

Reserved on:28.04.2026
Pronounced on:03.09.2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 3RD DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE K. V. ARAVIND

WRIT PETITION NO. 5140 OF 2026 (GM-CPC)

BETWEEN:

1. MR. R JAGADEESHA REDDY
S/O RAMA REDDY
AGED ABOUT 62 YEARS
R/O NO.36, OM SAI RAM', 2ND A CROSS
SANJEEVAPPA LAYOUT
CHIKKABOMMASANDRA EXTENSION
GKVK POST, BANGALORE - 560 065.
2. MR. R. ASHOK, S/O RAMA REDDY
AGED ABOUT 60 YEARS
RESIDING AT NO.606,
SRI RAMA KRUPA, 9TH MAIN,
13TH A CROSS, A SECTOR
NEAR RAJIV GANDHI PARK,
NEW TOWN YELAHANKA
BANGALORE – 560 064.
3. MR. R. SURESHA, S/O RAMA REDDY
AGED ABOUT 56 YEARS

R/O NO.357, SAPTHAGIRI NILAYA
RAMASAGAR, MUTHANALLUR POST
ATTEBELE HOBLI, ANEKAL TALUK
BANGALORE – 560 099.

...PETITIONERS

(BY SRI. SHYAMA PRASADA K.V., ADVOCATE)

AND:

1. MRS. SUDHA C
D/O LATE S CHENNNARAYA REDDY
W/O ANANDA REDDY K.,
AGED ABOUT 60 YEARS
R/O NO.29, KRS FARMS
HONNENAHALLI ROAD, RAJANAKUNTE
BANGALORE – 560 064.
2. MRS. LAKSHMI C
D/O LATE S CHENNNARAYA REDDY
W/O UDAYASHANKAR C.
AGED ABOUT 56 YEARS
R/O NO.2547/1, AECS LAYOUT,
A BLOCK, SINGASANDRA,
BANGALORE – 560 068.
3. SRI C. SHANKAR REDDY
S/O. LATE S CHENNNARAYA REDDY
AGED ABOUT 51 YEARS
R/O NO.981/A, ASHANGADA,
14TH MAIN ROAD
JUDICIAL LAYOUT, G.K.V.K. POST

BANGALORE – 560 065.

4. SRI C. MUKUNDA
S/O. LATE S CHENNARAYA REDDY
AGED ABOUT 49 YEARS
RESIDING AT NO.338/8, HONGIRANA
3RD A MAIN ROAD, A SECTOR,
NEW TOWN, YELAHANKA
BANGALORE – 560 064.
5. MRS. ANASUYAMMA
WIFE OF LATE S. MUNIREDDY
AGED ABOUT 76 YEARS
RESIDING AT NO. 14
GOVERNMENT SCHOOL ROAD,
ALLALASANDRA VILLAGE
G.K.V.K. POST BANGALORE – 560 065.
6. MR. M. SANTHOSH
S/O LATE S. MUNIREDDY
AGED ABOUT 56 YEARS
RESIDING AT NO. 14
GOVERNMENT SCHOOL ROAD
ALLALASANDRA VILLAGE
G.K.V.K. POST BANGALORE – 560 065.
7. MR. M. MANJUNATH
S/O LATE S. MUNIREDDY
AGED ABOUT 53 YEARS
RESIDING AT NO. 14

GOVERNMENT SCHOOL ROAD
ALLALASANDRA VILLAGE
G.K.V.K. POST BANGALORE – 560 065.

8. MR. M. SUMBARAMANI
S/O LATE S. MUNIREDDY
AGED ABOUT 46 YEARS
RESIDING AT NO. 14
GOVERNMENT SCHOOL ROAD
ALLALASANDRA VILLAGE
G.K.V.K. POST BANGALORE – 560 065.
9. MR. S. RAMAREDDY
S/O LATE SUBBARAYAPPA
ALIAS SUBBARAYAREDDY
AGED ABOUT 81 YEARS
RESIDING AT NO. 1034/1
SURAGA', 8TH CROSS, 9TH B MAIN ROAD
JUDICIAL LAYOUT, BANGALORE – 560 065.
10. MRS. Y.N. GAYATHRAMMA
W/O S. RAMAREDDY
AGED ABOUT 70 YEARS
RESIDING AT NO. 1034/1, 8TH CROSS,
9TH B MAIN ROAD, JUDICIAL LAYOUT,
BANGALORE – 560 065.
11. MRS. R. SUCHITRA
D/O S. RAMAREDDY
AGED ABOUT 47 YEARS

RESIDING AT NO. 1034/1
8TH CROSS, 9TH B MAIN ROAD,
JUDICIAL LAYOUT, BANGALORE – 560 065.

12. MRS. R. SUSHMA
D/O S. RAMAREDDY
W/O LOKESH P
AGED ABOUT 40 YEARS
RESIDING AT NO. 867,
8TH CROSS, TULASI THEATER ROAD
MARATHAHALLI, BANGALORE – 560 037.
13. MR. RAHUL G, S/O N. GOPALA REDDY
AGED ABOUT 26 YEARS
RESIDING AT NO. 103, 5TH CROSS, 1ST FLOOR
13TH MAIN ROAD, 1ST STAGE, BTM LAYOUT
BANGALORE – 560 068.
14. MR. D. SURENDRA KUMAR
SON OF LATE D. RATHNAVERMA HEGGADE
AGED ABOUT 73 YEARS
VICE PRESIDENT AND ADMINISTRATIVE OFFICER
DHARMASTALA SRI MANJUNATHESHWARA
EDUCATIONAL TRUST SOCIETY
UJIRE, DHAKSHINA KANNADA,
KARNATAKA – 544 240.
15. M/S BAGAMANE DEVELOPERS PVT. LTD.,
A COMPANY INCORPORATED UNDER
THE LAWS OF INDIA

OFFICE AT LAKE VIEW, BUILDING NO. 66/1,
'A' BLOCK, 8TH FLOOR, BAGMANE TECH PARK
C.V. RAMAN NAGAR, BANGALORE – 560 093,
REPRESENTED BY ITS GENERAL MANAGER
MR. ADITYA BAGMANE.

16. M/S ROYAL ORCHID RESORTS
AND CONVENTION CENTER
MARUTI COMFORTS AND INN PRIVATE LIMITED
A COMPANY INCORPORATED UNDER THE
PROVISIONS OF THE COMPANIES ACT 1956
HAVING REGISTERED OFFICE AT
ALLALASANRA MAIN ROAD
BELLARY ROAD, NEAR JAKKUR FLYING CLUB,
BANGALORE – 560 065,
REPRESENTED BY ITS MANAGING DIRECTOR
MR. C.K. BALJEE.

...RESPONDENTS

(BY SMT. RAKSHITHA D.J., ADVOCATE FOR C/R15;
NOTICE TO R1 TO R14 AND R16 ARE DISPENSED WITH
V/O DATED 19.02.2026)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226
AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO SET
ASIDE THE ORDERS DTD 14.01.2026 OS NO. 6248/2024
PENDING ON THE FILE OF THE XL ADL CITY CIVIL JUDGE AND
SESSION JUDGE BANGALORE CCH-41 AND CONSEQUENTLY
DISMISS THE APPLICATION THE SAME VIDE WRIT ANNEX-D
AND ETC,.

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE K. V. ARAVIND

C.A.V. ORDER

Heard Sri Shyama Prasada K.V., learned counsel for the petitioners and Smt. Rakshitha D.J., learned counsel for caveat-respondent No.15.

2. The plaintiffs-petitioners herein have instituted O.S. No.6248/2024 seeking partition and a declaration that two sale deeds and three lease deeds are null and void and not binding on the plaintiffs. The present petition concerns Item No.1, namely, land bearing Survey No.21/3, situated at Allalasandra Village, Yelahanka Hobli, Bengaluru North Taluk, measuring 24 guntas.

2.1 The sale deed in respect of the property in question was initially executed on 07.04.1997 in favour of D. Surendra Kumar, defendant No.14. Thereafter, D. Surendra Kumar executed a sale deed dated 24.05.2021 in favour of M/s. Bagamane Developers Pvt. Ltd, defendant No.15. The said property was included in the suit schedule property, and

partition was sought on the premise that it constituted ancestral property.

2.2 Defendant No.15 filed an application under Order VI Rule 16 of the Code of Civil Procedure seeking deletion/striking out of Item No.1 of the suit schedule property on the ground that the challenge was barred by law and amounted to an abuse of the process of law. The plaintiffs filed their objections contending that the vendors of defendant No.14 had suppressed the right of the plaintiffs' mother, who was one of the co-sharers in the property, and that defendant No.15 had thereafter purchased the same.

2.3 The Trial Court, by order dated 14.01.2026, allowed the application and struck out Item No.1 of the suit schedule property from the plaint, holding that the claim was barred by law.

3. Sri Shyama Prasada K.V., learned counsel appearing for the petitioners, submits that the plaintiffs claim their rights through Akkamma, who died on 28.05.1999, whereas the sale deed dated 07.04.1997 was executed without her knowledge, thereby depriving her of her rights in the property. He further submits that the suit was instituted within four years from the

date on which the plaintiffs acquired knowledge of the said sale.

3.1 It is contended that the period of limitation is required to be computed from the date on which the cause of action arose, namely, the date of knowledge of the sale, and not from the date of execution of the sale deed. It is further submitted that the finding recorded by the trial Court is erroneous and unsustainable. Learned counsel also submits that the question of limitation is a mixed question of fact and law, which requires adjudication on the basis of evidence.

4. *Per contra*, Smt. Rakshitha D.J., learned counsel appearing for caveat-respondent No.15, submits that the suit has been instituted after a lapse of 27 years from the date of execution of the sale deed and is, therefore, barred by delay and laches. It is further submitted that possession of the property was also delivered to the purchaser under the sale deed and has continued with the purchasers ever since. In such circumstances, the question of the plaintiffs acquiring knowledge of the sale only in the year 2024 does not arise.

4.1 It is contended that the cause of action has been artificially created by clever drafting to make out a cause of

action that never existed. It is further submitted that the plaintiffs claim right and title to the property through the deceased Akkamma. The sale deed is dated 07.04.1997, whereas Akkamma died on 28.05.1999. Since the sale deed was executed during the lifetime of Akkamma and was never challenged by her, it is not open to the plaintiffs, after a lapse of 27 years, to question the said sale while claiming rights through the deceased Akkamma, who had accepted the sale. It is therefore submitted that the trial Court, having regard to the pleadings and the scope of Order VI Rule 16 of the Code of Civil Procedure, has rightly allowed the application and struck out Item No.1 of the suit schedule property from the plaint.

5. Considered the submissions made by learned counsel for both the parties.

6. The petitioners have instituted the suit seeking partition and a declaration that various sale deeds and lease deeds are null and void and not binding on the plaintiffs. The present petition concerns Item No.1 of the suit schedule property, namely, land bearing Survey No.21/3, situated at Allalasandra Village, Yelahanka Hobli, Bengaluru North Taluk, measuring 24 guntas.

6.1 The plaintiffs are the children of Akkamma. Akkamma, along with her three brothers, was the child of Subrayappa and Papamma. During the lifetime of Akkamma, a sale deed dated 07.04.1997 was executed in favour of defendant No.14. Thereafter, defendant No.14 executed a sale deed dated 24.05.2021 in favour of defendant No.15. Akkamma died on 28.05.1999. Possession of the property was delivered under the respective sale deeds.

6.2 The suit seeking partition and a declaration that the sale deed dated 07.04.1997 is null and void was instituted on 30.08.2024, about 27 years after the execution of the said sale deed. The cause of action is pleaded to have arisen on 18.07.2024, when defendant Nos.1 to 12 allegedly refused to effect partition. However, the first sale deed was executed in the year 1997 during the lifetime of Akkamma, and possession of the property was delivered to the purchaser. The cause of action to challenge the sale deed arose during the lifetime of Akkamma. Though the plaintiffs claim inheritance of rights through the deceased Akkamma, the cause of action that accrued to Akkamma continued and stood extinguished by efflux of time. The plaintiffs cannot assert a fresh cause of

action in an attempt to revive a right that has already become barred by limitation. The narration of the cause of action appears to have been made only to overcome the bar of limitation insofar as the challenge to the sale deed dated 07.04.1997 is concerned.

6.3 Order VI Rule 16 of the Code of Civil Procedure empowers the Trial Court to strike out pleadings which are unnecessary, scandalous, frivolous, or vexatious, or which may tend to prejudice, embarrass, or delay the fair trial of the suit, or which otherwise constitute an abuse of the process of the Court. Moreover, under Section 6 of the Hindu Succession (Amendment) Act, 2005, any partition, alienation, or disposition of ancestral property effected prior to 20.12.2004 stands protected by law.

6.4 The trial Court, while allowing the application filed under Order VI Rule 16 of the Code of Civil Procedure, held that the alienation effected under the sale deed dated 07.04.1997 is protected under Section 6 of the Hindu Succession (Amendment) Act, 2005. It further held that the suit instituted in the year 2024 seeking a declaration that the sale deeds are null and void is barred by limitation under Articles 58 and 59 of

the Limitation Act, which prescribe a period of three years from the date on which the right to sue first accrues.

6.5 The trial Court also observed that the sale deed dated 07.04.1997 was executed during the lifetime of the deceased Akkamma and remained unchallenged by her until her death on 28.05.1999. It held that permitting the suit to proceed after a lapse of 27 years on the basis of an illusory cause of action would amount to an abuse of the process of law. Accordingly, it ordered the striking out of Item No.1 of the suit schedule property from the plaint.

7. Learned counsel for the petitioners placed reliance on the judgment of the Hon'ble Supreme Court in **P. Suresh v. D. Kalaivani and Others**, Civil Appeal No.739/2026, decided on 03.02.2026, to contend that the discretionary power to strike out pleadings should be exercised cautiously and only in accordance with the parameters laid down therein. This Court finds that the application filed under Order VI Rule 16 of the Code of Civil Procedure satisfies and fulfils the parameters stipulated in the said judgment.

7.1 Further, reliance is placed on the judgment of the Hon'ble Supreme Court in **Chhotanben and Another v. Kiritbhai**

Jalkrushnabhai Thakkar and Others [(2018) 6 SCC 422]

to contend that, where a sale deed is executed fraudulently, the date of knowledge of such sale deed constitutes the cause of action. In the present case, however, there is no pleading alleging that the sale deed dated 07.04.1997 was fraudulently executed. In the absence of any such pleading, the said judgment is of no assistance to the petitioners.

7.2 Learned counsel for the petitioners placed reliance on the judgment of the Division Bench of this Court in the case of ***Mr. Jagadish Poonja v. South Canara Hotel Complex Pvt. Ltd. [ILR 2016 KAR 31]*** to contend that where the averments in the plaint do not disclose that the suit is barred by limitation, the plaint cannot be rejected under Order VII Rule 11(d) of the Code of Civil Procedure, and that when the defendant raises a plea of limitation, the Court is bound to frame an issue on the question of limitation.

7.3 In the present case, however, the trial Court, on a consideration of the averments contained in the plaint, held that the cause of action pleaded is illusory, as the right to challenge the sale deed had accrued to the deceased Akkamma during her lifetime. Since the plaintiffs have failed to disclose a

valid cause of action, the trial Court has rightly exercised its power under Order VI Rule 16 of the Code of Civil Procedure to strike out Item No.1 of the suit schedule property from the plaint in order to prevent an abuse of the process of the Court. Accordingly, the judgment relied upon is inapplicable to the facts of the present case.

7.4 Learned counsel for the petitioners has further placed reliance on the judgment of the Hon'ble Supreme Court in the case of ***M/s. Mongia Realty and Buildwell Pvt. Ltd. v. Manik Sethi***, Civil Appeal No.814/2022, decided on 31.01.2022, to contend that the issue of limitation cannot be decided as a preliminary issue. The Hon'ble Supreme Court held that where the facts relating to limitation are disputed, the question of limitation cannot be determined as a preliminary issue, as it requires adjudication upon disputed questions of fact.

7.5 In the present case, however, the plaint itself discloses that the suit has been instituted after a lapse of 27 years from the date of execution of the sale deed. It was, therefore, incumbent upon the plaintiffs to plead a valid cause of action demonstrating that the suit is not barred by limitation under

Articles 58 and 59 of the Limitation Act. Except for the clever drafting of the cause of action, the plaint does not disclose any real or subsisting cause of action. The cause of action pleaded is illusory, and permitting the suit to proceed on such pleadings would amount to an abuse of the process of the Court. The trial Court has, therefore, rightly exercised its power under Order VI Rule 16 of the Code of Civil Procedure. In that view of the matter, the aforesaid judgment has no application to the facts of the present case.

8. Learned counsel for respondent No.15 placed reliance on the judgment of this Court in the case of **Geetha Murthy v. Sarojamma**, CRP No.454/2019 dated 16.12.2021, in support of the view taken by the trial Court with regard to the partial striking out of the pleadings in order to prevent an abuse of the process of the Court.

8.1 The partial striking out of the plaint is also in conformity with the law laid down by the Hon'ble Supreme Court in the case of **Sejal Glass Ltd. v. Navilan Merchants Pvt. Ltd.** Civil Appeal No.10802/2017 decided on 21.08.2017. Further, the Madras High Court, in the case of **Murugaiyan v. M. Ramalaingam** CRP(MD) No.2242/2024, decided on

29.01.2025, held that an application under Order VII Rule 11 of the Code of Civil Procedure is maintainable where the suit is barred by law and that a plaintiff cannot be permitted to circumvent the statutory bar by resorting to clever drafting. It was further held that the law of limitation is not merely a matter of technicality but forms the very foundation of the rule of law.

8.2 Reliance was also placed on the judgment of the Hon'ble Supreme Court in the case of ***Nikhila Divyang Mehta and Another v. Hitesh P. Sanghvi and Others [2025 INSC 485]***, wherein, while interpreting Article 58 of the Limitation Act, it was held that the prescribed period of three years is to be computed from the date on which the right to sue first accrues.

8.3 In the present case, the right to sue accrued to the deceased Akkamma during her lifetime, nearly 27 years ago. No fresh cause of action can accrue to the plaintiffs after the lapse of 27 years to maintain the present suit. This position is evident from the averments made in the plaint itself.

8.4 In support of the said proposition, learned counsel for respondent No.15 has placed reliance on the judgment of the

Hon'ble Supreme Court in the case of **C.S. Ramaswamy v. V.K. Senthil and Others**, Civil Appeal No.500/2022, decided on 30.09.2022, which supports the conclusion reached by the trial Court.

8.5 Beneficial reference may also be made to the judgment of the Hon'ble Supreme Court in the case of **Shri Mukund Bhavan Trust and Others v. Shrimant Chhatrapati Udayan Raje Pratapsinh Maharaj Bhonsle and Another**, Civil Appeal No.14807/2024, decided on 20.12.2024, relied upon by learned counsel for respondent No.15, wherein it has been held that where it is apparent from the averments in the plaint that the suit is hopelessly barred by limitation, the Courts should not hesitate to grant appropriate relief and should not drive the parties to undergo the rigours of a trial, unless the case involves allegations of forgery or fabrication that have come to the knowledge of the plaintiffs only subsequently. Where neither the plaintiff nor his predecessors have taken any steps to assert their title or rights within the period prescribed by law, the pleaded cause of action is merely illusory. Such is the position in the present case, where the cause of action pleaded is nothing but a legal fiction created to overcome the bar of limitation.

8.6 The Hon'ble Supreme Court, in the case of ***Dahiben v. Arvindbhai Kalyanji Bhanusali (Gajra) dead through LRs and Ors. [(2020) 7 SCC 366]***, while considering the scope of Order VII Rule 11 of the Code of Civil Procedure, held that an illusory cause of action created by clever drafting of the plaint should be nipped in the bud so that frivolous and vexatious litigation is terminated at the earliest stage, thereby preventing an abuse of the process of the Court. As rightly held by the trial Court, the present case is a classic example of clever drafting of the plaint to create an illusory cause of action with the object of bringing the suit within the period of limitation.

9. In the light of the aforesaid judgments, this Court is of the considered view that the finding recorded by the trial Court is justified and does not suffer from any infirmity warranting interference.

10. In view of the foregoing discussion, the present writ petition is devoid of merit and is accordingly ***dismissed***.

**Sd/-
(K. V. ARAVIND)
JUDGE**

DDU