



CNR: KAHC010126062025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

REGULAR SECOND APPEAL No.291 OF 2025 (PAR/DEC)

BETWEEN:

1. SMT. V S SUDHA
W/O B.C.JAGADEESH,
AGED ABOUT 49 YEARS,
R/AT. NO.1642,
JODI KRS AGRAHARA,
KUNIGAL, KUNIGAL TALUK,
TUMKUR DISTRICT, PIN - 572 130
2. SRI. H.C.SEENAPPA
S/O LATE CHENNEGOWDA,
AGED ABOUT 69 YEARS,
R/AT NO.1643, JODI KRS AGRAHARA,
KUNIGAL, KUNIGAL TALUK,
TUMKUR DISTRICT, PIN -572 130
3. SRI.C.C.SHIVANNA,
S/O. CHANNAMALLAIAH,
AGED ABOUT 57 YEARS,
R/AT. NO.1644, JODI KRS AGRAHARA,
KUNIGAL, KUNIGAL TALUK,
TUMKUR DISTRICT,
PIN-572 130
4. SMT.V.C.SUMATHI,
W/O. B.J.NARASIMHA MURTHY,
AGED ABOUT 43 YEARS,
R/AT. NO. 1646, JODI KRS AGRAHARA,
KUNIGAL, KUNIGAL TALUK,
TUMKUR DISTRICT, PIN-572 130

Digitally
signed by
MALATESH
K C

Location:
HIGH
COURT OF
KARNATAKA



NC: 2026:KHC:36928
RSA No. 291 of 2025

CNR: KAHC010126062025

5. SRI H.S. RAGHU,
S/O. LATE K.H.SRINIVASA MURTHY,
AGED ABOUT 40 YEARS,
R/AT. NO. 1648, JODI KRS AGRAHARA,
KUNIGAL, KUNIGAL TALUK,
TUMKUR DISTRICT,
PIN-572 130
6. SMT. SHASHIKALA
W/O. ANJANAPPA,
AGED ABOUT 45 YEARS,
R/AT. NO. 1663, JODI KRS AGRAHARA, KUNIGAL,
KUNIGAL TALUK, TUMKUR DISTRICT,
PIN 572 130
7. SRI.RAMESH,
S/O. CHANNARAYAPPA,
AGED ABOUT 65 YEARS,
R/AT. NO.1670,
JODI KRS AGRAHARA,
KUNIGAL, KUNIGAL TALUK,
TUMKUR DISTRICT,
PIN-572 130

...APPELLANTS

(BY SRI. VIKRAM H BHAT, ADVOCATE)

AND:

1. SMT. PARVATHAMMA
W/O VENKATESHAIAH.G. S.
D/O. LATE K.R. HUCHANNA,
AGED ABOUT 67 YEARS,
R/AT KOTHAGERE HOBLI,
KUNIGAL TALUK,
TUMAKURU DISTRICT,
PIN 572 130.
2. SMT. YELLAMMA,
W/O LATE K.H. REVANNA,



NC: 2026:KHC:36928
RSA No. 291 of 2025

CNR: KAHC010126062025

AGED ABOUT 76 YEARS
R/AT. BYRAGI MUTT,
UPPARA BEEDHI,
KUNIGAL TOWN,
PIN 572 130
R2 HAS EXPIRED AND IS REPRESENTED BY
R3 WHO IS THE SOLE LEGAL HEIR
AMENDED AS PER ORDER OF THIS HON'BLE
COURT DATED 08.12.2025

3. SMT. LAKSHMAMMA,
D/O LATE K.H. REVANNA,
W/O. REVANNA,
AGED ABOUT 70 YEARS
R/AT. BYRAGI MUTT,
UPPARA BEEDHI,
KUNIGAL TOWN,
PIN 572 130
4. SMT. PADMAMMA,
W/O LATE K.H.KRISHNAPPA,
AGED ABOUT 69 YEARS,
R/AT. BYRAGI MUTT,
UPPARA BEEDHI,
KUNIGAL TOWN,
PIN 572 130
5. SRI REVANNA,
S/O. LATE K.H.KRISHNAPPA,
AGED ABOUT 56 YEARS,
R/AT. BYRAGI MUTT,
UPPARA BEEDHI,
KUNIGAL TOWN,
PIN-572 130
6. SMT. SUJATHA,
W/O. MANJANNA,
AGED ABOUT 53 YEARS,
R/AT. BYRAGI MUTT,
UPPARA BEEDHI,



NC: 2026:KHC:36928
RSA No. 291 of 2025

CNR: KAHC010126062025

KUNIGAL TOWN,
PIN 572 130

7. SMT. GEETHA,
W/O. NAGARAJA,
D/O LATE K.H. KRISHNAPPA,
AGED ABOUT 51 YEARS,
R/AT. BYRAGI MUTT,
UPPARA BEEDHI,
KUNIGAL TOWN,
PIN 572 130
8. SMT GANGAMMA,
W/O LATE K.H.SHIVASHANKAR
AGED ABOUT 68 YEARS,
PRESENTLY R/AT. BYRAGI MUTT,
UPPARA BEEDHI,
KUNIGAL TOWN,
PIN 572 130
9. SMT ANNAPOORNA,
W/O. CHANDRAKANTH,
D/O. LATE K.H. SHIVASHANKAR,
AGED ABOUT 49 YEARS.
PRESENTLY R/AT. BYRAGI MUTT,
UPPARA BEEDHI,
KUNIGAL TOWN,
PIN 572 130
10. SMT. REKHA,
W/O. RAVI,
D/O. LATE K.H.SHIVASHANKAR,
AGED ABOUT 67 YEARS,
R/AT. BYRAGI MUTT,
UPPARA BEEDHI,
KUNIGAL TOWN
PIN 572 130
11. SMT. PRAMILA,
W/O. RAGHUKUMAR,



NC: 2026:KHC:36928
RSA No. 291 of 2025

CNR: KAHC010126062025

D/O. LATE K.H.SHIVASHANKAR,
AGED ABOUT 45 YEARS,
PRESENTLY R/AT. BYRAGI MUTT,
UPPARA BEEDHI, KUNIGAL TOWN,
PIN 572 130

12. SMT. MALA
W/O SRI.GOVINDAIAH,
D/O LATE K.H. SHIVASHANKAR,
AGED ABOUT 43 YEARS,
PRESENTLY R/AT. BYRAGI MUTT,
UPPARA BEEDHI,
KUNIGAL TOWN
PIN-572 130

13. SRI.K.H. SESHANNA,
S/O. LATE K.R HUCHANNA,
AGED ABOUT 49 YEARS,
R/AT. BYRAGI MUTT,
UPPARA BEEDHI,
KUNIGAL TOWN,
PIN-572 130

**R13 HAS EXPIRED AND R14 AND R41 ARE
HIS LEGAL HEIRS
AMENDED AS PER ORDER OF THIS HON'BLE
COURT DATED 08.12.2025.**

14. SMT. MEENAKSHAMMA,
W/O. K.H.SESHANNA,
AGED ABOUT 66 YEARS,
R/AT. BYRAGI MUTT,
UPPARA BEEDHI,
KUNIGAL TOWN,
PIN 572 130

15. K.C.SIDDESH,
S/O. LATE K.H.CHANDRAIAH,
AGED ABOUT 52 YEARS,
R/AT.FEDERAL BANK BUILDING,
B.M. ROAD, 3RD FLOOR,



NC: 2026:KHC:36928
RSA No. 291 of 2025

CNR: KAHC010126062025

KUNIGAL TOWN
PIN-572 130.

16. SMT.SHEELA.K.C,
D/O. LATE K.H.CHANDRAIAH,
AGED ABOUT 47 YEARS,
R/AT.FEDERAL BANK BUILDING,
B.M. ROAD, 3RD FLOOR,
KUNIGAL TOWN
PIN 572 130
17. SMT. RUKMINI,
W/O. SANNEGOWDA,
D/O. LATE PUTTAYELLAMMA,
AGED ABOUT 66 YEARS,
R/AT. HALE BEEDHI,
TALAKADU,
T.N. PURA TALUK,
MYSORE DISTRICT
PIN-571 122
18. SMT MAHALAKSHMI,
W/O. PANDURANGA,
D/O. LATE PUTTAYELLAMMA,
AGED ABOUT 61 YEARS,
R/AT. HALE BEEDHI,
TALAKADU,
T.N.PURA TALUK,
MYSORE DISTRICT
PIN 571 122
19. SRI. RAMANNA,
S/O. RAMEGOWDA AND
LATE PUTTAYELLAMMA,
AGED ABOUT 64 YEARS,
R/AT. HALE BEEDHI,
TALAKADU,
T.N.PURA TALUK,
MYSORE DISTRICT
PIN 571 122



NC: 2026:KHC:36928
RSA No. 291 of 2025

CNR: KAHC010126062025

20. SRI.NARAYANA,
S/O. RAMEGOWDA AND
LATE PUTTAYELLAMMA,
AGED ABOUT 60 YEARS.
R/AT. HALE BEEDHI,
TALAKADU,
T.N.PURA TALUK,
MYSORE DISTRICT
PIN 571 122
21. SMT. RADHAMMA
W/O. SUNDARA AND
D/O. LATE PUTTAYELLAMMA,
AGE : MAJOR,
R/AT. HALE BEEDHI,
TALAKADU,
T.N.PURA TALUK,
MYSORE DISTRICT PIN 571 122
22. SRI. RANGANATHA,
S/O. THIMMAIAH AND
SMT. CHINNAMMA,
AGED ABOUT 69 YEARS,
R/AT. HARANAHALLI,
NEAR KADAMANNA TEMPLE,
ARASIKERE TALUK,
HASSAN DISTRICT,
PIN-573 103.
23. SMT. LALITHAMMA,
W/O. NARAYANA AND
D/O. CHINNAMMA,
AGED ABOUT 65 YEARS.
R/AT. LAKSHMI PURAM,
NEAR CHUNCHANAGIRI HIGHER PRIMARY SCHOOL,
ARASIKERE TALUK,
HASSAN DISTRICT,
PIN 573 103



NC: 2026:KHC:36928
RSA No. 291 of 2025

CNR: KAHC010126062025

24. SMT.CHANDRAMMA,
W/O. NANJUNDAPPA,
D/O. CHINNAMMA,
AGED ABOUT 56 YEARS.
R/AT. GOOLUR,
GOOLUR POST,
TUMAKURU TALUK AND DISTRICT,
PIN 572 118.
25. SMT.R.NAGARATHNA,
W/O. SHANKARAPPA,
D/O. CHINNAMMA,
AGED ABOUT 57 YEARS.
R/AT. NO.9/3, 9TH CROSS,
3RD MAIN ROAD, ADARSHNAGAR,
CHAMARAJPET,
BANGALORE 560 018
26. SRI.CHANDRAKANTHA,
S/O. THIMMAIAH AND
SMT. CHENNAMMA,
AGE MAJOR,
R/AT. BYARAGI MUTT, UPPARA BEEDHI
KUNIGAL TOWN, PIN-572 130
27. SN.K.C.UMESH,
5/0. CHANNIGARAYA SETTY,
AGE MAJOR
R/AT. NO.1645, JODI KRS AGRAHARA,
KUNIGAL TOWN, PIN-572 130
28. SMT. BHAGYAMMA,
W/O. H.C.SRINIVASA,
AGE MAJOR,
R/AT. NO. 1649,
JODI KRS AGRAHARA,
KUNIGAL TOWN, PIN 572 130
29. SRI.S.K.VISHWA MOHAN,
S/O. KEMPEGOWDA,



NC: 2026:KHC:36928
RSA No. 291 of 2025

CNR: KAHC010126062025

AGE MAJOR,
R/AT. NO.1649,
JODI KRS AGRAHARA,
KUNIGAL TOWN,
PIN 572 130

30. SRI.K.SUDHA,
W/O. S. PRAKASH,
AGE MAJOR,
R/AT. NO.1650,
JODI KRS AGRAHARA,
KUNIGAL TOWN,
PIN 572 130
31. SRI PUTTARAMA,
S/O. KEMPALAKKAIAH,
AGE MAJOR,
R/AT. NO.1652,
JODI KRS AGRAHARA,
KUNIGAL TOWN,
PIN-572 130
32. B.R.SREEDHARA,
S/O. RAMACHANDRA, AGE MAJOR
R/AT. NO.1653,
JODI KRS AGRAHARA,
KUNIGAL TOWN, PIN 572 130
33. SMT. UMA DEVI,
W/O. K.M.RAMESHA,
AGE MAJOR,
R/AT. NO. 1653,
JODI KRS AGRAHARA,
KUNIGAL TOWN, PIN 572 130
34. SMT.H.S.PARVATHAMMA,
W/O. K.H.CHANDRAIAH,
AGE MAJOR,
R/AT. NO. 1657,
JODI KRS AGRAHARA,



NC: 2026:KHC:36928
RSA No. 291 of 2025

CNR: KAHC010126062025

KUNIGAL TOWN, PIN 572 130

35. SMT. B. NAGAMMA,
W/O. NARAYANA,
AGE MAJOR,
R/AT. NO. 1662,
JODI KRS AGRAHARA,
KUNIGAL TOWN, PIN 572 130
36. SMT.PADMA,
W/O. SIDDAGANGAIAH,
AGE MAJOR,
R/AT. NO.1665,
JODI KRS AGRAHARA,
KUNIGAL TOWN, PIN 572 130
37. SRI.SIDDALINGAIAH,
S/O. AKKI NANJAIAH,
AGE MAJOR,
R/AT NO.1666,
JODI KRS AGRAHARA,
KUNIGAL TOWN,
PIN 572 130
38. SRI.N.NAGEGOWDA,
S/O. N.GOVINDAPPA,
AGE MAJOR,
R/AT. NO.1668,
JODI KRS AGRAHARA,
KUNIGAL TOWN,
PIN 572 130
39. SRI.G.K.NAGESH,
S/O. KOTE NARASIMHAIAH,
AGEMAJOR,
R/AT. NO.1682,
JODI KRS AGRAHARA,
KUNIGAL TOWN,
PIN 572 130



CNR: KAHC010126062025

40. SMT.H.S.PADMAVATHAMMA
W/O. K.C. KRISHNARAJ
AGE: MAJOR,
R/AT. KOTE, KUNIGAL,
PIN 572 130

41. SMT. THULASI,
D/O. K.H.SHESHANNA,
AGED ABOUT 28 YEARS,
R/AT. BYRAGI MUTT,
UPPER BEEDHI,
KUNIGAL TOWN,
TUMAKURU DISTRICT,
PIN-572 130

...RESPONDENTS

(BY SRI. BABU M, ADVOCATE FOR R1;

R3, R7, R8, R10, R15, R20, R21, R26, R34, R40 –SERVED;

VIDE ORDER DATED 16.10.2025, NOTICE TO R17 HELD
SUFFICIENT;

VIDE ORDER DATED 16.10.2025, NOTICE AGAINST R18, R19,
R22, R24, R25, R27 TO R33 AND R35 TO R39 DISPENSED
WITH;

VIDE ORDER DATED 08.12.2025, NOTICE AGAINST R23 IS
DISPENSED WITH AT RISK OF APPELLANT;

VIDE ORDER DATED 08.12.2025, R3 IS THE LR OF DECEASED
R2 AND

R14 AND R41 ARE LR's OF R13;

VIDE ORDER DATED 01.06.2026, R4, R5, R6, R9, R11, R12,
R14, R16 AND R41 ARE CALLED OUT AND ABSENT)

THIS RSA IS FILED UNDER SECTION 100 OF CIVIL
PROCEDURE CODE, AGAINST THE JUDGMENT AND DECREE
DATED 23.11.2024 PASSED IN RA NO.19/2024 ON THE FILE OF
VII ADDITIONAL DISTRICT JUDGE, TUMAKURU., ALLOWING
THE APPEAL AND SETTING ASIDE THE JUDGMENT AND DECREE
DATED 16.12.2023 PASSED IN OS NO.70/2014 ON THE FILE
OF ADDITIONAL SENIOR CIVIL JUDGE AND JMFC, KUNIGAL.



CNR: KAHC010126062025

NC: 2026:KHC:36928
RSA No. 291 of 2025

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

CORAM: HON'BLE MR. JUSTICE V SRISHANANDA

ORAL JUDGMENT

Heard Sri Vikram H.Bhat and Sri Babu, learned counsel
for the parties.

2. Parties are referred to as plaintiffs and defendants as per
their original ranking before the Trial Court, for the sake of
convenience.

3. Purchasers of the individual sites in the joint family
property in an unauthorised layout who are defendant Nos.25,
26, 27, 29, 31, 39 and 43 are the appellants challenging the
decreeing of the suit by the VII Additional District Judge,
Tumakuru in R.A No.19/2024 filed by the first respondent
herein/plaintiff by reversing the judgment and decree passed in
O.S No. 70/2014 on the file of the Additional Senior Civil Judge
and JMFC, Kunigal.

4. Facts in the nutshell which are utmost necessary for
disposal of the present appeal are as under:



CNR: KAHC010126062025

5. A suit in O.S No.70/2014 was filed by the plaintiff seeking the relief of partition and separate possession of her share in the following properties hereinafter referred to as 'suit properties'.

"1. **Item No.1:** All the piece and parcel of the Sy.No.210 measuring 0-31 guntas inclusive of 1 gunta kharab situated at Jodi KRS Agrahara, Kasaba Hobli, Kunigal Taluk, which is bounded on East by: Siddanna and K.S.Shivanna's land, West by: Doddagangaiah and K.S.Krishnappa's land, North by: canal, South: Sreekrishnamurthy Temple Road.

2. **Item No.2:** All the piece and parcel of the Sy.No. 198/1 and 86 Sy.No.198/3 measuring 0-32 guntas situated at Jodi KRS Agrahara Kasaba Hobli, Kunigal Taluk, which is bounded on East by:K.Seshanna and K.R. Huchappa land then Yellamma land, West by: Yellamma and Narayanamma's land, North by: Yellamma, Krishnaswamy Temple Road, South by: Hormarama and Seshanna's lands.

3. **Item No.3:** All the piece and parcel of the Sy.No.198/2 measuring 1-38 guntas, inclusive of 1 gunta kharab situated at Jodi KRS Agrahara, Kasaba Hobli, Kunigal Taluk (residential sites formed as per the conversion order) which is bounded on East by: Siddagangappa's land, West by: Honnamma's land, North by: Sree Krishnaswamy temple road, South by: Land of



CNR: KAHC010126062025

NC: 2026:KHC:36928
RSA No. 291 of 2025

Subba Rao & NH 48. The aforesaid lands are converted for the residential purpose and are covered by 41 sites.

4. **Item No.4:** *All the piece and parcel of the Sy.No.97/2 measuring 0-19 guntas of land situated at Jodi KRS Agrahara, Kasaba Hobli, Kunigal Taluk, which is bounded on East by: Road, West by: Mudalagiriappa's land, North by: Anjaneyaswamy temple land, South by: K.C.Krishnappa's land.*

5. **Item No.5:** *House bearing Sl.No.281, property No.294, measuring 11x12, 19¾x12, (49+47)/2x19, (51+49)/2x12, situated at Uppara Beedhi, Byragimutt, Kunigal Town and bounded on East by: Kenchamma's house, West by: road, North by:Dyamappa's property, South by: road.*

6. **Item No.6:** *House bearing Sl.No.1323, property No.358 measuring 26x9½, 26x23 and 26x13 situated at Uppara Beedhi, Byragimutt, Kunigal town, and bounded on East by: road, West by: Sunkappa's house, North by: road, South by: K.H.Chamaraj.*

5.1 Plaintiff claimed that Doddarevanna is the common propositus of the family. He had four sons viz., K.R.Huchanna, Periappa, Doddayellappa and Dyavanappa. It is further



CNR: KAHC010126062025

contented that there was a Panchayath Parikath on 10.12.1942 among the sons of Doddarevanna.

5.2 In the said Panchayath Parikath, K.R.Huchanna was allotted the house properties at Uppara Beedi, Thenginarada Hatti, Kunigal town, measuring East to West 52 feet, 13 feet North to South towards southern portion of the house and agricultural land bearing Sy.No.97/2, measuring 19 guntas. During the lifetime of said Huchanna, he retained the house property and sold 19 guntas of wet land.

5.3 The plaintiff and defendant Nos.1 to 26 being the legal heirs of K.R.Huchanna, acquired few properties. Those properties are the self-acquired properties of Huchanna who died intestate on 23.07.1974 leaving behind the plaintiff and defendant Nos.1 to 26 as his successors. It is also contended that Huchanna during his life time, acquired the following properties.

"(i) Sy.No.210 measuring 0-31 guntas (inclusive of 0-01 gunta karab) situated at Jodi KRS Agrahara, Kasaba Hobli, Kunigal Taluk.



CNR: KAHC010126062025

(ii) Sy.No.198/1 measuring 0-29 guntas 86 0-03 guntas of land situated at KRS Agrahara, Kasaba Hobli, Kunigal Taluk.

(iii) Sy.No.198/2 measuring 1-38 guntas situated at KRS Agrahara, Kasaba Hobli, Kunigal Taluk.

(iv) Sy.No.198/3 measuring 0-03 guntas situated at KRS Agrahara, Kasaba Hobli, Kunigal Taluk.

(v) House bearing Sl.No.1251, property No.294, measuring 11x12, 19¾x12, (49+47)/2, (51+49)/2x12.

(vi) House bearing Sl.No.1323, property No.358 measuring 26x9½ , 26x23 86 26x13."

5.4 Huchanna alone sold the properties measuring 20 guntas of land in the land in Sy.No.198/1. Son of Huchanna viz., K.H.Shivashankar died on 11.07.1995, another son K.H.Krishnappa died on 06.01.2011, Puttayellamma died on 17.01.2010, Chinnamma died in the year 2008. Their legal representatives are also brought on record as party defendants.

5.5 It is further contended by the plaintiff that during the lifetime of Krishnappa, he got the revenue entries mutated onto his name in respect of land in Sy.No.198/2, measuring 1 acre 38 quintas and thereafter filed the application before the



CNR: KAHC010126062025

Deputy Commissioner for conversion of the land into residential site. The Deputy Commissioner passed an order of conversion and the land was converted into 41 sites and few sites have been sold.

5.6 It is further contended that Krishnappa retained about 80% of the sites in his possession. Likewise, K.H.Sheshanna also got mutated in his name the land in Sy.No.198/1 measuring 12 guntas, out of which 3 guntas of land was mutated in his name and remaining in the name of defendant No.12.

5.7 The land which was retained by him measuring 3 guntas was re-numbered as Sy.No.198/3 and 9 guntas of land in Sy. No.198/1 was mutated in the name of Yellamma, who is the wife of K.H Revanna.

5.8 Defendant No.1, is not the legal heir of K.R.Huchanna. Based on the revenue entries, entered into a partition deed dated 27.08.2003 excluding the plaintiff and therefore, same is not binding on the plaintiff.



CNR: KAHC010126062025

NC: 2026:KHC:36928
RSA No. 291 of 2025

5.9 It is further contended by the plaintiff that in Sy.No. 210 measuring 30 guntas of land, 15 guntas was renumbered as Sy.No.210/1 and 210/2 mutated in the name of 13th defendant-Meenakshamma. It is further contended that said Meenakshamma is not the legal heir of Revanna.

5.10 Likewise, plaintiff pleaded about the remaining properties also and the alienation made by the defendants is detailed out in a tabular form in paragraph No.4 of the Trial Court Judgment which reads as under:

Sl.No.	NAME	DESCRIPTION OF THE PROPERTY
1	V.S.udha	Sl.No.1642-Oni No.1500 (42+ 44)/2x50.
2	H.C.Seenappa	Sl.No.1643-Oni No.1501 (42+40)/2x50.
3	C.C.Shivanna	Sl.No.1644-Oni No.1502 40x30.
4	K.C.Umesh	Sl.No.1645-Oni No.1503 40x30.
5	V.C.Sumathi	Sl.No.1646-Oni No.1504 (40x39)/2x30.
6	Bhagyamma	Sl.No.1647-Oni No.1506 (36+37)/2x30.
7	H.S.Raghu	Sl.No.1648-Oni No.1507 (36+35)/2x30.
8	S.K.Vishvamohan	Sl.No.1649-Oni No.1508 (35+34)/2x40.
9	K.Sudha	Sl.No.1650-Oni No.1509 34x40. Sl.No.1651-Oni No.1510



CNR: KAHC010126062025

NC: 2026:KHC:36928
RSA No. 291 of 2025

		(34+32)/2x40.
10	R.K.Puttaramu	Sl.No.1652-Oni No.1511 (32+30)/2x40.
11	B.R.Sreedhara	Sl.No.1653-Oni No.1512 30x30.
12	Umadevi	Sl.No.1653/A-Oni No.1512/A 30x10. Sl.No.1654-Oni No.1513 30x19.
13	H.S.Parvathamma	Sl.No.1657-Oni No.1516 RCC House measuring 74x51.
14	B.Nagamma	Sl.No.1652-Oni No.1521 35x40.
15	Shashikala	Sl.No.16663-Oni No.1505 (39+37)/2x30.
16	Padma	Sl.No.1665-Oni No.1523 35x40.
17	Siddalingaiah	Sl.No.1666-Oni No.1455 20x39.
18	N.G.Nagegowda	Sl.No.1668-Oni No.1525 35x40. Sl.No.1669-Oni No.1526 31x40.
19	Ramesh	Sl.No.1670-Oni No.1527 32x40.
20	G.K.Nagesh	Sl.No.1682-Oni No.1539 15x25.

5.11 Plaintiff contended that she being the daughter of K.R.Huchanna is entitled for equal share along with the sons and daughters of K.R.Huchanna and demanded for partition which was refused and therefore suit was necessitated.



CNR: KAHC010126062025

6. Pursuant to the suit summons, defendant Nos.1 to 14, 25 to 27, 31, 37 to 43 appeared and filed written statement denying the plaint averments. Admittedly, these defendants are the purchasers of individual sites formed by Krishnappa.

7. Defendant No.45 filed separate written statement denying the plaint averments and also contending that plaintiff is not in possession of the property and therefore suit for partition is not maintainable.

8. Based on the rival contentions, learned Trial Judge raised necessary issues and additional issues. After recording the evidence of the parties, heard the arguments of the parties and dismissed the suit of the plaintiff.

9. Being aggrieved by the same, plaintiff filed an appeal before the First Appellate Court in R.A No.19/2024.

10. Learned Judge in the First Appellate Court after considering the material on record, re-appreciated the material evidence on record and decreed the suit of the plaintiff by granting 1/8th share in item Nos.1 to 3 of the suit properties.



CNR: KAHC010126062025

**NC: 2026:KHC:36928
RSA No. 291 of 2025**

Insofar as item Nos.4 to 6, First Appellate Court upheld the dismissal of the suit by the Trial Court.

11. Plaintiff for the reasons best known to her did not challenge the dismissal of the suit in respect of item Nos.4 to 6 of the suit properties.

12. It is the aforesaid defendants who have challenged the judgment of the First Appellate Court in decreeing the suit in respect of Item Nos.1 to 3 granting 1/8th share in item Nos.1 to 3, on the following grounds:

- *That the Judgement & Decree dated 23/11/2024 passed by the Court of the VII Addl. District Judge, Tumkur in R.A.No.19/2024 is contrary to the settled principles of law and the facts of the case and hence, is liable to be set aside. The Lower Appellate Court has totally misdirected itself to the facts of the case and has misinterpreted the Law on the point.*
- *That the Lower Appellate Court has grossly erred and failed to observe and appreciate that the relief sought by the plaintiff included 1/8th share in certain sites formed in Sy.No.198/2 of KRS Agrahara Village, which were alienated in favour of the appellants herein and that the suit was barred by limitation as far as the sites purchased by the appellants are concerned.*



CNR: KAHC010126062025

- *That the plaintiff in addition to seeking the relief of partition by metes and bounds, sought to be put in separate possession and enjoyment of her 1/8th share. The plaintiff has further sought for a consequential prayer i.e., a declaration that the Sale Deeds executed in favour of inter alia, the appellants are not binding on her.*
- *That this Hon'ble Court in the case of Metropoli Overseas Ltd. v. H.S. Deekshit, 2021 SCC OnLine Kar 15913 while considering what would be the main relief in a suit for partition and declaration that certain sale deeds are not binding; has held that the declaration that the Sale Deeds are not binding has to precede the decree for partition as, unless such a declaration is granted, there would be no property which would be in existence for partition. It is only after the sale deeds are declared to be void or not binding, the property would come back to the family for being considered for the purpose of partition. Such being the case, the period of limitation to obtain the primary relief that the Sale Deeds executed inter alia, in favour of the appellants herein are not binding on the plaintiff, is 3 years from the date when the right to sue first accrued as provided under Article 58 of the Limitation Act, 1963.*
- *This Hon'ble Court in the case of Durga Projects and Infrastructure Pvt. Ltd. v. S. Rajagopala Reddy, 2019 SCC OnLine Kar 3090 has held that in a suit for declaration and possession, limitation is to be reckoned from the first date when the cause of action arose and that subsequent dates pleaded do not extend the period of limitation. It is*



CNR: KAHC010126062025

submitted that just because possession is claimed, 12 years period of limitation is not available.

➤ *That the Lower Appellate Court has failed to consider that in the present case, the plaintiff has sought for partition and separate possession of her 1/8th share and for a declaration that the Sale Deeds executed inter alia, in favour of the appellants are not binding on her. That unless the sale deeds are set aside and the plaintiff's title is declared, she is not entitled to possession. Declaration is the main relief in the present case and hence, Article 58 of the Limitation Act is applicable and therefore the limitation is to be reckoned from the first date i.e., date of registration of the Sale Deeds.*

➤ *That Sec.3 of the Transfer of Property Act, 1882 provides that*

"a person is said to have notice" of a fact when he actually knows that fact, or when, but for wilful abstention from an enquiry or search which he ought to have made, or gross negligence, he would have known it.

➤ *The explanation to the said phrase is as extracted below:*

Explanation I "Where any transaction relating to immovable property is required by law to be and has been effected by a registered instrument, any person acquiring such property or any part of, or share or interest in, such property shall be deemed to have notice of such instrument as from the date of registration....."



CNR: KAHC010126062025

NC: 2026:KHC:36928
RSA No. 291 of 2025

- *That the Court below has failed to consider that by virtue of Section 3 of the Transfer of Property Act, 1882, the plaintiff had constructive notice of the transactions in favour of the appellants as on the date of registration of the Sale Deeds. Such being the case, the suit of the plaintiff which was instituted on 05/12/2014 was barred by limitation. However, the Trial Court erroneously states that the cause of action in a partition suit is a recurring one and hence the suit was within the period of limitation.*
- *That the Hon'ble Supreme Court in the case of Dilboo v. Dhanraji, (2000) 7 SCC 702 has held that whenever a document is registered, the date of registration becomes the date of deemed knowledge. Further, in other cases where a fact could be discovered by due diligence then deemed knowledge would be attributed to the plaintiff because a party cannot be allowed to extend the period of limitation by merely claiming that he had no knowledge.*
- *This position of law has also been stated in Bina Murlidhar Hemdev v. Kanhaiyalal Lokram Hemdev, (1999) 5 SCC 222, Janardhanam Prasad v. Ramdas, (2007) 15 SCC 174 and a catena of other judgments.*
- *That this Hon'ble Court in the case of Metropoli Overseas Ltd. v. H.S. Deekshit, 2021 SCC OnLine Kar 15913 has held that registration of a sale deed in respect of alleged joint family property would amount to constructive notice to all members of the joint family. Thus, it can be safely inferred*



CNR: KAHC010126062025

that the plaintiff had constructive notice of the sale / alienation from the date of registration of the Sale Deeds.

- *That the Lower Appellate Court has failed to consider that the plaintiff has conveniently contended that the cause of action arose in October 2014 and on subsequent dates, when she requested the defendant Nos.1 to 24 to effect partition of the properties but the same was refused and the same has been erroneously accepted by Trial Court without considering the effect of Article 58 of the Limitation Act and Sec.3 of the Transfer of Property Act on the sales effected in favour of the appellants herein.*
- *Alternatively, Article 110 of the Limitation Act provides a period of 12 years for filing a suit by a person excluded from a joint family property to enforce a right to share therein. The limitation starts to run from the date when the exclusion becomes known to the plaintiff. In the present case, the appellants herein purchased the sites under registered Sale Deeds between the years 1996 to 2003 and the plaintiff had constructive notice of the sales on the date of registration of the Sale Deeds.*
- *Further, the sons of late K.R. Huchanna divided the properties left behind by late K.R. Huchanna among themselves under the registered Partition Deed dated 17/06/2000. The plaintiff / respondent No.1 was not a party to the said Partition Deed. Since the said Partition Deed dated 17/06/2000 was registered, the same also amounts to constructive notice to the plaintiff /respondent*



CNR: KAHC010126062025

No.1 and the suit filed by her in the year 2014, after a lapse of 14 years is barred by limitation.

- *That the Lower Appellate Court has failed to consider that the position of the appellants who have acquired title under registered Sale Deeds cannot be worse than that of a rank trespasser in open and hostile possession. As the title of the rank trespasser would get perfected by adverse possession on the expiry of 12 years, so also the title of the appellants who are bonafide purchasers for consideration would get perfected after 12 years and the plaintiff cannot claim a share therein.*
- *Further, the plaintiff has paid court fees under Sec.35(2) of the KCF&SV Act, 1958. However, she ought to have paid court fees under Sec.35(1) by calculating the market value of her 1/8th share as she been excluded from possession of such property. The relevant portion of Sec.35 of KCF&SV Act reads as under:*
Sec. 35 Partition suits:

- (1) In a suit for partition and separate possession of a share of joint family property or of property owned, jointly or in common, by a plaintiff whose title to such property is denied, or who has been excluded from possession of such property, fee shall be computed on the market value of the plaintiff's share.*
- (2) In a suit for partition and separate possession of joint family property or property owned, jointly or in common, by a plaintiff who is in*



CNR: KAHC010126062025

NC: 2026:KHC:36928
RSA No. 291 of 2025

*joint possession of such property, fee shall be
paid at the following rates:*

.....
.....
.....

*Rupees two hundred if the value is Rs.10,000 and
above.*

➤ *The Hon'ble Supreme Court in the case of Neelavathi v. N. Natarajan, (1980) 2 SCC 247 while dealing with Sec.37(1) of the Tamil Nadu Court Fees and Suits Valuation Act, 1955 has held that the plaintiff is required to pay court fees under Sec.37(1) if on a reading of the plaint, there is a clear and specific averment that the plaintiff had been "excluded" from joint possession to which he / she are entitled in law. Sec.37(1) of the Tamil Nadu Court Fees and Suits Valuation Act, 1955 is pari materia to Sec.35(1) of the KCF&SV Act. This position of law has been reiterated by this Hon'ble Court in the case of T.K. Srinivasamurthy v. T. Seetharamaiah, 1989 SCC OnLine Kar 22.*

➤ *That the plaintiff has paid court fees under Sec.35(2) by contending that she is in joint possession of the suit schedule properties. However, in the plaint itself, the plaintiff has admitted that a layout comprising of 41 sites was formed in Sy. No.198/2 of KRS Agrahara Village and that the sites were sold to various persons. The plaintiff has also averred about the execution of the registered partition deed by the other family members on 17/06/2000. This indicates that the plaintiff had been*



CNR: KAHC010126062025

excluded from the possession of such property. Such being the case, the plaintiff ought to have computed the court fee on the market value of her share as provided under Sec.35(1).

➤ *That a Division Bench of this Hon'ble Court in the case of B.S. Malleshappa v. Koratagigere B. Shivalingappa, 2001 SCC OnLine Kar 297 has held that if the plaintiff claims that he is in joint possession of a property and seeks partition and separate possession, he is liable to pay court fee under Sec.35(2) of the KCF&SV Act. However, if on evidence, it is found that he was not in joint possession, the consequence is that the relief may be refused in regard to such property or the suit may be dismissed. In light of the same, the Lower Appellate Court ought to have dismissed the suit of the plaintiff on the ground that although the plaintiff was not in joint possession, she had paid court fee under Sec.35(2) of the KCF&SV Act.*

➤ *That the Lower Appellate Court has not appreciated the fact that the plaintiff was never in possession of the suit schedule properties and that the appellants herein had purchased the sites in Item No.3 of the suit schedule property for valuable consideration between the years 1996 to 2003 and that the appellants are in peaceful possession and enjoyment of the same.*

➤ *That both the Trial Court and the Lower Appellate Court have not considered the facts and the evidence in their true perspective and have erred in concluding that*



CNR: KAHC010126062025

NC: 2026:KHC:36928
RSA No. 291 of 2025

Item Nos.1 to 3 of the suit schedule properties are the self-acquired properties of Sri. K.R. Huchanna in which the plaintiff also has a share.

➤ *That the judgement of the Lower Appellate Court has proceeded on the basis of assumptions and presumptions and hence is liable to be set aside."*

13. Sri Vikram Bhat, learned counsel for the appellants, reiterating the grounds urged in the appeal memorandum would contend that suit is barred by limitation; plaintiff is not entitled for any share in the suit properties; sale deed executed by Krishnappa in their favour is much earlier to the amendment to Section 6 of the Hindu Succession Act. Therefore, decreeing of the suit is bad in law and sought for admitting the appeal on following substantial questions of law.

(i) "Whether or not the Lower Appellate Court has erred in not considering the applicability of Art.58 of the Limitation Act in light of the judgment of this Hon'ble Court in Metropoli Overseas Ltd. v. H.S. Deekshit, 2021 SCC OnLine Kar15913, wherein it was held that in a suit for partition and declaration that certain sale deeds are not binding; the declaration that the Sale Deeds are not binding has to precede the decree for partition?"



CNR: KAHC010126062025

(ii) Whether or not the Lower Appellate Court has erred in failing to observe that in light of Sec.3 of the Transfer of Property Act, 1883, the registration of Sale Deeds /Partition Deeds in respect of alleged joint family properties would amount to constructive notice to all members of the joint family?

(iii) Whether or not the Lower Appellate Court has erred in failing to observe that in light of Article 58 of the Limitation Act and Sec. 3 of the Transfer of Property Act, the plaintiff ought to have sought for a declaration that the Sale Deeds are not binding on her within 3 years from the date of registration of Sale Deeds?

(iv) Whether or not the Lower Appellate Court has erred in failing to observe that in light of Article 110 of the Limitation Act and Sec.3 of the Transfer of Property Act, the plaintiff ought to have filed the suit for partition within 12 years from the date of registration of Sale Deeds and Partition Deed?

(v) Whether or not the Lower Appellate Court has erred in not considering the ratio laid down by this Hon'ble Court in the case of B.S. Malleshappa v. Koratagigere B. Shivalingappa, 2001 SCC OnLine Kar 297 wherein it was held that if the plaintiff pays court fee under Sec.35(2) of the KCF & SV Act and seeks partition by contending that he is in joint possession of the property; and that it is later found that he was not in joint possession, the relief sought has to be refused



CNR: KAHC010126062025

**NC: 2026:KHC:36928
RSA No. 291 of 2025**

in regard to such property or the suit has to be dismissed?"

14. In support of his arguments, Sri Vikram relied on following judgments:

- i. Vineeta Sharma vs. Rakesh Sharma reported in (2020)9 SCC 1.
- ii. Uma Devi and others vs. Anand Kumar and others reported in (2025) 5 SCC 198.
- iii. Smt.Akkamahadevi vs. Sangappa and others reported in RFA No.100612/2019 dated 04.03.2025.
- iv. R.Nagaraj and another vs. Rajmani and others 2025 SCC Online SC 762.
- v. T.P.R.Palaniam Pillai vs. Amjath Ibrahim Rowther reported in AIR 1942 MAD 622 (FB).
- vi. Moulvi Abdul Khadir Sab vs. Abdul Munaf reported in (1951) 29 Mys LJ 54.
- vii. Anjanabai vs. Jaswantibai reported in AIR 1993 Bombay 134.
- viii. Karthiyayani vs. Uly Kallyani reported in AIR 1972 KER 229.
- ix. Dilboo vs. Dhanraji reported in (2000)7 SCC 702.
- x. Janardhanam Prasad vs. Ramdas reported in (2007)15 SCC 174.



CNR: KAHC010126062025

- xi. Metropoli Overseas Ltd., vs. H.S.Deekshit reported in 2021 SCC Online Kar 15913.
 - xii. Durga Projects and Infrastructure Pvt. Ltd., vs. S.Rajagopala Reddy reported in ILR 2019 KAR 4739.
 - xiii. Neelavathi vs. N.Natarajan reported in (1980)2 SCC 247.
 - xiv. T.K.Srinivasamurthy vs. Seetharamaiah reported in AIR 1990 KAR 149.
 - xv. B.S.Mallesappa vs. Koratagigere B. Shivalingappa reported in ILR 2001 KAR 3988.
 - xvi. Gannmani Anasuya vs. Parvatini Amarendra Chowdhary reported in (2007)10 SCC 296.
 - xvii. Sri Narasimha Murthy and others vs. Sri Mallesh and others RFA No.862/2023 dated 22.04.2026.
15. *Per contra*, Sri Babu, learned counsel for the respondent No.1 supports the impugned judgment.
16. Having heard the arguments of both sides, this Court perused the material on record meticulously.
17. On such perusal of the material on record, there is a clear averment made in the plaint itself that the property earlier belonged to common propositus by name Doddarevanna.



CNR: KAHC010126062025

18. Admittedly, said Doddarevanna had four children and there was a Panchayath Parikath on 10.12.1942. In the said Panchayath Parikath, one of the sons namely K.R.Huchanna got a house property and 19 guntas of land in Sy.No.97/2.

19. K.R.Huchanna during his lifetime, sold 19 guntas of land and retained the house property alone. Thereafter, K.R.Huchanna during his lifetime acquired the suit properties. These averments are not denied by the siblings of the plaintiff.

20. The written statement that is available on record is by the purchasers of individual sites in the layout formed by one of the brothers of the plaintiff viz., K.H.Krishnappa.

21. Admittedly, father of plaintiff and her siblings, died intestate. Since the properties are self acquired properties of the K.R.Huchanna, inasmuch as, he had already sold the land in No.97/2, measuring 19 guntas, no other property was available in the joint family except the dwelling house.



CNR: KAHC010126062025

22. The suit is filed by the plaintiff as the legal representative of K.R.Huchanna being the daughter. K.R.Huchanna died intestate on 23.07.1974.

23. Admittedly, when Huchanna died, by virtue of Section 8 of the Hindu Succession Act, wife and all the children of K.R. Huchanna have succeeded to the property equally.

24. Excluding the daughters, sons alone mutating the revenue entries and thereafter developing the land and selling to the third parties did not cause any dent to the share that is to be allotted to the plaintiff and similarly placed other siblings.

25. Be it what it may. It is the plaintiff alone who approached the Court and other siblings were arraigned as party defendants. Some of the legal representatives of the siblings did not choose to contest the suit by filing the written statement.

26. The revenue entry transferred in the name of the vendor of the present appellants namely K.H.Krishnappa did not grant him the absolute right to develop the property in the absence



CNR: KAHC010126062025

of any valid partition and property being divided by metes and bounds.

27. Further developments in respect of the suit properties viz., obtaining permission from the Deputy Commissioner for conversion of the land to non-agricultural purpose, forming the layout, selling the sites etc. would not cure the defect committed by the vendor of the appellants viz., K.H.Krishnappa in getting the revenue entry mutated onto his name, denying the share to the other siblings.

28. Only on the ground that one of the brothers have been granted share in Sy.No.198/1 and he getting the land transferred on to his name 3 guntas and balance 9 guntas in the name of K.H Revanna did not in any way affect the right of the plaintiff in seeking her share in the property left behind by K.R.Huchanna.

29. Admittedly, when there is a denial of the share in the suit properties, plaintiff had to file the suit for partition.



CNR: KAHC010126062025

30. Both the Courts did not take note of said aspect of the matter that the properties are self acquired properties of K.R.Huchanna and proceeded on the basis that it is a joint family property. Thereafter, Trial Court dismissed the suit stating that the plaintiff has failed to make out her right in respect of the suit properties.

31. Learned Judge in the First Appellate Court also did not consider the fact that plaintiff is claiming as a sharer in the property left behind by K.R.Huchanna. Therefore, discussion with regard to the application of amended provision of Section 6 of the Hindu Succession Act would be a surplusage on record.

32. Since it is the property that has been left behind by K.R.Huchanna, wherein the plaintiff has got a share as admittedly K.R.Huchanna died intestate, the judgments that have been relied on by the counsel for appellants is of no avail in getting the matter admitted for further consideration of the substantial questions of law.

33. Accordingly, the substantial questions of law raised in the appeal do not merit for further consideration.



CNR: KAHC010126062025

NC: 2026:KHC:36928
RSA No. 291 of 2025

34. Hence, the following:

ORDER

- (i) Admission declined.
- (ii) Appeal ***dismissed***.

Sd/-
(V SRISHANANDA)
JUDGE

kcm
List No.: 1 Sl No.: 97