



NC: 2026:KHC:44912
RSA No. 532 of 2024

CNR: KAHC010184502024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 18TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

REGULAR SECOND APPEAL NO. 532 OF 2024 (DEC/POS)

BETWEEN:

SRI. RAMANJINAPPA
S/O LATE KRISHNAPPA,
AGED 50 YEARS,
MANCHENAHALLI
MANCHENAHALLI HOBLI,
GOWRIBIDANUR TALUK - 562 101.

...APPELLANT

(BY SRI. S.N. DEVARAJA, ADVOCATE FOR
SRI. A. LOURDU MARIYAPPA, ADVOCATE)

AND:

1. SMT. MADURA BAI
W/O GOVINDACHAR
AGED 58 YEARS,
2. SRI. UDUPI ACHAR
S/O SHESHAGIRI ACHAR,
AGED 56 YEARS,
3. SMT. NAGAMANI @ THARA BAI
W/O LATE S. MURTHY,
AGED 66 YEARS,
4. SRI. PARATHASARATHI
S/O LATE NARAYANA MURTHY



NC: 2026:KHC:44912
RSA No. 532 of 2024

CNR: KAHC010184502024

AGE 60 YEARS,

5. SMT. LAKSHMI BAI
W/O LATE T.S. NAGARAJA CHAR,
AGE 61 YEARS,

6. SRI. M. RANGAPPA
S/O GOLLAPPAR
AGE 82 YEARS,

1 TO 6 ARE RESIDING AT
MANCHENAHALLI VILLAGE,
MANCHENAHALLI HOBLI,
GOWRIBIDANUR TALUK - 562 101.

...RESPONDENTS

(BY SRI. G BALAKRISHNA SHASTRY, ADVOCATE
FOR C/R1 TO R5)

THIS RSA IS FILED UNDER SEC.100 OF CPC., AGAINST
THE JUDGMENT AND DECREE DATED 21.12.2023 PASSED IN
RA NO.14/2022 ON THE FILE OF III ADDITIONAL DISTRICT
AND SESSIONS JUDGE, CHIKKABALLAPURA., DISMISSING
THE APPEAL AND CONFIRMING THE JUDGMENT AND DECREE
DATED 2.02.2022 PASSED IN OS NO.70/2016 ON THE FILE OF
SENIOR CIVIL JUDGE AND JMFC, GOWRIBIDANUR.

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



CNR: KAHC010184502024

NC: 2026:KHC:44912
RSA No. 532 of 2024

CORAM: HON'BLE MR. JUSTICE V SRISHANANDA

ORAL JUDGMENT

1. Heard Sri.S.N.Devaraja, learned counsel appearing for Sri.A.Lourdu Mariyappa, learned counsel for the appellant and Sri.G.Balakrishna Shastry, learned counsel for respondents.

2. Plaintiffs second appeal challenging the dismissal of the suit in O.S.No.70/2016 which was confirmed by the First Appellate Court in RA No.14/2022.

3. Facts of the case are as under:

3.1. Plaintiff filed a suit for declaration and permanent injunction that he is the owner of the suit property (hereinafter referred to as suit property):

"Sy.No.210 total extent 8-22 guntas including kharab 2 acres 22 guntas, out of which 4 acre on northern portion of the suit schedule property, assessed at Rs.8.03 paise situated at Manchenahalli village, Gowribidanur Taluk, bounded:

East by: Koramara Dharma Thopu and temple

West by: Pinakini river, Kaluve,



CNR: KAHC010184502024

NC: 2026:KHC:44912
RSA No. 532 of 2024

North by: Land of Venkatappa
South by: Kanakanakoppa village."

3.2. Plaintiff contended that suit property was purchased by his grandfather namely Dodda Mylanna under the registered sale deed dated 29.08.1949 from Seetabai @ Puttamma acting as guardian for the minor Prananathamurthy.

3.3. It is further contended that after the sale deed, said Dodda Mylanna was in possession of the suit property along with his brothers namely Narasappa, Balanagappa and Chikkanna. Dodda Mylanna, Narasappa and Chikkanna died issueless and Balanagappa died leaving behind three children namely Krishnamma, Venkatappa and Krishnappa. Plaintiff claims that he is the son of Krishnappa. Therefore, he has become the owner of the suit property.

3.4. It is contended that there was a sale deed on 29.03.1980 which was concocted by Prananathamurthy in collusion with defendant Nos.4 and 5. Therefore, it would not bind the rights of the plaintiff and thus sought for declaration.



CNR: KAHC010184502024

**NC: 2026:KHC:44912
RSA No. 532 of 2024**

3.5. Suit was resisted by defendants by filing necessary written statement.

4. Learned Trial Judge after raising necessary issues, noted that plaintiff failed to prove his relationship with the family of Dodda Mylanna and dismissed the suit.

5. Being aggrieved by the same, plaintiff filed an appeal before the First Appellate Court along with the application under Order XLI Rule 27 of Code of Civil Procedure to place additional evidence on record.

6. Learned Judge in the First Appellate Court after securing the records, reappreciated the material on record and dismissed the appeal as well as the application seeking additional evidence.

7. Being further aggrieved by the same, plaintiff is before this Court, in this appeal.

8. Learned counsel for the appellant reiterating the grounds in the appeal memorandum would contend that both the Courts have not properly appreciated the fact that there was a sale deed in the year 1949 and therefore, without



CNR: KAHC010184502024

cancellation of the said sale deed, Prananathamurthy had no right, title or interest to sell the suit property in favour of defendant Nos.4 and 5 and as such, dismissal of the suit is bad in law.

9. He would also contend that before the First Appellate Court, necessary documentary evidence was placed on record to establish the relationship that plaintiff is the grandson of Dodda Mylanna. Therefore, sought for admitting the appeal on the following substantial questions of law:

1. *"Whether the lower Appellate Court was right in confirming the judgment and decree passed by the Trial Court.*
2. *Whether the lower Appellate Court committed a gross error in dismissing the appeal holding that the plaintiff was not entitled to a decree of declaration and possession against the appellant herein without considering the crucial aspect whether he was a member of the family of Melaiah.*
3. *Whether the Trial Court as well as the lower Appellate Court committed an error and whether the judgments could be justified in view of the fact that both the courts below failed to even consider the oral evidence of PW-1 and appreciate the same in the proper perspective.*



CNR: KAHC010184502024

4. Whether it could be justified that the judgment and decree of the Appellate Court below is not perverse, arbitrary, unreasonable and illegal from the pleadings and evidence on record."

10. Per contra, learned counsel for the respondents supports the impugned judgments.

11. Having heard the arguments of both the parties, this Court perused the material on record meticulously.

12. On such perusal of the material on record, even though there is a sale deed in favour of Dodda Mylanna, how plaintiff became the owner of the suit property is not properly mentioned by tracing the title.

13. Admittedly, Dodda Mylanna and his brothers died issueless except one brother by name Balanagappa. Said Balanagappa had three children namely Krishnamma, Venkatappa and Krishnappa. Plaintiff claims that he is the son of Krishnappa.

14. To establish that Narasappa, Chikkanna and Dodda Mylanna died issueless, no material is placed on record.



CNR: KAHC010184502024

15. Moreover, as per the sale deed, Seethabai @ Puttamma had conveyed the property in favour of Dodda Mylanna. Whether Dodda Mylanna son of Nadupi and Dodda Mylanna from whom the present plaintiff claims are one and the same person is not forthcoming on record.

16. Whenever there is a dispute as to the relationship, necessarily, parties are required to place the proof to establish such relationship as is contemplated under Section 50 of the Indian Evidence Act.

17. How to establish the relationship as per Section 50 of the Indian Evidence Act is no longer *res integra*.

18. Hon'ble Supreme Court in the case of ***Dolgobinda Paricha v. Nimai Charan Mishra*** reported in ***AIR 1959 SC 914*** in paragraph No.7 has held as under:

"7. It is necessary to state here that how the conduct or external behaviour which expresses the opinion of a person coming within the meaning of Section 50 is to be proved is not stated in the section. The section merely says that such opinion is a relevant fact on the subject of relationship of one person to another in a case where the court has to form an opinion as to that relationship. Part



CNR: KAHC010184502024

II of the Evidence Act is headed "On Proof". Chapter III thereof contains a fascicule of sections relating to facts which need not be proved. Then there is Chapter IV dealing with oral evidence and in it occurs Section 60 which says inter alia:

"60. Oral evidence must, in all cases whatever, be direct; that is to say—

if it refers to a fact which could be seen, it must be the evidence of a witness who says he saw it;

if it refers to a fact which could be heard, it must be the evidence of a witness who says he heard it;

if it refers to a fact which could be perceived by any other sense or in any other manner, it must be the evidence of a witness who says he perceived it by that sense in that manner;

if it refers to an opinion or to the grounds on which that opinion is held, it must be the evidence of the person who holds that opinion on those grounds."

If we remember that the offered item of evidence under Section 50 is conduct in the sense explained above, then there is no difficulty in holding that such conduct or outward behaviour must be proved in the manner laid down in Section 60; if the conduct relates to something which can be seen, it must be proved by the person who saw it; if it is something which can be heard, then it must be proved by the person who heard it; and so on. The conduct must be of the person who fulfils the



CNR: KAHC010184502024

essential conditions of Section 50, and it must be proved in the manner laid down in the provisions relating to proof. It appears to us that that portion of Section 60 which provides that the person who holds an opinion must be called to prove his opinion does not necessarily delimit the scope of Section 50 in the sense that opinion expressed by conduct must be proved only by the person whose conduct expresses the opinion. Conduct, as an external perceptible fact, may be proved either by the testimony of the person himself whose opinion is evidence under Section 50 or by some other person acquainted with the fact which express such opinion, and as the testimony must relate to external facts which constitute conduct and is given by persons personally acquainted with such facts, the testimony is in each case direct within the meaning of Section 60. This, in our opinion, is the true interrelation between Section 50 and Section 60 of the Evidence Act. In Queen Empress v. Subbarayan⁴ Hutchins, J. said:

"That proof of the opinion, as expressed by conduct, may be given, seems to imply that the person himself is not to be called to state his own opinion, but that, when he is dead or cannot be called, his conduct may be proved by others. The section appears to us to afford an exceptional way of proving a relationship, but by no means to prevent any person from stating a fact of which he or she has special means of knowledge."



CNR: KAHC010184502024

While we agree that Section 50 affords an exceptional way of proving a relationship and by no means prevents any person from stating a fact of which he or she has special means of knowledge, we do not agree with Hutchins, J. when he says that the section seems to imply that the person whose opinion is a relevant fact cannot be called to state his own opinion as expressed by his conduct and that his conduct may be proved by others only when he is dead or cannot be called. We do not think that Section 50 puts any such limitation."

19. With the above legal requirement, when the material on record is appreciated, plaintiff did not place any evidence whatsoever muchless proper evidence to establish his relationship with Dodda Mylanna.

20. Any amount of placing additional evidence before the First Appellate Court did not improve the case of the plaintiff as he failed to place such evidence before the Trial Court and no proper explanation was placed on record by the plaintiff before the First Appellate Court to allow the additional evidence inasmuch as due efforts were not made with diligence to place such evidence before the Trial Court.



CNR: KAHC010184502024

NC: 2026:KHC:44912
RSA No. 532 of 2024

21. As such, dismissal of the suit by the Trial Court confirmed as well as the First Appellate Court after recording the factual finding that the plaintiff failed to establish his relationship with Dodda Mylanna, this court having regard to scope of Section 100 of Code of Civil Procedure, this Court does not find any merits in the substantial questions of law raised in the appeal memorandum.

22. As such, following:

ORDER

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

SD/-
(V SRISHANANDA)
JUDGE

KAV
List No.: 1 Sl No.: 64