



CNR: KAHC010341712026

NC: 2026:KHC:36305
RSA No. 876 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 15TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

REGULAR SECOND APPEAL No.876 OF 2026 (PAR)

BETWEEN:

SMT S G PRIYADARSHINI
W/O M MUNIVEERAPPA,
AGED ABOUT 45 YEARS,
R/O YATHIGANAHALLI VILLAGE,
KASABA HOBLI,
BENGALURU RURAL TQ. AND DIST.-562157

...APPELLANT

(BY SRI. KARUNAKAR P, ADVOCATE)

AND:

1. SMT JAYAMMA
W/O KAMANNA,
DEAD BY LRS
- (A) MK ASHOK,
S/O LATE KAMANNA,
AGED ABOUT 57 YEARS,
R/O MUGANAHALLI VILLAGE,
KASABA HOBLI, SIRA TALUK,
TUMAKURU DISTRICT- 624 390
2. SMT. NARASAMMA,
W/O MALLANNA,
D/O LATE HALAPPA,
AGED ABOUT 69 YEARS,
R/O GIRINATHANAHALLI VILLAGE,
KASABA HOBLI, SIRA TALUK.

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3. SMT. MANJAMMA,
W/O NAGARAJU,
D/O LATE HALAPPA,
AGED ABOUT 58 YEARS,
R/O KUNTEGOWDANAHALLI VILLAGE,
KALLAMBELLA HOBLI,
SIRA TALUK.

...RESPONDENTS

[BY SRI V.B.SIDDARAMAIAH, ADVOCATE FOR C/R1(A)]

THIS RSA IS FILED UNDER SECTION 100 OF CODE OF CIVIL PROCEDURE AGAINST THE JUDGMENT AND DECREE DATED 11.03.2026, PASSED IN R.A No.92/25 ON THE FILE OF THE III ADDITIONAL DISTRICT AND SESSIONS JUDGE, TUMAKURU, DISMISSING THE APPEAL AND CONFIRMING THE JUDGMENT AND DECREE DATED 13.08.2025, PASSED IN O.S No.11/2007 ON THE FILE OF THE SENIOR CIVIL JUDGE AND JMFC, SIRA.

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 Karunakar.P, learned counsel for appellant and Sri V.B.Siddaramaiah, learned counsel for caveator/respondent No.1(a).

2. Parties are referred to as plaintiff and defendants as per their original ranking before the Trial Court, for the sake of convenience.



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3. Appeal by the third defendant in O.S No.11/2007 on the file of the Senior Civil Judge and JMFC, Sira, challenging the decreeing of the suit in part confirmed in R.A No.92/2025 on the file of the III Additional District and Sessions Judge, Tumakuru.

4. Appellant/defendant No.3 is the purchaser of one of the items of the suit property from defendant No.1 based on the revenue entries and assurance that there was an oral partition and in the said oral partition property purchased by defendant No.3 has fallen to the share of defendant No.1.

5. Defense of defendant No.3 was not accepted by the Trial Court and suit came to be decreed in part. Operative portion of the Trial Court judgment reads as under:

"The suit of the plaintiff is hereby decreed in part with costs as follows:

The plaintiff No.1(a) being the LR's of Jayamma (deceased plaintiff) is entitled for 1/3rd share in the suit item No.1 to 4 schedule properties.

The defendant No.1 is entitled for 1/3rd share in the suit item No.1 to 4 schedule properties subjected to court fee.



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The defendant No. 2 is entitled for 1/3rd share in the suit item No.1 to 4 schedule properties subjected to court fee.

The sale deed dated.31.12.2007 executed by the defendant No.1 in favour of the defendant No.3 during the pendency of suit is null and void and not binding on the share of the plaintiff.

The suit against the item No.5 of schedule property stands dismissed."

6. Against the judgment and decree passed by the Trial Court, third defendant approached the First Appellate Court in R.A No.92/2025.

7. Learned Judge in the First Appellate Court, after securing the records, heard the arguments of the parties and noted that the theory of oral partition stood negated and therefore dismissed the appeal.

8. Being further aggrieved by the same, third defendant is before this Court in this Second Appeal on following grounds and substantial questions of law.

- *"That both the courts below have failed to appreciate the fact that, in the revenue records pertaining to item No. 1 of suit of schedule property, the name 2nd*



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respondent/defendant no.1 is standing from long time and also failed to consider the fact that revenue records pertaining to other items except item no.1 of the suit schedule property is in the name of all the 3 sisters hence the claim of petitioner is not valid and failed to substantiate/consider from the records on record that the same is not a joint family property.

- *That the courts below have failed to consider the fact that the plaintiff and her sisters had entered into an oral partition and the mutations in the revenue records are pursuant to said partition.*
- *That both the courts below has come into a wrong conclusion regarding item no.1 of the suit schedule property without appreciating/considering records placed on record and further failed to considered that if the same is joint family property, then the names in the revenue records should be in the name of the plaintiff's father or on account of his death the same shall stand in the name of his all daughters. In the absence of the same the plea of the plaintiff regarding item no.1 of the suit schedule property is doubtful.*
- *That the both the court below has erred in considering the fact that the appellant is the bonafide purchaser of the item no.1 of the suit schedule property and he has purchased the same after impression from the revenue records that the 2nd respondent/defendant no.1 is the absolute owner of item no.1 of the suit schedule*



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property and the fact that appellant was completely unaware regarding pendency of partition suit and the effect of temporary injunction order against the item no.1 of the suit schedule property.

- *The courts below have erred in decreeing the suit filed by the first respondent for the relief of partition and separate possession of her one-third share. It is not the case of the first respondent that the second respondent did not have any right, title or interest in respect of the suit schedule property. It is an admitted fact that the 2nd respondent has sold item No. 1 of the suit schedule property in favour of the appellant under a registered sale deed.*
- *That the appellant is a bona fide purchaser for value under a registered sale deed. The revenue entries such as RTC and mutation showed the name of the 2nd respondent in respect of suit item No.1 of the suit schedule property. Therefore, there is no reason for the appellant to doubt the right, title and interest in respect of the suit schedule property.*
- *That the trial court and the lower appellate court found that the appellant failed to prove the partition among the plaintiff and defendants No.1 & 2. It is also the finding of the courts below that there is variance in the defense raised by the appellant in the written statement and the oral evidence tendered before the Hon'ble Court as DW-1. The appellant sought before the lower appellate court*



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presenting xerox copy of the partition deed, to remand the matter with an opportunity to amend the written statement and to lead further evidence. The lower appellate court at least ought to have remanded the matter to the trial court with an opportunity reserved in favour of the appellant as prayed for. The courts below have denied the valuable right of the appellant in respect of an immovable property and greater injustice would be caused to the appellant if his prayer is not considered.

- *That the appellant examined herself as DW-1 and produced as many as 25 documents and which were marked as Ex. D1 to D25. They consisted of mutation orders with the statement of sisters of the first defendant and RTC entries. Therefore, the contention of the appellant that there was partition among the sisters is proved and the contrary view entertained by the courts below is erroneous.*
- *That the appellant has purchased the property as early as on 31.12.2007. The said sale deed was duly acted upon and khata was made over to the name of the appellant on that basis. The appellant has been in possession and enjoyment of the said property as an absolute owner. Therefore, an irreparable loss and injury would be caused to the appellant if the impugned judgment and decree are not set aside.*
- *It is not the finding of the courts below that the appellant did not exercise due diligence before*



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purchasing the suit item No.1 of the suit schedule property. Therefore, the courts below have erred in not protecting the right of the appellant, who is a bona fide purchaser.

- *That the lower appellate court has committed serious error in not conceding the prayer of the appellant for remand of the matter as prayed for. It is the observation of the courts below that the appellant has not proved the partition among the plaintiff and defendant No.1 & 2. The appellant presented xerox copy of the partition deed. It is also the observation of the courts below that there is variance of defense in the written statement of the appellant and the evidence tendered as DW-1. In the written statement it is stated, there was oral partition and in the evidence it is stated that first defendant showed the partition deed. The appellant prayed for remanding the matter and therefore, the lower appellate court ought to have acceded the said prayer of the appellant.*
- *The view taken by the courts below is that the suit schedule properties are the joint family, admittedly the appellant has purchased from one of the co-sharers one item of the suit schedule property, in that view of the matter, the courts below ought to have adjusted the shares among the co-sharers so that the property sold in favour of the appellant could have been saved.*



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SUBSTANTIAL QUESTIONS OF LAW:

- (1) *Whether the courts below have erred in decreeing the suit in favour of the first respondent when admittedly there is a registered sale deed in favour of the appellant and it is not the case of the courts below that the first defendant did not have any right, title and interest in suit item No.1 of the suit schedule property?*
- (2) *Whether the court has failed to consider the appellants Bonafide's in purchasing item no.1 of the suit schedule property based on the revenue records placed on record?*
- (3) *The view taken by the courts below is that the suit schedule properties are the joint family, admittedly the appellant has purchased from one of the co-sharers one item of the suit schedule property, whether the courts below have failed to adjust the shares among the co-sharers so that the property sold in favour of the appellant could have been saved?*
- (4) *The mutation order and the RTC entries showed the name of the first defendant in respect of item No.1 of the suit schedule properties, which was purchased by the appellant by virtue of the registered sale deed, which prove that the appellant was a bona fide purchaser for value and in that view of the matter, whether the appellant could have been declined*



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protection in respect of the property purchased by her?

(5) Whether the lower appellate court has greatly erred in law in not acceding with prayer of the appellant for at least remand of the matter with an opportunity reserved to amend the written statement and lead further evidence as below observed that there is prayed for, when courts variance in the defense, in the written statement, it is stated oral evidence and in evidence it is deposed that the first defendant showed the partition deed?

(6) Whether the courts below are justified in law in decreeing the suit for partition and separate possession without considering the right of the appellant under a registered sale deed, which was over a period of nearly two decades now?"

9. Sri P.Karunakar, learned counsel for the appellant/defendant No.3 reiterating the grounds urged in the appeal memorandum would contend that both the Courts have not properly appreciated the material on record, especially the revenue entries which stood in the name of defendant No.1, which persuaded appellant/defendant No.3 to purchase the property.



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10. Having purchased the property, defendant No.3 is before the Courts for last 20 years and therefore, matter requires to be admitted on the aforesaid substantial questions of law.

11. It is further contended that the property sold by defendant No.1 in favour of the appellant/defendant No.3 needs to be excluded from the arena of partition and from the scope of the suit.

12. *Per contra*, Sri V.B.Siddaramaiah, learned counsel for the caveator/respondent No.1-plaintiff would oppose the appeal grounds and supports the impugned judgments.

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

14. On such perusal of the material on record, it is noticed that the theory put forward by the defendants that there was a oral partition and therefore suit for partition is not maintainable is negated by both the Courts by recording the factual findings.

15. Merely on the ground that the revenue entry stood in the name of the first defendant, no exclusive right, title or interest



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existed in first defendant so as to sell the property in favour of the third defendant/appellant.

16. Therefore, the only remedy for the appellant is to seek for equitable partition in the Final Decree Proceedings.

17. With that liberty reserved for the appellant, this Court does not find merit in any one of the substantial questions of law having regard to the aforesaid discussion.

18. Hence, the following:

ORDER

- (i) Admission declined.
- (ii) Appeal ***dismissed***.
- (iii) It is made clear that the appellant/third defendant is at liberty to seek for equitable partition in the Final Decree Proceedings and request the Court to allot the property purchased by defendant No. 3 to the share of defendant No.1.
- (iv) No Order as to costs.

Sd/-
(V SRISHANANDA)
JUDGE

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List No.: 1 Sl No.: 84