



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 9TH DAY OF JUNE, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

REGULAR SECOND APPEAL NO. 238 OF 2017 (PAR)

BETWEEN:

1. SMT. MAHADEVAMMA
AGED 55 YEARS,
W/O. SRI. RAMU,
R/O. ELIGEHUNDI VILLAGE,
BANDIPALYA DAKALE,
KASABA HOBLI,
MYSORE TALUK - 570 008.
2. SMT. MAHADEVI
AGED 36 YEARS,
D/O. SRI. RAMU,
W/O. SIDDEGOWDA,
R/O. SINDUVALLI VILLAGE,
JAYAPURA HOBLI,
MYSORE TALUK - 570 008.
3. SMT. SHIVAMMA
AGED ABOUT 36 YEARS,
D/O. SRI. RAMU,
W/O. MARIGOWDA,
R/O. MARIGOWDANAHALLI VILLAGE,
VARUNA HOBLI,
MYSORE TALUK - 570 008.
4. SRI. MANJU
AGED ABOUT 32 YEARS,
S/O. SRI. RAMU,
R/O. ELIGEHUNDI VILLAGE,
BANDIPALYA DAKALE,
KASABA HOBLI,

Digitally
signed by
MALATESH
K C
Location:
HIGH
COURT OF
KARNATAKA



MYSORE TALUK - 570 008.

...APPELLANTS

(BY SRI. SHRIKARA P.K, ADVOCATE AND
SRI. GEORGE JOSEPH, ADVOCATE)

AND:

1. SRI. RAMU
AGED ABOUT 64 YEARS,
S/O. LATE SMT. NANJAMMA AND
LATE SRI. CHIKKAHALAGEGOWDA,
2. SMT. THAYAMMA
AGED ABOUT 49 YEARS,
2ND WIFE OF RAMU
3. VASANTHA
AGED ABOUT 25 YEARS,
D/O. SRI. RAMU,
RESPONDENTS NO.1 TO 3 ARE
R/O. ELIGEHUNDI VILLAGE,
BANDIPALYA DAKALE,
KASABA HOBLI,
MYSORE TALUK - 570 008.
4. MR. A. MAHADEVAPRASAD
AGED ABOUT 60 YEARS,
S/O. SRI. A.K. MALEGOWDA,
R/AT BASAPPANAGUNDI VILLAGE,
KOLLEGALA TALUK,
CHAMARAJANAGARA
DISTRICT - 571 440.

...RESPONDENTS

(BY SRI. B.K. MOHAN, ADVOCATE FOR R4;
NOTICES TO R1 AND R2 ARE SERVED AND
UNREPRESENTED;
VIDE ORDER DATED 04.06.2026, APPEAL AGAINST R3 IS
DISMISSED)



THIS RSA IS FILED U/S 100 R/W ORDER XLII RULE OF CPC., AGAINST THE JUDGMENT AND DECREE DATED 28.10.2016 PASSED IN RA NO. 445/16 ON THE FILE OF II ADDL. DISTRICT JUDGE, MYSURU, DISMISSING THE APPEAL AND CONFIRMING THE JUDGMENT AND DECREE DATED 01.02.2016 PASSED IN O.S.NO.57/2012 ON THE FILE OF THE II ADDL.SENIOR CIVIL JUDGE AND CJM, MYSORE.

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. Unsuccessful plaintiffs are the appellants challenging the dismissal of the suit in O.S.No.57/2012 dated 01.02.2016 for partition and separate possession of the following properties (hereinafter referred to as suit properties):

a. *"The land bearing Sy.No.67/1B measuring to an extent of 25 guntas situated at Eligehundi village, Bandipalya Dakale, Kasaba Hobli, Mysuru Taluk which bounded on:*

East by: Land of Makamma

West by: Land of Chikkannamma

South by: Private land

North by: land of Lakshmana



b. The land bearing Sy.No.67/1 measuring 25 guntas out of which 14 guntas situated at Eligehundi village, Bandipalya Dakale, Kasaba Hobli, Mysuru Taluk which bounded on:

East by: Land of Makamma

West by: Land of Chikkannamma

South by: Land bearing Sy.No.65

North by: Land of Lakshmana

c. The vacant site bearing No.22 situated at Eligehundi village, Bandipalya Dakale, Kasaba Hobli, Mysuru Taluk which bounded on:

East by: Site No.23

West by: Road

Sought by: Site No.27

North by: Road

3. The dismissal of the suit was challenged before the First Appellate Court in RA No.445/2016.

4. Learned Judge in the First Appellate Court while reappreciating the factual and legal aspects of the matter held that even though the Trial Court has dismissed the suit holding that there is no relationship between the parties, material on



record would be sufficient enough to establish that plaintiffs are the children of defendant No.1 - Ramu who is still alive and dismissed the suit stating that such a suit filed by the plaintiffs are not maintainable in respect of item Nos.1 and 2 of the suit properties and in respect of suit item No.3, defendant No.1 has already gifted the suit property by a registered gift deed in favour of plaintiff No.1.

5. Being further aggrieved by the same, plaintiffs have preferred the present second appeal by contending that both the Courts did not appreciate that defendant No.1 had right in respect of item Nos.1 and 2 also and when the plaintiffs have been neglected by defendant No.1, suit by the children of defendant No.1 who are plaintiff Nos.2 to 4 which was definitely maintainable and wrongly dismissed the suit and sought for admitting the appeal on following substantial questions of law:

- 1. Whether the Trial Court was justified in holding that the plaintiffs are not the wife and children of the 1st defendant in view of the admission of relationship by the defendants No.1 to 3?*
- 2. Whether the Courts below were justified in accepting the 4th defendants case that the suit schedule properties are governed under Section 15*



of Hindu Succession Act in the absence of the documentary evidence and in contrary to the averments in the sale deeds dated 21.08.2008 and 02.05.2007 under challenge before the Courts?

3. Whether both the Courts below were justified in not appreciating the documentary evidence produced by the plaintiffs regarding their joint family and ancestral nature of the suit schedule properties?"

6. All the respondents are served and respondent No.4 has engaged the services of Sri.B.K.Mohan, Advocate who is absent today.

7. In the light of the arguments put forth on behalf of the appellants, this Court perused the material on record meticulously.

8. On such perusal of the material on record, even though plaintiffs have an advantageous finding from the First Appellate Court as to the relationship between the parties which was negated by the Trial Court, taking note of the fact that item No.3 of the suit property has been gifted by defendant No.1 by gift deed in favour of plaintiff No.1, suit



having been dismissed by the Trial Court confirmed by the First Appellate Court needs no interference.

9. Insofar as item Nos.1 and 2 of the suit properties are concerned, plaintiffs have failed to make out a case that they are the joint family properties.

10. Further, during the lifetime of defendant No.1, suit by the children as against defendant No.1 is not maintainable. Therefore, dismissal of the suit by the Trial Court confirmed by the First Appellate Court needs no interference by admitting the appeal for further consideration.

11. Accordingly, the substantial questions of law lack merit in further entertaining the same.

12. Hence, the following:

ORDER

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

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

KAV
List No.: 1 Sl No.: 105