



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 1ST DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE ASHOK S.KINAGI

REGULAR SECOND APPEAL NO. 1051 OF 2015 (PAR)

BETWEEN:

SMT. SHARMILA
W/O SHIVA KUMAR,
AGED ABOUT 59 YEARS,
R/A # 117, 4TH STAGE,
NEW KANTHARAJ URS ROAD,
T.K LAYOUT,
MYSURU 570023

...APPELLANT

(BY SRI. ROHITH SWAMY, ADVOCATE)

AND:

1. RAMALINGEGOWDA
S/O LATE C.RANGANNA,
RESIDING AT D.NO.170/B,
BRINDAVANA EXTENSION, 2ND CROSS,
1ST STAGE,
MYSORE 570020
2. R. SATHYANARAYANA
S/O LATE C. RANGANNA,
A/A 64 YEARS,
R/AT MARATHIKYATHANAHALLI VILLAGE,
JAYAPURAM HOBLI,
MYSORE 570020

Digitally signed
by KIRAN
KUMAR
Location: HIGH
COURT OF
KARNATAKA



3. R. GOPALAKRISHNA
S/O LATE C. RANGANNA,
A/A 60 YEARS,
R/A NO.486, CHADURANGA ROAD,
RAMAKRISHNA NAGAR,"I" BLOCK,
MYSORE 570023
4. R. NAGARAJU
SINCE DEAD REP. BY HIS LEGAL REPRESENTATIVES
- 4(A) MRS YASHODA
W/O LATE R NAGARAJU
MAJOR
- 4(B) MS N SANJU
D/O LATE R NAGARAJU
MAJOR
- BOTH ARE R/AT No.170/B
BRINDAVAN EXTENSION
2ND CROSS, 1ST STAGE
MYSURU – 570020
- R.SURESH
S/O LATE C. RANGANNA
SINCE DEAD BY LEGAL REPRESENTATIVES
5. NIRMALA
W/O LATE R SURESH
A/A 42 YEARS,
RESIDING AT D.NO.1022, 3RD STAGE,
8TH CROSS, DOCTOR'S COLONY,
GOKULAM, MYSORE 570023
6. NETHRAVATHI
D/O LATE R SURESH
A/A 42 YEARS,
RESIDING AT D.NO.1022, 3RD STAGE,
8TH CROSS, DOCTOR'S COLONY,
GOKULAM, MYSORE 570023



7. LOKESH
SINCE DEAD REP. BY LEGAL REPRESENTATIVES

7(A) MRS. MALATHI
W/O LATE R. LOKESH
MAJOR

7(B) R YATHISH
S/O LATE R LOKESH
MAJOR

7(C) MS. L RAMYA
D/O LATE R LOKESH
MAJOR

ALL ARE R/AT
#DOOR No. 315, 18TH MAIN
B BLOCK, VIJAYANAGARA
3RD STAGE, MYRUSU – 570017

8. MAHADEVA RAO
S/O MEDOJI RAO,
A/A 64 YEARS,
R/AT D.NO.1022, 8TH MAIN,
3RD STAGE,
GOKULAM,
MYSORE 570023

9. R. BHAGYA
D/O LATE C RANGANNA,
W/O SITARAM,
A/A 50 FYEARS,
RESIDING AT R/AT D.NO.101,
NORTH OF GOKULAM, 3RD MAIN,
3RD CROSS, MYSORE 570023

10. R. SAROJAMMA
SINCE DEAD REP. BY HER LEGAL REPRESENTATIVES



- 10(A) MRS. G RAJESHWARI
D/O LATE R SAROJAMMA
AGED MAJOR
- 10(B) MRS G SHANTHAMMA
D/O LATE R SAROJAMMA
AGED MAJOR
- 10(C) MRS G TANUJA
D/O LATE R SAROJAMMA
AGED MAJOR
- 10(D) MR. G VENKATESH
S/O LATE R SAROJAMMA
AGED MAJOR
- 10(E) MR. PRASHANTH
S/O LATE R SAROJAMMA
AGED MAJOR

ALL ARE R/AT
DOOR NO.101, NORTH OR GOKULAM
3RD MAIN, 3RD CROSS,
MYSORE – 570 023

LEELAVATHI
W/O LATE SIDDAIAH,
D/O LATE C. RANGANNA,
SINCE DEAD BY HIS LRS

11. SUMANA
D/O LATE SIDDAIAH,
A/A 40 YEARS,
12. S. VANI
D/O LATE SIDDAIAH,
W/O VASUDEV,
A/A 38 YEARS,
13. S. VIDYAMANI
D/O LATE SIDDAIAH,



W/O V T NAGESH,
A/A 36 YEARS,

14. S.LALITHAMBA
D/O LATE SIDDAIAH,
W/O RENUKUMAR,
A/A 34 YEARS,
15. S.PAVITHRA
D/O LATE SIDDAIAH,
W/O DEEPAK,
A/A 33 YEARS,
16. S.TEJASWINI
D/O LATE SIDDAIAH,
A/A 29 YEARS,

RESPONDENTS 11 TO 16 ARE
RESIDING AT D.NO.125/A, LIG,
KHB COLONY II STAGE,
KUVEMPUNAGAR,
MYSORE 570023

...RESPONDENTS

(BY SRI. X M JOSEPH, ADVOCATE FOR R1,
SRI. K.M. SANATH KUMAR, ADVOCATE FOR R5, R6, R11 TO
R14 & R16
R2, R8 ARE SERVED
SRI. ASHOK PATIL, ADVOCATE FOR R9(NOC)
SRI. LIKITH R PRAKASH, ADVOCATE FOR R3, R4(A&B),
R7(A-C), R10(A-E) (NOC VK FILED)
SRI. SACHIN B S., ADVOCATE FOR R15)

THIS RSA IS FILED UNDER SEC.100 OF CPC., AGAINST
THE JUDGMENT AND DECREE DATED 16.4.2015 PASSED IN
R.A.NO.187/2012 ON THE FILE OF THE IV ADDL. DISTRICT
JUDGE, MYSORE, ALLOWING THE APPEAL AND MODIFYING THE
JUDGMENT AND DECREE DATED 6.3.2012 PASSED IN
O.S.NO.1208/2007 ON THE FILE OF THE II ADDL. SR. CIVIL
JUDGE, MYSORE.



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

CORAM: HON'BLE MR. JUSTICE ASHOK S.KINAGI

ORAL JUDGMENT

This regular second appeal is filed by the appellant challenging the judgment and decree dated 16.04.2015 passed in RA No.187/2012 by the Court of learned IV Additional District Judge, Mysuru (**'First Appellate Court'** for short) modifying the judgment and preliminary decree dated 06.03.2012 passed in OS No.1208/2007 by the learned II Additional Senior Civil Judge, Mysuru (**'Trial Court'** for short).

2. For convenience, the parties are referred to based on their rankings before the Trial Court. Appellant was defendant No.7; respondent No.1 was the plaintiff, and other respondents were the other defendants.

3. Brief facts leading rise to the filing of this appeal are as follows:



3.1. The plaintiff filed a suit before the Trial Court for partition and separate possession in respect of the suit schedule property. It is the case of the plaintiff that, plaintiff and defendant Nos.1 to 5 are brothers, defendant Nos.6 and 7 are the purchasers of plaintiff 'B' schedule property. Originally, the land bearing Sy.No.17 and 18 of Kandalike Hobli, Huskur Village measuring 6 acres 22 guntas belonged to Smt. Lingamma @ Ningamma W/o Late Ranganna i.e., the mother of the plaintiff and defendant Nos.1 to 5. The land was sub-merged to Nugu Reservoir, in lieu of the same, the Government, under the Land Grant Rules, 1969, has granted 4 acres of land bearing New Sy.No.199 of Martikyatanahalli Yelle on 13.08.1982 i.e., 'B' schedule property. Defendant No.1 had got land granted in his name on behalf of plaintiff and defendant Nos.1 to 5. The said property is the joint family property of the plaintiff and defendant Nos.1 to 5 and they are entitled for equal shares. The plaintiff and defendant Nos.1 to 5 are the members of the Hindu undivided family.



The plaintiff demanded for partition and separate possession, but defendant Nos.1 to 5 refused to effect a partition, and defendant No.1 executed a registered sale deed in favour of defendant No.6 in 1988. Defendant No.6, in turn, sold the property in favour of defendant No.7 in 1996 under a registered sale deed. The plaintiff has got 1/6th share in the suit schedule property. Accordingly, prays to decree the suit.

3.2. Defendant No.1 filed a written statement denying that suit 'B' schedule property is the joint family property of the plaintiff and defendant Nos.1 to 5 and it is contended that, the said property is self-acquired property of defendant No.1 and he has developed the same and sold it to defendant No.6. It is denied that the said land is purchased out of the compensation amount. Hence, prays to dismiss the suit.

3.3. Defendant Nos.6 and 7 filed their respective written statements contending that they were the *bona fide* purchasers of the 'B' schedule property for a valuable



consideration and they were not aware about the relationships between the plaintiff and the other defendants. Hence, pray to dismiss the suit.

3.4. Defendant Nos.8 and 9 filed a joint written statement contending that, the suit schedule properties are the joint family properties and they are also entitled for equal share among the plaintiff and defendant Nos.1 to 5. Hence, pray to decree the suit.

3.5. The Trial Court, based on the rival pleadings of the parties, framed the following issues:

- "1) *Whether the plaintiff proves that in view of sub-merger of plaint "A" schedule property the Government has granted plaint "B" schedule property on 13.8.1982?*
- 2) *Whether the plaintiff proves that plaint "B" schedule property is the joint family property of himself and defendant Nos. 1 to 5?*
- 3) *Whether the plaintiff proves that plaint "C" schedule property is the compensation amount awarded in view of acquisition of Sy.No.17 and 18 for the purpose of Nugu Reservoir?*



- 4) *Whether defendants prove that the court fee paid is not sufficient?*
- 5) *Whether the plaintiff proves that the Sale Deed dated.25.4.1988 and 5.3.1996 are null and void and same are does not bind him?*
- 6) *Whether the defendants prove that the suit is barred by time?*
- 7) *Whether 7th defendant proves that he is the bonafide purchaser of suit schedule property?*
- 8) *Whether the plaintiff is entitled for relief of partition and separate possession? If so what is his share?*
- 9) *Whether the plaintiff is entitled for relief of declaration?*
- 10) *What order or decree?"*

3.6. To substantiate his case, the plaintiff examined himself as PW1 and marked twelve documents as Exs.P1 to P12. The defendants have not chosen to adduce either oral or documentary evidence. The Trial Court took the argument of the defendants as nil.

3.7. The Trial Court answered issue Nos. 1, 3 and 7 in the affirmative, issue Nos.2, 4, 5 and 9 in the negative,



issue Nos.6 and 8 partly in the affirmative and issue No.10 as per the final order. The suit of the plaintiff was partly decreed with costs vide judgment dated 06.03.2012 and the prayer of the plaintiff in respect of plaint 'B' schedule property and prayer for relief of declaration was dismissed; it was held that the plaintiff is entitled for 1/9th share over plaint 'C' schedule property.

3.8. The plaintiff, aggrieved by the dismissal of suit in respect of plaint 'B' schedule property and dismissal of suit for declaration, preferred an appeal in RA No.187/2012 and defendant No.1, aggrieved by the judgment and preliminary decree passed in respect of plaint 'C' schedule property, preferred an appeal in RA No.209/2012 before the First Appellate Court.

3.9. The First Appellate Court, after hearing the learned counsel for the parties, framed the following points for consideration:

- "1. *Whether the Trial Court is justified in decreeing the suit only in respect of schedule 'C' property and*



dismissing the suit in respect of schedule 'B' property?

2. *Whether Judgment and Decree of Trial Court calls for interference?*
3. *What Order?"*

3.10. The First Appellate Court, after re-appreciating the entire evidence on record, answered point No.1 in the negative, point No.2 partly in the affirmative and point No.3 as per the final order. The appeal in RA No.187/2012 was allowed with costs and the appeal in RA No.209/2012 was dismissed vide common judgment dated 16.04.2015. The judgment passed by the Trial Court was modified; the suit in OS No.1208/2007 was partly decreed in respect of plaint 'B' and 'C' schedule properties; the plaintiff and each of the defendant Nos.1 to 5 and 8 to 10 are entitled for 1/9th share in plaint 'B' and 'C' schedule properties. It was declared that, the registered sale deed dated 25.04.1988 executed by defendant No.1 in favour of defendant No.6 and registered sale deed dated 05.03.1996 executed by



defendant No.6 in favour of defendant No.7 are null and void and not binding on the shares of the plaintiff and defendant Nos.2 to 5 and 8 to 10.

4. Defendant No.7, aggrieved by the impugned judgment and decree passed in RA No.187/2012 by the First Appellate Court, filed this regular second appeal.

5. Heard the arguments of the learned counsel for the defendant No.7, learned counsel for the plaintiff and learned counsel for the other defendants.

6. Learned counsel for defendant No.7 submits that, defendant No.7 is the purchaser of the suit 'B' schedule property from defendant No.6 under the registered sale deed dated 05.03.1996. He further submits that, defendant No.7 purchased suit 'B' schedule property from defendant No.1 under the registered sale deed dated 25.04.1988. The said sale deeds are saved under the provisions of sub-section (1) of Section 6 of the Hindu Succession Act, 1956. He further submits that, the First



Appellate Court, without considering the said provision, has awarded a share in suit 'B' schedule property. While awarding a share in suit 'B' schedule property, the First Appellate Court has not assigned any reasons. He further submits that, the judgment and decree passed by the First Appellate Court is not in compliance with Order XLI Rule 31 of Code of Civil Procedure, 1908 ('**CPC**' for short). He further submits that, the First Appellate Court has not properly framed the points for consideration. To buttress his arguments, he has placed reliance on the judgment of the Hon'ble Apex Court in the case of ***H. Siddiqui (Dead) by LRs Vs. A. Ramalingam***¹. He submits that, the impugned judgment passed by the First Appellate Court is contrary to the mandate laid down by the Hon'ble Apex Court in the case of ***H. Siddiqui*** (supra). Hence, on these grounds, he prays to allow the appeal and set aside the judgment and decree passed by the First Appellate Court,

¹ 2011 (4) SCC 240



and remit the matter to the First Appellate Court for fresh consideration.

7. *Per contra*, learned counsel for the plaintiff supported the impugned judgment and submits that, the First Appellate Court has re-appreciated the entire evidence on record and passed the impugned judgment. Hence, on these grounds, he prays to dismiss the appeal.

8. This Court, vide order dated 01.07.2025, admitted the appeal to consider the following substantial questions of law:

"(I) Whether the appellant proves that the First Appellate Court has committed an error in reversing the judgment insofar as 'B' Schedule property is concerned without assigning any reasons and it is not in compliance with Order XLI Rule 31 of the Code of Civil Procedure, 1908?"

"(II) Whether the appellant proves that the First Appellate Court committed an error in not answering the issue regarding the claim made by the plaintiff/respondent No.1 in respect of 'B' Schedule property is barred by limitation?"



Reg. Substantial Questions of Law Nos.(I) and (II):

9. Substantial questions of law Nos.(I) and (II) are interlinked, hence, they are taken together for common discussion to avoid the repetition of facts.

10. The plaintiff filed a suit for partition and separate possession contending that suit 'A' schedule property was submerged and the Government granted suit 'B' schedule property on 13.08.1982. Suit 'B' schedule property is the joint family property of the plaintiff and defendant Nos.1 to 5. Suit 'C' schedule is the compensation amount awarded in respect of acquisition of land in Sy.Nos.17 and 18 for the purpose of Nugu Reservoir.

11. The plaintiff, to substantiate his case, examined himself as PW1 and produced the documents marked as Exs.P1 to P12. In rebuttal, the defendants have neither led any oral evidence nor documentary evidence. The Trial Court, based on the evidence of PW1, recorded a finding that in view of the submerge of suit 'A' schedule property,



the Government has granted suit 'B' schedule property on 13.08.1982 and held that, the plaintiff has failed to prove that suit 'B' schedule property is the joint family property of the plaintiff and defendant Nos.1 to 5, and the plaintiff has proved that suit 'C' schedule property is the compensation amount awarded in view of the acquisition of land in Sy.Nos. 17 and 18. The Trial Court partly decreed the suit and dismissed the suit in respect of suit 'B' schedule property. The plaintiff, aggrieved by the dismissal of suit in respect of suit 'B' schedule property, preferred an appeal in RA No.187/2012, and defendant No.1, aggrieved by the judgment and preliminary decree passed in OS No.1208/2007 by the Trial Court, preferred an appeal in RA No.209/2012.

12. The First Appellate Court, after hearing the learned counsel for the parties, framed the following points for consideration:

- "1. *Whether the Trial Court is justified in decreeing the suit only in respect of schedule 'C' property and*



dismissing the suit in respect of schedule 'B' property?

2. *Whether Judgment and Decree of Trial Court calls for interference?*
3. *What Order?"*

While answering point No.1, the First Appellate Court has not recorded any finding in respect of suit 'B' schedule property as to how the plaintiff is entitled for a share in the suit 'B' schedule property. From the perusal of the points for consideration framed by the First Appellate Court, the points for consideration are not in compliance with Order XLI Rule 31 of CPC.

13. In an identical case, this Court had an occasion to consider the similarly framed issues for determination in the case of ***Bangarappa Vs. Ramappa and Another***², wherein in the said case, the First Appellate Court has framed the points for consideration in paragraph No.12, which reads as follows:

² 2012 SCC OnLine Kar 1185



"12. The lower appellate Court, however, framed the following point for determination:

"Whether judgment of the trial Court requires interference?" "

Admittedly, in the instant case, the First Appellate Court has framed an identical point for adjudication. Order XLI Rule 31 of CPC reads as follows:

"31. Contents, date and signature of judgment.- *The judgment of the Appellate Court shall be in writing and shall state-*

(a) the points for determination;

(b) the decision thereon;

(c) the reasons for the decision; and

(d) where the decree appealed from is reversed or varied, the relief to which the appellant is entitled;

and shall at the time that it is pronounced be signed and dated by the judge or by the judges concurring therein."

Order XLI Rule 31 of CPC provides guidelines for the Appellate Court as to how the Court has to proceed and decide the appeal. It is further observed that, the provision should be read in such a way as to require that the various particulars mentioned therein should be taken into consideration. Thus, it must be evident from the



judgment of the Appellate Court that Court has properly appreciated the facts/evidence, applied its mind and decide the case considering the material on record. This would amount to substantial compliance with the provisions of Order XLI Rule 31 of CPC.

13.1.The Appellate Court has to independently assess the entire evidence and all aspects of the matter to ensure findings of the First Appellate Court are well founded and quite convincing. It is mandatory for the First Appellate Court to independently assess the evidence of the parties and consider the relevant points that arise for adjudication, along with the bearing of the evidence on those points. In the instant case, the First Appellate Court has not properly framed the points for adjudication. The judgment and decree passed by the First Appellate Court is not in compliance with Order XLI Rule 31 of CPC.

(Emphasis supplied)



14. The Hon'ble Apex Court in the case of **H. Siddiqui** (supra) has, in paragraph No.21, held as follows:

"21. It is mandatory for the appellate court to independently assess the evidence of the parties and consider the relevant points which arise for adjudication and the bearing of the evidence on those points. Being the final court of fact, the first appellate court must not record mere general expression of concurrence with the trial court judgment rather it must give reasons for its decision on each point independently to that of the trial court. Thus, the entire evidence must be considered and discussed in detail. Such exercise should be done after formulating the points for consideration in terms of the said provisions and the court must proceed in adherence to the requirements of the said statutory provisions."

15. The First Appellate Court, without framing the proper point for adjudication in regard to the limitation, as well as the saving clause as per proviso to sub-section (1) of Section 6 of the Hindu Succession Act, and also without framing the point as to how the plaintiff is entitled for a share in the suit 'B' schedule property, has proceeded to pass the impugned judgment. Hence, the judgment and



decree passed by the First Appellate Court is not in compliance with Order XLI Rule 31 of CPC and is in contrary to the propositions laid down by the Hon'ble Apex Court in the cases of ***H. Siddiqui*** (supra) and ***Bangarappa*** (supra). As the matter requires reconsideration by the First Appellate Court, in view of the above discussion, I answer the substantial questions of law in the **affirmative**.

16. Accordingly, I proceed to pass the following:

ORDER

- i. The regular second appeal is ***allowed***;
- ii. The impugned judgment and decree dated 16.04.2015 passed in RA No.187/2012 by the First Appellate Court is hereby set aside;
- iii. The appeal in RA No.187/2012 is restored to its original file;
- iv. The parties are directed to appear before the First Appellate Court on **10.08.2026** without awaiting any further notice;



- v. The First Appellate Court is directed to frame proper points for adjudication, and thereafter, pass an appropriate judgment in accordance with law;
- vi. It is made clear that this Court has not made any adjudication on merits of the issues;
- vii. All the contentions of the parties are kept open;
- viii. The Registry is directed to transmit the entire records to the First Appellate Court forthwith;
- ix. Pending IA(s) in this appeal, if any, shall stand disposed of.

Sd/-
(ASHOK S.KINAGI)
JUDGE

PA
List No.: 2 Sl No.: 8