



CNR: KAHC010333242008

NC: 2026:KHC:49142
RSA No. 1541 of 2008

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 9TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

REGULAR SECOND APPEAL NO. 1541 OF 2008 (PAR)

BETWEEN:

1. SMT MUNIYAMMA
W/O VENKATASWAMAPPA
AGED ABOUT 71 YEARS
R/AT VARANASI VILLAGE, HOLUR HOBLI
KOLAR DISTRICT.
2. SMT VENKATALAKSHMMA
W/O GOPALAPPA
AGED ABOUT 60 YEARS
R/AT ARAHALLI VILLAGE
KASABA HOBLI, KOLAR TALUK.

...APPELLANTS

(BY SRI. Y.R. SADASHIVA REDDY, SENIOR ADVOCATE FOR
SRI. RAHUL S. REDDY, ADVOCATE FOR APPELLANTS)

AND:

1. SRINIVASA
S/O KRISHNAPPA
AGED ABOUT 32 YEARS
2. SUSHEELAMMA D/O KRISHNAPPA
AGED ABOUT 35 YEARS
3. SUNITHA D/O KRISHNAPPA
AGED ABOUT 24 YEARS
4. VENKATESHAPPA S/O KRISHNAPPA
AGED ABOUT 60 YEARS

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5. KRISHNAPPA S/O SONNAPPA
SINCE DECEASED, LRs ALREADY ON RECORD
6. GOPALAPPA S/O SONNAPPA
AGED ABOUT 55 YEARS
7. SONNAPPA S/O NARAYANAPPA
SINCE DEAD, BY LRS ALREADY ON RECORD

ALL ARE R/AT ARAHALLI VILLAGE
KASABA HOBLI, KOLAR TALUK
KOLAR DISTRICT-563 101.

...RESPONDENTS

(BY SRI. ABHINAY .Y.T, ADVOCATE FOR R1 TO R3;
R4 AND R6 ARE SERVED;
V/O DATED 18.08.2011, R4 TO R6 ARE TREATED AS LRs
OF DECEASED R7;
V/O DATED 03.04.2025 R1 TO R3 ARE TREATED AS LRs
OF DECEASED R5)

THIS RSA IS FILED U/S. 100 OF CPC AGAINST THE
JUDGEMENT & DECREE DATED 10.12.2007 PASSED IN R.A.NO
24/2003 VIDE ANNEXURE-A ON THE FILE OF THE FTC-II,
KOLAR, DISMISSING THE APPEAL AND CONFIRMING THE
JUDGEMENT AND DECREE DATED 16.01.2003 PASSED IN OS
222/1997 ON THE FILE OF THE PRL. CIVIL JUDGE, (JR.DN),
KOLAR.

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

CORAM: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

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ORAL JUDGMENT

The captioned second appeal is by the purchasers/defendants 5 and 6 questioning the preliminary decree granted by the Court of first instance in O.S.No.222/1996 and affirmed by the appellate Court.

2. For the sake of convenience, parties are referred as per their rank before the trial Court.

3. Heard the learned Senior Counsel appearing for the stranger purchasers/defendants 5 and 6 and the counsel appearing for the plaintiffs.

4. This Court, vide Order dated 18.09.2015 has admitted the appeal on following substantial question of law, which reads as under:

"Whether the judgment and decree of both the Courts below are perverse in holding that the alienation made by the defendant No.1 is for family necessities, even though there is no issue against the appellant - defendant herein?"

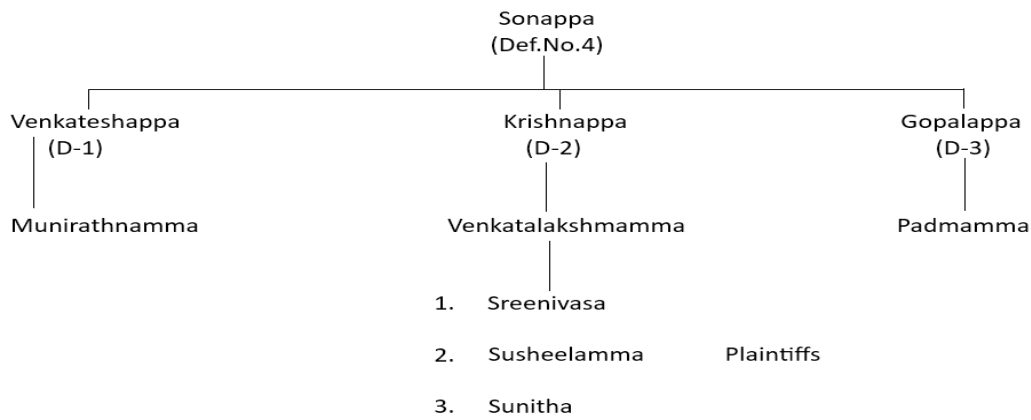
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To answer the substantial question of law, it would be apposite for this Court to extract the family tree, which is as under:



5. It would also be apposite for this Court to extract the issues framed by the trial Court. The same are extracted, which reads as under:

"1) Do the plaintiffs prove that themselves, defendants 1 to 4 are constituting undivided Hindus joint family suit properties are the joint family properties and they are in joint possession?

2) Do the plaintiff's prove defendant Nos. 1 to 4 are mis-managing the joint family properties?

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3) Do the defendants 1 to 4 prove that themselves and the plaintiffs were got divided the joint family properties on 7.7.85?

4) Do the defendant Nos. 1 to 4 prove that the first defendant was sold suit item Nos. 1 to 4 in favour of the defendant Nos. 5 & 6 to meet their family necessity?

5) Do the plaintiff prove that they are entitled for the share at the suit properties?

6) Do the plaintiffs prove that, they are entitled for the partition and separate possession?

7) What order or decree?"

(Emphasis Supplied)

Under Issue No.4, a specific issue has already been framed as to whether defendants 1 to 4 prove that defendant No.1 sold Item Nos.1 to 4 in favour of defendants 5 and 6 to meet the family necessities. Though such a specific plea was taken in the written statement, defendants 1 to 4 have neither entered the witness box nor led any evidence in support of the said plea. Accordingly, the Trial Court answered Issue No.4 in the negative and held that the sale deeds executed by defendant No.1 in favour of defendants 5 and 6 were not shown to have been executed for family necessity.



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Consequently, the suit came to be decreed, holding that the plaintiffs are entitled to a share in the suit schedule properties.

6. In view of the specific Issue No.4 framed by the Trial Court and the finding recorded thereon, this Court is of the considered opinion that the substantial question of law formulated in the present appeal does not arise in the manner in which it has been framed and, in fact, runs contrary to the pleadings, issues and findings recorded by the Courts below.

7. Be that as it may, the rights of a stranger purchaser in a suit for partition are limited. At the stage of passing of a preliminary decree, a stranger purchaser does not acquire an independent right to contest the shares of the coparceners, unless a specific defence is raised in the written statement, including a plea that the suit itself is collusive. In the present case, defendant No.1 had executed two sale deeds in respect of Item Nos.1 to 4 in

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favour of defendants 5 and 6. Significantly, the father of the plaintiffs, namely, Krishnappa/defendant No.2, is a signatory to the said sale transactions. Defendant No.3-Gopalappa has also supported defendants 5 and 6 and has specifically contended that the sale deeds were executed for family necessities and, therefore, would bind him as well.

8. It is well settled that a stranger purchaser is required to work out his equitable rights in the final decree proceedings. In the present case, both the Courts below have concurrently held that the plaintiffs, being the children representing the branch of defendant No.2-Krishnappa, are entitled to a share in the suit properties. Insofar as the validity of the sale deeds in favour of defendants 5 and 6 is concerned, the said sale deeds cannot be declared wholly void. The purchasers would be entitled to the benefit of the share held by the respective executants in the properties covered by the sale deeds,



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subject to the allotment of the shares of the parties in the final decree proceedings.

9. Accordingly, the sale deeds dated 24.06.1996, marked as Exhibits D1 and D4, executed in favour of defendants 5 and 6, are held to be valid to the extent of the share attributable to Venkateshappa, Krishnappa and Gopalappa. Defendants 5 and 6 shall be entitled to work out their equitable rights and seek allotment of the share covered by the aforesaid sale deeds in the final decree proceedings. The rights of defendants 5 and 6, as purchasers, shall consequently be confined to the extent of the interest of their respective vendors, and the equities arising out of the said sale transactions shall be worked out in the final decree proceedings. The substantial question of law is accordingly answered in the **negative** and against defendants 5 and 6.

10. There is, however, an error in the determination of the shares by the Courts below. On the death of

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Sonnappa, his interest devolved upon his three sons, namely, Venkateshappa, Krishnappa and Gopalappa. Consequently, each of the three sons would be entitled to $1/3^{\text{rd}}$ share in the estate. The plaintiffs represent the branch of Krishnappa. Therefore, Krishnappa's $1/3^{\text{rd}}$ share is required to be further divided amongst himself and his three sons. Each of the three sons of Krishnappa would accordingly be entitled to $1/12^{\text{th}}$ share in the total property. However, having regard to the shares determined in the proceedings and the entitlement of the plaintiffs as represented before this Court, the preliminary decree requires modification to the extent indicated hereinbelow.

11. Accordingly, while affirming the findings of the Courts below insofar as the entitlement of defendants Nos.5 and 6 under the sale deeds dated 24.06.1996 is concerned, the preliminary decree is liable to be modified with regard to the shares of the plaintiffs.

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ORDER

(i) The Regular Second Appeal is ***allowed in part.***

(ii) The preliminary decree passed by the Courts below is modified.

(iii) Plaintiffs Nos.1 to 3 are declared entitled to 1/12th share each in the suit schedule properties.

(iv) The sale deeds dated 24.06.1996 executed in favour of defendants Nos.5 and 6, marked as Exhibits D1 and D4, are held to be valid to the extent of the interest/share of the respective vendors, namely, Venkateshappa to the extent of 1/3rd share, Krishnappa to the extent of 1/12th share and Gopalappa to the extent of 1/3rd share.

(iv) Office to draw fresh Preliminary Decree.

(v) Defendants Nos.5 and 6 are at liberty to work out their equitable rights arising out of the aforesaid sale

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deeds in the final decree proceedings, in accordance with law.

(vi) All other findings of the Courts below, insofar as they are not inconsistent with the above modification, stand undisturbed.

(vii) In view of the facts and circumstances of the case, there shall be no order as to costs.

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(SACHIN SHANKAR MAGADUM)
JUDGE

ALB

List No.: 3 Sl No.: 4