



CNR: KAHC010273502018

NC: 2026:KHC:40457
RSA No. 688 of 2018

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 3RD DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

REGULAR SECOND APPEAL NO. 688 OF 2018 (DEC/INJ)

BETWEEN:

SRI. NARASIMHA MURTHY
S/O. VENKATARAVANAPPA,
AGED ABOUT 68 YEARS,
AGRICULTURIST,
ARKUNDA VILLAGE,
MANCHENAHALLI HOBLI,
GOWRIBIDANUR TALUK - 561 208.

...APPELLANT

(BY SRI. M.S. VARADARAJAN, ADVOCATE)

AND:

SRI. G. KRISHNAPPA
S/O. LATE GOVINDAPPA,
SINCE DEAD BY HIS LRS.,

1. SMT. VANAIAKSHI,
D/O. LATE G.KRISHNAPPA,
W/O. LATE VEERAPPA,
AGED ABOUT 61 YEARS,
SINCE DEAD BY HER LRS

- 1(A). SRI. MURALI
S/O LATE P.N. VEERAPPA
AGED ABOUT 36 YEARS
R/AT OLD WATER TANK ROAD

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



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PAVAGADA TMC, PAVAGADA
TUMKUR DISTRICT - 561 202.

- 1(B). SRI. RADHA
W/O SAMPATH KUMAR
AGED ABOUT 33 YEARS
R/AT ARKUNDA VILLAGE,
MANCHENAHALLI HOBLI,
GOWRIBIDANUR TALUK - 561 208.
2. SRI. GOVINDA
S/O. LATE G. KRISHNAPPA,
AGED ABOUT 59 YEARS,
3. SRI. RADHAKANTHA
S/O. LATE G. KRISHNAPPA,
AGED ABOUT 57 YEARS,
AGRICULTURIST,
4. SMT. MANJULA
D/O. LATE G. KRISHNAPPA,
W/O. LATE RAMAPPA,
AGED ABOUT 55 YEARS,
5. SRI. ADINARAYANA
S/O. LATE G. KRISHNAPPA,
AGED ABOUT 53 YEARS,
AGRICULTURIST,
6. SMT. KAMAKSHI
D/O. LATE G. KRISHNAPPA,
W/O. ADINARAYANA,
AGED ABOUT 51 YEARS,



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7. SRI. CHANDRAKEERTHI
S/O. LATE G. KRISHNAPPA,
AGED ABOUT 43 YEARS,
PAINTER,
8. SMT. GAYATHRI
D/O. LATE G. KRISHNAPPA,
W/O. SINGARAPPA @ SEENAPPA,
AGED ABOUT 47 YEARS,
9. SRI. VENKATADRI
S/O. LATE G. KRISHNAPPA,
AGED ABOUT 45 YEARS,
LIC AGENT,
10. SRI. SAMPATH KUMAR
S/O. LATE G. KRISHNAPPA,
AGED ABOUT 37 YEARS,
11. SMT. RATHNAMMA
W/O. LATE SEETHARAMAPPA,
AGED ABOUT 71 YEARS,
12. SRI. NARAYANASWAMY
S/O. LATE SEETHARAMAPPA,
AGED ABOUT 51 YEARS,
13. SRI. SHESHADRI
S/O. LATE SEETHARAMAPPA,
AGED ABOUT 30 YEARS,
14. SMT. LAKSHMI DEVAMMA @ LAKSHMAMMA
D/O. LATE SEETHARAMAPPA,
W/O. SEENAPPA,
AGED ABOUT 39 YEARS,



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15. SMT. SUSHEELAMMA
D/O. LATE SEETHARAMAPPA,
W/O. JANARDHANAPPA,
AGED ABOUT 34 YEARS,
16. SMT. VIJAYALAKSHMI
D/O. LATE SEETHARAMAPPA,
W/O. HARINATH,
AGED ABOUT 33 YEARS,
17. SMT. G. SUMITHRA
D/O. LATE SEETHARAMAPPA,
W/O. VENKATARAMU,
AGED ABOUT 30 YEARS,
18. SMT. RAMAKKA
W/O. LATE RAMAPPA,
AGED ABOUT 65 YEARS,
SINCE DEAD BY HER LRS

RESPONDENTS NO.19 TO 22 WHO ARE
HER LRS ARE ALREADY ON RECORD
AND THEY ARE TREATED AS LRS OF
DECEASED RESPONDENT NO.18.

19. SRI. MADANAGOPAL
S/O. LATE RAMAPPA,
AGED ABOUT 34 YEARS,
20. SMT. ACHAMMA
D/O. LATE RAMAPPA,
AGED ABOUT 32 YEARS,
21. SMT. LAKSHMI DEVI



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D/O. LATE RAMAPPA,
W/O. SRINIVASA MURTHY,
AGED ABOUT 30 YEARS,

22. SMT. PANKAJAKSHI
D/O. LATE RAMAPPA,
W/O. VALAPPA,
AGED ABOUT 28 YEARS,

RESPONDENTS NO.1 TO 22 ARE
RESIDING AT ARKUNDA VILLAGE,
MANCHENAHALLI HOBLI,
GOWRIBIDANUR TALUK - 561 208.

...RESPONDENTS

(BY SRI. S. VENKATESH AITHAL, ADVOCATE FOR R2, R3, R5,
R7 AND R9, R10;
R1(A) AND R1(B) ARE SERVED;
R4 AND R19 ARE SERVED;
R6 - SERVED;
R8 SERVICE HELD SUFFICIENT
R11 TO R13 SERVICE HELD SUFFICIENT;
NOTICE TO R14 TO R17, R20 TO R22 ARE
DISPENSED WITH;
R18 - DEAD, R19 TO R22 ARE LRS OF DEAD R18)

THIS RSA IS FILED UNDER SEC.100 OF CPC., AGAINST
THE JUDGMENT AND DECREE DATED 16.12.2017 PASSED IN
RA NO.152/2012 ON THE FILE OF THE SENIOR CIVIL JUDGE
AND JMFC, GOWRIBIDANUR, DISMISSING THE APPEAL AND
CONFIRMING THE JUDGMENT AND DECREE DATED 28.7.2012
PASSED IN OS NO.198/2000 ON THE FILE OF THE ADDL. CIVIL
JUDGE AND JMFC, GOWRIBIDANUR.

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



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ORAL JUDGMENT

1. Heard.

2. Unsuccessful plaintiff is the appellant challenging the dismissal of the suit in O.S.No.198/2000 dated 28.07.2012 which was confirmed by the First Appellate Court in RA No.152/2012 dated 16.12.2017.

3. Facts of the case are as under:

3.1. A suit for declaration and permanent injunction came to be filed in respect of following property (hereinafter referred to as suit property):

"The land bearing Sy.No.9/6 about 0.17 guntas in extent assessed at Rs.2.28 out of which 0.8½ guntas bounded on the

East by Sy.No.9/2 and Rajakaluve

West by Gramatana

North by Seetharamappa and others lands

South by Narasimhaiah's land."



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3.2. Plaintiff claimed that his father Venkataravanappa acquired the suit property by way of a sale deed in the year 1972 from the wives of Narayanappa. Wife of Narayanappa are Adilakshamma and Aluvelamma. Narayanappa said to have executed the registered Will in favour of Adilakshamma and Aluvelamma.

3.3. Narayanappa's title to the suit property is claimed by the plaintiff at a partition between Narayanappa and his brothers in the year 1957. Defendants are the children of one of the brothers of Narayanappa.

3.4. Plaintiff claim that due to oversight, land in Sy.No.9/6 was not mentioned in the sale deed executed by the wives of Narayanappa in favour of the plaintiff but RTC and other revenue documents were mutated into the name of the father of the plaintiff pursuant to the sale deed. Thus, plaintiff is the owner-in-possession of the suit property after the death of his father and earlier to that, it was his father was in possession of the suit property.



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3.5. Defendants being the children of Govindappa, being the brother of Narayanappa, taking advantage of non-mentioning of land bearing Sy.No.9/6 in the sale deed executed by wives of Narayanappa started interfering with the suit property. There were revenue proceedings before the Assistant Commissioner and plaintiff realized that the land in Sy.No.9/6 was not mentioned by the wives of Narayanappa in favour of the father of the plaintiff and thus sought for declaring that he is the owner of the suit property and sought for injunction as plaintiff continued to be in possession of the suit property.

4. Pursuant to the suit summons, defendants entered appearance and filed written statement denying the plaint averments in toto.

5. Learned Trial Judge after raising necessary issues, recorded the evidence of the parties and dismissed the suit of the plaintiff.

6. Being aggrieved by the same, an appeal came to be filed in RA No.152/2012.



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7. Learned Judge in the First Appellate Court after securing the records, heard the arguments of the parties in detail and on reappreciation of the material on record, dismissed the appeal.

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

9. Learned counsel for the appellant reiterating the grounds urged in the appeal memorandum would contend that a mistake in non-mentioning the land bearing Sy.No.9/6 in the sale deed executed by Adilakshamma and Aluvelamma being the wives of Narayanappa, the nephews of Narayanappa have started disturbing the peaceful possession and enjoyment of the suit property of the plaintiffs and thus sought for admitting the appeal on the following substantial questions of law:

"i) Have not the Court's below committed an error in law in dismissing the appellant's suit for the reason that in Ex.P12, the sale deed dated 08-02-1972 there is no reference to the suit schedule property, without appreciating that:



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a) Omission to include suit the schedule property in Ex.P12 is due to an inadvertent and bonafide mistake;

b) That a suit for declaration that Ex.P12 includes the suit schedule property also and that omission to include it is only by a mistake, is maintainable.

c) When the intention of the vendors under Ex.P12 to include the suit schedule property also in that sale deed is very clear.

ii) Has not the Lower Appellate Court committed an error in holding that plaintiff and his father should have taken recourse to Section 26 of the Specific Relief Act, seeking rectification of Ex.P12, without appreciating that even without resorting to that section, an independent suit for declaration that Ex.P12 includes the suit schedule property also is maintainable.

iii) Has not the Lower Appellate Court committed an error in holding that the suit is barred by limitation.

iv) Have not both the Courts below committed an error in relying upon Section 15 of the Hindu Succession Act, when the suit property along with others are conveyed by Aluvelamma and Adilakshmamma in favour of plaintiff's father under Ex.P12.?"

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



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

12. On such perusal of the material on record, plaintiff claims the title of Narayanappa to the suit property at a partition between Narayanappa and his brothers in the year 1957.

13. Pertinently, said partition deed is not placed on record. Thus, whether at all Narayanappa has got the suit property bearing Sy.No.9/6 which had been allotted to Narayanappa or not itself is not forthcoming on record. Further, no proof is placed on record in this regard.

14. If Narayanappa himself did not possess the land bearing Sy.No.9/6, he could not have bequeathed the same in favour of his wives. Thus, it should be inferred that Adilakshamma and Aluvelamma did not convey land bearing Sy.No.9/6 in the sale deed executed by them in favour of the father of the plaintiff.

15. Thus, theory put forward on behalf of the plaintiff that due to oversight, suit property is not mentioned in the sale



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deed cannot be countenanced in law that too from the year 1972 to 2000 when the suit is filed.

16. When both the Courts have noted that there was no legal right made out by the plaintiff to seek for declaratory relief and consequently, dismissing the suit by the Trial Court confirmed by the First Appellate Court does not require any further consideration before this Court having regard to the scope of Section 100 of Code of Civil Procedure.

17. Accordingly, the following:

ORDER

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

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

KAV
List No.: 1 Sl No.: 46