



NC: 2026:KHC:39355
RSA No. 478 of 2024

CNR: KAHC010166282024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

REGULAR SECOND APPEAL NO. 478 OF 2024 (PAR/POS)

BETWEEN:

1. SRI. MANJUNATHA M.L.
S/O LAKSHMINARAYANA BHATRU,
AGED ABOUT 72 YEARS,
R/AT SOMESHWARA VILLAGE,
SOMENAHALLI HOBLI, GUDIBANDE TALUK,
CHIKKABALLAPURA DISTRICT - 562 104.
2. SRI. RAJASHEKARA M.L.
S/O LAKSHMINARAYANA BHATRU,
AGED ABOUT 67 YEARS,
R/AT MANDIKAL VILLAGE AND POST,
MANDIKALLU HOBLI,
CHIKKABALLAPURA TALUK AND DISTRICT - 562 104.
...APPELLANTS

(BY SRI. VISHWANATH R. HEGDE, ADVOCATE)

AND:

SRI. SURAPPA M.L.
S/O LAKSHMINARAYANA BHATRU,
AGED ABOUT 64 YEARS,
NO. 921/C, 15TH 'A' MAIN,
2ND 'A' CROSS 3RD STAGE,
1ST BLOCK, BASAVESHWARA NAGAR,
BENGALURU - 560 096.

...RESPONDENT

(BY SRI. RAMAPRASAD S.N, ADVOCATE FOR C/R)

THIS RSA IS FILED UNDER SEC.100 OF CPC., AGAINST
THE JUDGMENT AND DECREE DATED 7.12.2023 PASSED IN RA
NO.9/2022 ON THE FILE OF III ADDITIONAL DISTRICT AND

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Location:
HIGH
COURT OF
KARNATAKA



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SESSIONS JUDGE, CHIKKABALLAPURA., DISMISSING THE APPEAL AND CONFIRMING THE JUDGMENT AND DECREE DATED 27.11.2021 PASSED IN OS NO.211/2017 ON THE FILE OF ADDITIONAL CIVIL JUDGE, GUDIBANDE.

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

CORAM: HON'BLE MR. JUSTICE V SRISHANANDA

ORAL JUDGMENT

1. Heard.

2. Defendants' second appeal challenging the decreeing of the suit in O.S.No.211/2017 dated 27.11.2021 granting 1/3rd share in the following properties (hereinafter referred to as suit properties) with a direction to have a separate enquiry with regard to the mesne profits which was confirmed by the First Appellate Court in RA No.9/2022 dated 07.12.2023:

SCHEDULE

"1. All that piece and parcel of the immovable properties bearing Sy.No.323 measuring 1 Acre 24 Guntas including Kharab situated at Mandikal village, Mandikal hobli, Chikkaballapur taluk.



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2. All that piece and parcel of the immovable properties bearing Survey Number 324/5 measuring 1 Acre 12 Guntas including Kharab situated at Mandikal village, Mandikal hobli, Chikkaballapur taluk.

3. All that piece and parcel of the immovable properties bearing Survey Number 324/6 measuring 1 Acre 27 Guntas including Kharab situated at Mandikal village, Mandikal hobli, Chikkaballapur taluk.

4. All that piece and parcel of the immovable properties bearing Survey Number 324/7 measuring 0.06 Guntas including Kharab situated at Mandikal village, Mandikal hobli, Chikkaballapur taluk.

5. All that piece and parcel of the immovable properties bearing Survey Number 324/8 measuring 0.06 Guntas including Kharab situated at Mandikal village, Mandikal hobli, Chikkaballapur taluk.

6. All that piece and parcel of the immovable properties bearing Survey Number 324/9 measuring 0.22 Guntas including Kharab situated at Mandikal Village, Mandikal hobli, Chikkaballapur taluk

All the above said landed properties consisting of in total approximately measuring 5 Acre 17 Guntas altogether in all the above said survey numbers.



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7. All that piece and parcel of the Dwelling house bearing House List No. 159, situated at Someshwara Village, Somenahalli hobli. Gudibande taluk, Chikkaballapur District bouned on:

East by :: Thimmappa's Property

West by :: Remaining Portion

North by :: Government Property,

South by :: Government Road.

8. All that piece and parcel of the Dwelling House bearing House List No.6, along with vacant site situated at Mandikal village, Mandikal hobli, Chikkaballapur taluk, Chikkaballapur District, measuring East to West 38 Feet and North to South 84 feet bounded on:

East by :: Remaining portion using by 2nd defendants

West by :: Property belongs to Ramakrishna

North by :: Road

South by :: Road

3. Facts in the nut shell which are utmost necessary for disposal of the appeal are as under:

3.1. Plaintiff and defendants are own brothers being the sons of late Lakshminarayana Bhatru and they had formed an Undivided Hindu Joint Family. Said Lakshminarayana Bhatru



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inherited and acquired the suit properties in his lifetime and plaintiff, defendants and Lakshminarayana Bhatru were in joint possession and enjoyment of the suit properties.

3.2. It is further contended that Lakshminarayana Bhatru was in possession till the death of 22.05.1998 along with plaintiff and defendants. Later on, it is the plaintiff and defendants who succeeded to the suit properties in equal share being the sons of said Lakshminarayana Bhatru.

3.3. Plaintiff demanded the share in the suit properties which was denied by defendants and therefore, suit was filed seeking possession and separate possession.

4. Pursuant to the suit summons, defendants entered appearance and filed written statement denying the plaint averments with regard to denial of the share but admitted the relationship and nature of the properties.

5. It is the specific contention of the defendants that plaintiff had relinquished his share in the suit properties at an earlier partition and therefore, plaintiff is not entitled for any share in the suit properties.



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6. Learned Trial Judge after raising necessary issues, heard the arguments of the parties in detail and after recording the evidence of the parties, decreed the suit of the plaintiff by granting 1/3rd share.

7. Being aggrieved by the same, defendants filed an appeal before the first appellate court in RA No.9/2022.

8. Learned Judge in the First Appellate Court after securing the records, heard the arguments of the parties in detail and on reappraisal of the material on record, dismissed the appeal filed by the defendants.

9. Being further aggrieved by the same, defendants have filed the present second appeal.

10. Learned counsel for the appellant reiterating the grounds urged in the appeal memorandum vehemently contended that both the Courts have failed to appreciate that there was a previous partition and among the members of the joint family, there need not be any registered document in establishing the previous partition and relinquishment deed has not been considered by both the courts where under plaintiff



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has taken the money and relinquished his share and therefore, sought for admitting the appeal on the following substantial questions of law:

- i. Whether the courts below were right in decreeing the suit of the plaintiff/respondent?*
- ii. Whether the judgment and decree passed by the Courts below decreeing the suit on a wholly erroneous appreciation of the evidence on record including Ex.D.11 is sustainable in law?*
- iii. Whether the Courts below erred in not appreciating that the suit is liable to dismissed as barred by time having regard to the clear suggestion made to D.W.1 during cross-examination regarding exclusion of the plaintiff from the suit schedule properties since 1997?"*

11. Per contra, learned counsel for the respondent supports the impugned judgments.

12. Having heard the parties in detail, this Court perused the material on record meticulously.

13. On such perusal of the material on record, it is noticed that there is no dispute as to the relationship and the nature of the properties.



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14. Admittedly, Lakshminarayana Bhatru died and after his death, plaintiff and defendants being the children of Lakshminarayana Bhatru, are entitled for equal share in the suit properties.

15. Defendants took up a contention that plaintiff had relinquished his share in the suit property. No doubt, for evidencing the family partition among the Hindus, in respect of the joint family properties, no document is necessary nor if any document is executed, it does not require compulsory registration.

16. But in case of relinquishment deed, such a rule is not applicable. In case of a relinquishment, registered document is necessary. Unless such document is registered, it has no probative value nor it can be accepted as a evidence.

17. Learned counsel for the appellant however tried to impress upon the Court that it is the plaintiff who denied the signature in the relinquishment deed by contending that it is forged one and failed to establish the same. Therefore, Trial Court and First Appellate Court was required to act upon the relinquishment deed.



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18. Such an argument cannot be countenanced in law in view of the fact that relinquishment deed requires the registration and without registered document, no probative value can be attached to such document.

19. Under such circumstances, Trial Court decreeing the suit of the plaintiff and First Appellate Court upholding the same requires no interference having regard to the scope of Section 100 of Civil Procedure Code.

20. Accordingly, the following:

ORDER

- i. Admission declined.
- ii. Appeal is ***dismissed***.

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

KAV
List No.: 1 Sl No.: 51