
UNDER ORDER 7 RULE 11(a) AND (d) OF CPC IN THE INTEREST OF
JUSTICE.

THIS REGULAR FIRST APPEAL HAVING BEEN HEARD AND
RESERVED ON 01-07-2026, COMING ON FOR PRONOUNCEMENT,
THIS DAY, **VENKATESH NAIK T. J.**, PRONOUNCED THE
FOLLOWING:

CORAM: HON'BLE MRS. JUSTICE ANU SIVARAMAN
and
HON'BLE MR. JUSTICE VENKATESH NAIK T

CAV JUDGMENT

(PER: HON'BLE MR. JUSTICE VENKATESH NAIK T)

This appeal is filed by the appellant/plaintiff to set-aside
the judgment and decree passed in O.S.No.201/2018 dated
21.03.2019 on the file of learned Senior Civil Judge and JMFC,

Malur and to dismiss I.A.No.V filed by respondent Nos.2, 5 and 11/defendant Nos.2, 5 and 11 respectively under Order VII Rule 11(a) and (d) r/w Section 151 CPC and to restore the suit in OS No.201/2018.

2. For the sake of convenience, the parties are referred to as per their ranking before the trial Court. The appellant is the 'plaintiff' and the respondents are 'defendants' before the trial Court.

3. The brief facts of the plaintiff's case is as under:-

The plaintiff had filed a suit in O.S.No.201/2018 before the learned Senior Civil Judge & JMFC, Malur seeking for a declaration to direct defendants Nos.1 to 15 to execute registered Gift deed in her favour and defendant Nos.16 to 19 in respect of land bearing Sy.No.81 measuring 7 acres 2 guntas situated at Gangapura Village, Kasaba Hobli, Malur Taluk and to declare the compromise decree in O.S.No.406/2011 dated 30.01.2013 as null and void and not binding on the plaintiff.

4. It is the case of plaintiff, Smt.Lakshmamma that one Late Venkatareddy and late Guruva reddy are the brothers and residents of Chikkathaggalli village. Late Venkatareddy and late

Guruvareddy were in joint family and had owned number of ancestral and joint family properties including the suit schedule property. One Late Smt. Ankamma is the first wife of Late Venkatareddy and Late Nagamma is his second wife. Late Venkatareddy and first wife Ankamma had a son by name Annaiah Reddy and daughter by name Smt. Muniyamma, who is wife of defendant No.16 and mother of defendant Nos.17 to 19. Sri. Venkatareddy and his second wife Nagamma have six children namely Ankamma (Defendant No.12), Narayanareddy(defendant No.2), Lakshmmamma(plaintiff), V. Srinivasareddy(defendant No.3), Chinnamma(defendant No.13) and late Manjunathareddy(defendant No.5), who died issueless. The sons and daughters of Venkatareddy married long back and are residing in their respective houses.

5. Late Guruvareddy was having wife viz. late Ankamma. Late Guruvareddy and late Ankamma are having four children viz., Smt. Muniyamma(defendant No.14), Smt. Venkatamma(defendant No.15), Late Munireddy and Ramakrishnareddy(defendant No.11). Late Munireddy died leaving behind his LRs (defendant Nos.4 to 10). The sons and daughters of Guruvareddy are also married and residing in their respective houses.

6. Subsequently, under the unregistered partition deed dated 08.01.1981, a partition was held between Venkatareddy, the defendant Nos.1 to 3, Late Manjunath Reddy, Late Guruva Reddy, his son Munireddy and defendant No.11- Ramakrishna Reddy with respect to their ancestral and joint family properties. As per the said partition deed dated 08.01.1981, 'A' schedule properties fell to the share of Late Venkatareddy, defendant Nos.1 to 3 and Late Manjunathareddy and 'B' Schedule properties fell to the share of Late Guruswamy and his sons namely Late Munireddy and defendant No.11 and they consented and agreed to execute a registered Gift deed in favour of Late Muniyamma(daughter of Venkatareddy and Ankamma) and plaintiff Lakshamma in respect of suit schedule property bearing Sy.No.81, measuring 7 acres 2 guntas situated at Gangapura village, Kasaba Hobli, Malur Taluk, Kolar District. The original partition deed dated 08.01.1981 was in the custody of defendant No.1 Annaiahreddy. Subsequently, Munireddy and Guruswamy died. Defendant No.4 is wife of Late Munireddy, defendant Nos.5 to 10 are children of Late Munireddy. Defendant No.5 Manjunathareddy died issueless.

7. As per the partition deed dated 08.01.1981, Smt. Muniyamma and Smt. Lakshamma-plaintiff approached defendant Nos.1 to 15 on several occasions personally and demanded them to execute registered Gift Deed in favour of them, but the defendants were postponing to execute the registered Gift Deed in their favour in respect of the suit schedule property. Subsequently, Smt. Muniyamma died on 20.11.2008. Hence, defendant No.16 to 19, the husband and children of Late Muniyamma and the plaintiff personally approached and requested defendant Nos.1 to 15 to execute registered Gift Deed in favour of them, however, they were dodging the matter, hence, defendant Nos.16 to 19 and the plaintiff issued legal notice on 08.11.2012 and called upon defendant No.1 to execute the registered Gift Deed in their favour, but, he denied to execute the same.

8. In this regard, defendant Nos.16 to 18 had filed original suit in O.S.No.7/2013 before the learned Senior Civil Judge & JMFC, Malur, wherein, the present plaintiff was arrayed as defendant No.14. Later, defendant Nos.16 to 18 and other defendants colluded with each other and withdrew the suit, without consent and knowledge of the plaintiff. Hence, the plaintiff Smt. Lakshamma had filed application under Order 1

Rule 10(2) of CPC, however, the trial Court dismissed the IA and gave liberty to the plaintiff to file a fresh suit.

9. It is thereafter, defendant No.20 the Special Land Acquisition Officer, National Highway Authority of India, Bengaluru acquired the suit schedule property for the purpose of construction of National Highway, Bengaluru-Chennai and since defendant No.20 has acquired suit schedule property, defendant Nos.1 to 16 colluded with each other and filed suit in O.S.No.406/2011 not to disburse the compensation amount and later, they entered into a compromise amongst themselves on 30.01.2013. Hence, the plaintiff filed the suit in O.S.No.201/2018 and sought the reliefs to direct defendant Nos.1 to 15 to execute the registered Gift Deed in favour of her and in favour of defendant Nos.16 to 19 in respect of the suit schedule property and to declare the compromise decree in O.S.No.406/2011 dated 30.01.2013 as null and void and not binding on the plaintiff.

10. In the mean-while, Defendant Nos.2, 5 and 11 filed application under Order 7 Rule 11 (a) and (d) of CPC to dismiss the suit as there is no cause of action and also barred by law. The trial Court after considering the plaint and written

statement filed by the defendants, allowed the application I.A.No.V filed by the defendants under Order 7 Rule 11(a) and (d) r/w Section 151 of CPC and rejected the plaint filed by the appellant/plaintiff.

11. Being aggrieved by the rejection of the plaint, the plaintiff filed the present suit.

12. We have heard the learned counsel for the appellant and learned counsel for respondent Nos.2, 3, 20 and perused the material available on record.

13. Learned counsel Sri. Nanja Reddy P.N., appearing on behalf of the appellant/plaintiff contended that the order passed by the trial Court in O.S.No.201/2018 is arbitrary, inasmuch as, the appellant has not been given reasonable opportunity to file her objections to I.A.No.V filed by the defendants; the trial Court failed to note that there is a right accrued in favour of the appellant in respect of her share derived in the partition deed dated 08.01.1981, though there was a recital in the partition deed to that effect.

14. Further, it is contended that a portion of the suit schedule property was acquired by defendant No.20- Special Land Acquisition Officer, National Highway Authority of India

and a compensation of Rs.2,06,94,136/- was awarded and at the time of the alleged Partition Deed though there was a promise made by the defendants to execute Gift Deed in favour of the appellant in respect of the suit schedule property, the trial Court failed to take note of the same. The trial Court ought to have rejected I.A.No.V filed under Order 7 Rule 11(a) and (d) CPC and prayed to allow the appeal filed by the appellant/plaintiff.

15. In support of contention of learned counsel for the appellant, he relied upon the judgment in the case of ***Vipan Aggarwal & Arn., v. Raman Gandotra & Ors.***, reported in ***2022 LiveLaw (SC) 442***.

16. Learned counsel for the respondents/defendants vehemently contended that the suit filed by the plaintiff was not maintainable as the same is barred by law. The plaintiff had filed a suit for a direction to the defendants to execute the registered gift deed as per the alleged partition deed dated 08.01.1981 and to declare the compromise decree dated 30.01.2013 in O.S.No.406/2011 as not binding on the plaintiff. Therefore, there was no cause of action to file the suit. It is contended that there is a clause in the alleged partition deed

dated 08.01.1981 as the parties to the partition deed had agreed to execute the registered Gift Deed in favour of the plaintiff namely Lakshamma and her sister Late Muniyamma. Muniyamma died in the year 2008 and on behalf of said Muniyamma, defendant Nos.16 to 18 had filed a suit in O.S.No.7/2013 seeking the relief of declaration to direct defendants to execute the Gift Deed as per the partition deed dated 08.01.1981. It is contended that as per Section 122 of the Transfer of Property Act, 1882, the donor and donee must be alive and the donee must accept the gift during her life time. Therefore, the donor and donee both should be alive during acceptance of gift deed with respect to either movable or immovable property. In view of pleadings of the plaintiff, donors Venkatareddy, Guruvareddy and Munireddy are not alive. Therefore, their legal representatives cannot execute the registered Gift Deed in favour of either plaintiff Lakshamma, her sister Muniyamma or legal heirs of Muniyamma. The plaintiff ought to have filed a suit within 3 years from the date of Partition deed or from the date of denial i.e., service of cause of notice to defendant No.1. Thus, the suit of the plaintiff is also barred by limitation. Therefore, the trial Court considering all

these aspects has rightly rejected the plaint, which does not require any interference at the hands of this Court.

17. We have perused the plaint averments, appeal memo, contentions of both parties and the decisions cited supra.

18. The trial Court rejected the plaint on an application filed by defendant Nos.2, 5 and 11 filed under Order 7, Rule 11(a) & (d) r/w Section 151 CPC. The appellant/plaintiff has taken the contention on the vital aspect of the matter that she was not given a reasonable opportunity to defend her case and that the trial Court straight away rejected the plaint under Order 7 Rule 11(a) & (d) CPC. The appellant's further contention is that when there is a right accrued in favour of the appellant in respect of her share derived in the Partition deed dated 08.01.1981 to execute registered gift deed in her favour and her sister, the same has not been executed though there is a recital in the partition deed.

19. It transpires that defendant Nos.1 to 3, Late Manjunatha Reddy, Late Guruva Reddy, his son Late Munireddy, Defendant No.10 Ramakrishna Reddy have consented and agreed to execute the Gift Deed in favour of

plaintiff Smt. Lakshmama and her sister Muniyamma in respect of suit schedule property bearing Sy.No.81. The records also reveal that the defendants have not executed registered Gift Deed in favour of the plaintiff and Muniyamma. Parallely, the legal representatives of Smt. Muniyamma also filed one more suit in O.S.No.07/2013 and sought similar reliefs, however, the said suit was dismissed for non-prosecution.

20. Admittedly, the partition deed relied upon by the plaintiff appears to be unregistered deed, which was entered between Venkata Reddy, defendant Nos.1 to 3, Late Manjunatha Reddy, Late Guruvareddy, his son Munireddy and defendant No.10 Ramakrishna Reddy in respect of their ancestral and joint family properties.

21. Thus, it is clear that the defendants ought to have executed registered Gift Deed as per Section 122 of the Transfer of Property Act. The requirement of Section 122 clearly demonstrates that Gift is defined as voluntary transfer of existing movable or immovable property made without any monetary consideration by a donor to a donee, which must be accepted by the donee during the donor's lifetime. Therefore, to legally constitute a valid gift under the Act, the plaintiff must

establish the aspect of transfer of ownership and that the transfer must involve completion of passing ownership rights from the donor to the donee. Secondly, there is no consideration and the transfer must be completely gratuitous made without any monetary or valuable consideration and out of love and affection. Further, the gift must be made by a person of sound mind, who is competent to contract, free from coercion, fraud or undue influence. Further, the gift property must be in physical or legal existence at the time of transfer, future properties cannot be gifted and the donee must accept the gift. This acceptance must occur while the donor is alive and capable of making the gift. If the donee dies before accepting it, the gift becomes void. Therefore, Section 122 of Transfer of Property Act mandates that both donor and donee must be alive while accepting the gift and the donee has to accept the gift during his lifetime. Whereas, the donors Venkata Reddy, Guruva Reddy and Munireddy are not alive. Thus, it is impossible for them to execute Gift Deed in favour of plaintiff Lakshmama and her sister Muniyamma.

22. It appears that there is no cause of action for the suit. Further, the suit of the plaintiff is also barred by limitation in view of Article 54 of the Limitation Act, as the promise was

made by the brother and their sons to plaintiff Lakshamma in the alleged partition deed in the year 1981. Therefore, it is nothing, but an oral agreement held between them.

23. In the suit, the plaintiff Lakshamma sought a direction to defendant Nos.1 to 15 to execute the registered Gift deed as per the promise made by them in the alleged partition deed. As there is no time limit fixed in the partition deed in order to execute the registered gift deed, the first part of Article 54 of the Limitation Act does not attract to the case on hand. From perusal of the plaint, it appears that the plaintiff has not called upon the defendants to execute the Gift Deed in her favour. Therefore, the second part of Article 54 of Limitation Act will also not be applicable., whereas the same is applicable to defendant No.1. However, the plaintiff ought to have filed the suit within three years from the date of partition deed or from the date of denial by defendants, specifically defendant No.1 to execute the gift deed. Further, the donors are not alive to execute the Gift Deed in favour of the plaintiff. Therefore, the Agreement or assurance given by the defendants in the alleged partition deed itself is void under Section 122 of the Transfer of Property Act. Therefore, on the basis of a void agreement, the plaintiff is claiming the relief of

the direction against the defendants, in which, some of the defendants are not at all parties to the alleged partition deed.

24. The Hon'ble Supreme Court in the case of ***Dahiben v. Arvindbhai Kalyanji Bhanusali*** reported in ***AIR 2020 SC 3310*** while discussing the law in deciding an application filed under Order VII, Rule 11(d) of the CPC has held that this remedy is a special remedy empowering the Courts to dismiss the matters at the threshold. It has further been held that the reason for such a remedy is that the Court would not permit the plaintiff to unnecessarily protract the proceedings in sham litigation and to waste judicial time. Although the power under Order VII, Rule 11 of the CPC is a drastic one, it requires conditions enumerated to be strictly adhered to. The plea taken by the respondents/defendants cannot be examined at this stage and for testing the provision, the averments made in the plaint have to be read in their entirety, and if on a meaningful reading of the plaint, if it is found that the plaint is vexatious, then the Court will be justified in the use of this provision. It was further held that the provision is mandatory in nature. The relevant extract of the ***Dahiben's*** case is set out below:

"23.2. The remedy under Order 7 Rule 11 is an independent and special remedy, wherein the court is empowered to summarily dismiss a suit at the

threshold, without proceeding to record evidence, and conducting a trial, on the basis of the evidence adduced, **if it is satisfied that the action should be terminated on any of the grounds contained in this provision.**

23.3. The underlying object of Order 7 Rule 11(a) is that if in a suit, no cause of action is disclosed, or the suit is barred **by limitation under Rule 11(d), the court would not permit the plaintiff to unnecessarily protract the proceedings in the suit. In such a case, it would be necessary to put an end to the sham litigation, so that further judicial time is not wasted.**

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23.5. The power conferred on the court to terminate a civil **action is, however, a drastic one, and the conditions enumerated in Order 7 Rule 11 are required to be strictly adhered to.**

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23.9. In exercise of power under this provision, the court would determine if the assertions made in the plaint are contrary to statutory law, or judicial dicta, for deciding whether a case for rejecting the plaint at the threshold is made out.

23.10. At this stage, the pleas taken by the defendant in the written statement and application for rejection of the plaint on the merits, would be irrelevant, and cannot be adverted to, or taken into consideration. [Sopan Sukhdeo Sable v. Charity Commr., (2004) 3 SCC 137]

23.11. The test for exercising the power under Order 7 Rule 11 is that if the averments made in the plaint are taken in entirety, in conjunction with the documents relied upon, would the same result in a decree being passed. This test was laid down in Liverpool & London S.P. & I Assn. Ltd. v. M.V. Sea Success I [Liverpool & London S.P. & I Assn. Ltd. v. M.V. Sea Success I, (2004) 9 SCC 512] which reads as : (SCC p. 562, para 139)

"139. Whether a plaint discloses a cause of action or not is essentially a question of fact. But whether it does or does not must be found out from reading the plaint itself. For the said

purpose, the averments made in the plaint in their entirety must be held to be correct. The test is as to whether if the averments made in the plaint are taken to be correct in their entirety, a decree would be passed."

XXX

XXX

XXX

23.13. If on a meaningful reading of the plaint, it is found that the suit is manifestly vexatious and without any merit, and does not disclose a right to sue, the court would be justified in exercising the power under Order 7 Rule 11 CPC.

23.14. The power under Order 7 Rule 11 CPC may be exercised by the court at any stage of the suit, either before registering the plaint, or after issuing summons to the defendant, or before conclusion of the trial, as held by this Court in the judgment of Saleem Bhai v. State of Maharashtra [Saleem Bhai v. State of Maharashtra, (2003) 1 SCC 557] . The plea that once issues are framed, the matter must necessarily go to trial was repelled by this Court in Azhar Hussain case [Azhar Hussain v. Rajiv Gandhi, 1986 Supp SCC 315. Followed in Manvendrasinhji Ranjitsinhji Jadeja v. Vijaykunverba, 1998 SCC OnLine Guj 281 : (1998) 2 GLH 823] .

23.15. The provision of Order 7 Rule 11 is mandatory in nature. It states that the plaint "shall" be rejected if any of the grounds specified in clauses (a) to (e) are made out. If the court finds that the plaint does not disclose a cause of action, or that the suit is barred by any law, the court has no option, but to reject the plaint."

[Emphasis Supplied]

25. The Hon'ble Supreme Court in **Dahiben's** case has further held that where a suit appears from the averments of the plaint, to be barred by any law, it shall be rejected in terms of Order VII, Rule 11(d) of the CPC. Thus, a suit which is barred by limitation would also come within this definition. It

was further held that where the plaintiff files a case with a clever drafting to make out an illusory 'cause of action' to bring the suit within the period of limitation, the provisions of Order VII, Rule 11 of the CPC, would come into play and where a plaintiff deliberately did not mention the date of registration of the Sale Deed, since it would be evident that the suit was barred by limitation, the omission was such that, so as to mislead the Court on this issue, the suit was thus held to be barred by limitation.

26. The Coordinate Bench of this Court in the case of ***Sri. Narasimha Murthy v. Sri. Mallesh*** reported in **2026 SCC Online Kar 2580** (RFA No.862/2023 disposed of on 22.04.2026) was of the same view and held that if the suit is barred by limitation and the plaintiffs failed to challenge the initial sale deed, under such circumstances, the suit cannot be maintained, unless all the other sale deeds are challenged.

27. In the facts and circumstances of the case and the decisions cited supra, it is admitted fact that there was assurance given in the partition deed, which cannot be enforceable under law as donors are not alive. Thus, it becomes void document and thus the plaintiff cannot enforce such void

document. Further, the alleged partition deed is entered in the year 1981 and suit was filed in the year 2018 for enforcing the contents of the partition deed. Thus, it cannot be said that the suit has been filed within time. The contention of the appellant that there was no time limit to enforce the agreement, such contention cannot be taken into consideration in any event, since some of the defendants are dead and the plaintiff cannot enforce the alleged unregistered partition deed.

28. The trial Court examined the application and found that since the relief as claimed by the plaintiff is not maintainable in view of no cause of action and barred by limitation, it has rightly allowed IA No.V filed by defendant Nos.2, 5 and 11 and rejected the plaint under Order VII Rule 11(a) and (d) r/w Section 151 CPC.

29. In view of the foregoing discussions and examination of the plaint and the documents filed by the plaintiff, we uphold the order passed by the trial Court.

Accordingly we pass the following:

ORDER

1. The appeal is ***dismissed***.

2. The order dated 21.03.2019 passed in O.S.No.201/2018 by the learned Senior Civil Judge and JMFC, Malur on I.A.No. V is hereby confirmed.
3. Pending IAs, if any, shall stand disposed of.

**Sd/-
(ANU SIVARAMAN)
JUDGE**

**Sd/-
(VENKATESH NAIK T)
JUDGE**

MN/-