



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 7TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

REGULAR SECOND APPEAL NO. 705 OF 2025 (PAR/INJ)

BETWEEN:

1. SRI. G.R.RAMESH,
S/O G.R.RANGEGOWDA,
AGED ABOUT 48 YEARS,
RESIDENT OF CHIKKAGANDASI,
ARASIKERE TALUK,
GANDASI HOBLI,
HASSAN DISTRICT - 573 119.

2. SRI. G.R.RANGASWAMY,
S/O G.R.RANGEGOWDA,
AGED ABOUT 61 YEARS,
RESIDENT OF CHIKKAGANDASI,
GANDASI HOBLI,
ARASIKERE TALUK,
HASSAN DISTRICT - 573 119.

...APPELLANTS

(BY SRI.MANUKUMAR B.T., ADVOCATE FOR
SRI. MADHUSUDHAN M.N., ADVOCATE)

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Location: High
Court of
Karnataka

AND:

1. SMT. ANUSUYA,
W/O LATE NANJAPPA,
AGED ABOUT 51 YEARS,
RESIDENT OF
GANDASI VILLAGE,
GANDASI HOBLI,
ARASIKERE TALUK,
HASSAN DISTRICT - 573 119.



2. SMT. SUMA,
W/O LATE BASAVARAJU,
AGED ABOUT 42 YEARS,
RESIDENT OF BASAVANA CIRCLE,
GANDASI VILLAGE,
GANDASI HOBLI,
ARASIKERE TALUK,
HASSAN DISTRICT - 573 119.
3. SNEHA,
D/O LATE BASAVARAJU,
AGED ABOUT 24 YEARS,
RESIDENT OF BASAVANA CIRCLE,
GANDASI VILLAGE,
GANDASI HOBLI,
ARASIKERE TALUK,
HASSAN DISTRICT - 573 119.
4. SRUJAN,
S/O LATE BASAVARAJU,
AGED ABOUT 23 YEARS,
RESIDENT OF BASAVANA CIRCLE,
GANDASI VILLAGE,
GANDASI HOBLI,
ARASIKERE TALUK,
HASSAN DISTRICT - 573 119.

...RESPONDENTS

(BY SRI.PRAKASH M PATIL, ADVOCATE FOR C/R3 & R4
(ABSENT))

THIS RSA IS FILED UNDER SEC.100 OF CPC., AGAINST THE JUDGMENT AND DECREE DATED 14.02.2025 PASSED IN RA NO.4/2022 ON THE FILE OF SENIOR CIVIL JUDGE AND JMFC, ARSIKERE., DISMISSING THE APPEAL AND CONFIRMING THE JUDGMENT AND DECREE DATED 23.11.2021 PASSED IN OS NO.349/2012 ON THE FILE OF ADDITIONAL CIVIL JUDGE AND JMFC, ARSIKERE.



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

CORAM: HON'BLE MR. JUSTICE V SRISHANANDA

ORAL JUDGMENT

Heard Sri. Manukumar B T, learned counsel
representing Sri. Madhusudhan M N, learned counsel for
the appellants. None appears for the respondents.

2. The second and third defendants being the
purchasers of portion of the one of the items of the suit
properties, are the appellants challenging the decreeing of
the suit of the plaintiff in O.S.No.349/2012 and granting
the half share to the plaintiff in all the suit properties.

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

3a. A suit for partition in O.S.No.349/2012 is filed
in respect of the following properties (herein after referred
to as the "*suit properties*");



"ಅನುಸೂಚಿ:

ಹಾಸನ ಜಿಲ್ಲೆ, ಅರಸೀಕೆರೆ ತಾಲ್ಲೂಕು, ಗಂಡಸಿ ಹೋಬಳಿ ವ್ಯಾಪ್ತಿಯಲ್ಲಿರುವ ಚಿಕ್ಕ
ಗಂಡಸಿ ಗ್ರಾಮಕ್ಕೆ ಸೇರಿದ ಸರ್ವೆ ನಂ.192/08 ರಲ್ಲಿರುವ ವಿಸ್ತೀರ್ಣ 2 ಎಕರೆ 6
ಗುಂಟೆ ಜಮೀನಿಗೆ ಚೆಕ್ಕು ಬಂಧಿ:

ಪೂರ್ವಕ್ಕೆ ಗೋವಿಂದಪ್ಪನವರ ಜಮೀನು,
ಪಶ್ಚಿಮಕ್ಕೆ ಡಿ.ಎಡ್ ಕಾಲೇಜು,
ಉತ್ತರಕ್ಕೆ ಜುಲೇಕಮ್ಮನವರ ಜಮೀನು,
ದಕ್ಷಿಣಕ್ಕೆ ರಸ್ತೆ.

2. ಅರಸೀಕೆರೆ ತಾಲ್ಲೂಕು, ಗಂಡಸಿ ಗ್ರಾಮದ ಅಸೆಸ್‌ಮೆಂಟ್ ನಂ.159 ರ
ಸುಮಾರು 22 X 27 ಅಡಿಯುಳ ನಾಡಹಂಚಿನ ಮನೆಗೆ ಚೆಕ್ಕು ಬಂಧಿ-
ಪೂರ್ವಕ್ಕೆ ಗಲ್ಲಿ ಮತ್ತು ಜೆ.ಎನ್. ದ್ಯಾವೇಗೌಡರವರ ಮನೆ,
ಪಶ್ಚಿಮಕ್ಕೆ ಜಯದೇವರವರ ಪಾಳು,
ಉತ್ತರಕ್ಕೆ ಗಲ್ಲಿ ಕೇಶವಮೂರ್ತಿರವರ ಮನೆ,"

3b. Plaintiff laid the claim in respect of the suit properties for partition and separate possession by contending that Sri. Javaregowda was the common prepositus of plaintiff and first defendant family who died intestate.

3c. Sri. Javaregowda left behind his wife by name Smt. Ningamma and two children namely Smt. Anasuya



being the plaintiff and Basavaraju being the first defendant.

3d. Plaintiff got married to Sri. Nanjappa several years earlier and suit properties had been purchased by the Late Javaregowda and he was in possession of the suit properties. Javaregowda and his wife died several years ago as intestate and plaintiff and first defendant succeeded to the suit properties equally.

3e. It is also the case of the plaintiff that first defendant refused to grant the share in the suit properties and in fact, he has sold portion of Item No. 1 of the suit properties to the second and third defendant and therefore, filed the suit for partition.

3f. Pursuant to the suit summons, all the defendants entered appearance through their respective advocates and second and third defendants filed their separate written statement.



3g. In the written statement filed by second and third defendants, it is contented that suit is not maintainable. However, relationship of the plaintiff with late Javaregowda and first defendant is admitted.

3h. It is further maintained in the written statement that since the plaintiff was married about 30 years earlier by spending huge amount of money, plaintiff is not entitled for share in the suit properties.

3i. It is further contented that second and third defendants are the *bona fide* purchasers of portion of Item No.1 of the suit properties and therefore, suit is to be dismissed in so far as the alienation made by the first defendant in favour of defendant Nos. 2 and 3.

3j. Based on the rival contentions, learned trial judge raised necessary issues and after recording the evidence of the parties, decreed the suit of the plaintiff, granting half share in the suit properties to the plaintiff.



3k. Being aggrieved by the same, defendant Nos. 2 and 3 filed an appeal before the First Appellate Court in R.A.No.4/2022.

3l. Learned judge in the First Appellate Court after securing the records, heard the arguments of the parties in detail and on re-appreciation of the material evidence on record, noted that mere marriage of the plaintiff about 30 years earlier would not takeaway her right to succeed to the property left behind by Late Javaregowda especially when Javaregowda died intestate and property was acquired by Javaregowda out of his funds. Therefore, dismissed the appeal of the defendants.

3m. Being further aggrieved by the same, the second and third defendants have filed the present appeal.

4. Sri. M. N. Manukumar, learned counsel for the appellants reiterating the grounds urged in the appeal memorandum would contend that both the Courts have not properly appreciated the defence taken by second and



third defendants who are the *bona fide* purchasers of about 28 guntas of the land each in Item No.1 of the suit properties. Therefore, that portion of the property which was purchased by the second and third defendants should have been excluded from the scope of the suit and their share should have been made absolute. Thus, appellants sought for admitting the appeal on the following substantial questions of law:

"a) Whether the First Appellate Court justified in confirming the findings of the trial court in so far as the suit filed by the plaintiff/first respondent for the relief of partition and separate possession with respect to sit schedule properties are joint family properties without appreciating the evidence and documents furnished by the appellants such as Exhibit D1 to D11 and wrongly decreed the suit by the trial court?

b) Whether the First Appellate Court failed to appreciate the fact that the appellants are proved that they are the subsequent purchasers and they have purchased the lands through the registered sale deeds dated 31.3.2010 to an extent of 0.29 guntas and through registered sale deed dated 11.7.2011 to an extent of 0.28 guntas of agriculture lands from the original owner Basavaraju with his absolute ownership and further the First Appellate Court failed to give proper reasons that the remaining land is available to the plaintiff if she succeeds in her claim



and further the plaintiff failed to prove that suit schedule properties are joint family properties and she entitle for share in the joint family properties?

c) Whether the First Appellate Court is justified in confirming the suit filed by the first respondent/ plaintiff in O.S.no.349/2012 without noticing that the plaintiff is not entitle for any share in the suit schedule properties as she herself admitted that the portion of the suit schedule items are sold for the family necessity and she is not entitle for her share?

d) Whether the facts and circumstances in the First Appellate Court were justified by the appellate Court at the time of passing the order? What order?

e) Whether the plaintiff is aware that after the death of her father Javaregowda who died long back khatha of all the suit schedule item no.1 were transferred in the year 1992 itself in his name and he is entitle to sell the portion of the suit schedule properties infavour of the appellants?"

5. None appeared for the respondents.

6. As such, this Court perused the material on record meticulously in the light of the arguments put forth on behalf of the appellants.

7. On such perusal of the material on record, there is no dispute that suit properties belong to Late Sri. Javaregowda. It is his self-acquired property. Admittedly,



Javaregowda and his wife died intestate. As such, it is the plaintiff and the first defendant being the only children of Late. Javaregowda, have succeeded to the suit property in half share each.

8. Without recourse to the plaintiff, first defendant has sold the portion of Item No. 1 of the suit properties to the defendant Nos. 2 and 3.

9. It was incumbent on the part of the second and third defendants to find out the title to the suit properties before they purchased the portions of suit property.

10. Without making such enquiry, if they have purchased portion of Item No. 1 of the suit properties, the only remedy for the appellants is to plead for equitable partition in the final decree proceedings. But, they cannot object for decreeing the suit of the plaintiff granting half share to the plaintiff being the daughter of Late Javaregowda and sister of first defendant. Marriage of plaintiff did not divest her right in the suit properties.



11. Thus, this Court does not find any merits in any one of the substantial questions of law referred to *supra*.

12. Accordingly, the following:

ORDER

i) Admission declined.

ii) The Regular Second Appeal stands ***dismissed***.

iii) However, defendants Nos. 2 and 3 are entitled to plead for equitable partition in the final decree proceedings, in accordance with law.

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

BSV
List No.: 1 Sl No.: 57