



CNR: KAHC010344132007

NC: 2026:KHC:54160
RSA No. 1333 of 2007

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

REGULAR SECOND APPEAL NO. 1333 OF 2007 (PAR)

BETWEEN:

1. T K NARASIMHA SHETTY
S/O T KONDAIAH SHETTY
AGE:74 YEARS
R/O NO.2060/B, II MAIN ROAD, VINAYAKANAGAR
TUMKUR TOWN 572 101
2. T.A. SATISH BABU
S/O T.K. ANANTHA PADMANABHA SETTY
AGED ABOUT 36 YEARS
R/AT ANANTHA NILAYA
AGRAHARA, CHIKPET, TUMKUR
3. T.A. SATHYANARAYANA SETTY
S/O T.V. ASHWATNARAYANA SETTY
AGED ABOUT 36 YEARS
R/AT TARURU VILLAGE
KALLEMBELLA HOBLI
SIRA TALU, TUMKUR DIST.

...APPELLANTS

(BY SRI. P.M. GOPI, ADVOCATE FOR
SRI. P.M. SIDDAMALLAPPA, ADVOCATE FOR A2 AND A3;
V/O DATED 12.03.2021, APPEAL AGAINST A1 STANDS
ABATED)

AND:

1. TALANKI ARCHANA
D/O T.K.NARASIMHA SHETTY
AGE:13 YRS

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MINOR REP BY FATHER
SRI. T.K.SHANKAR SHETTY
R/O BEHIND SHANKAR BUS HOUSE
KUMBARA BEEDHI, TUMKUR 572 101.

...RESPONDENT

(BY SRI. MURTHY ASSTS BY SRI. R.K. SRIDHARA MURTHY AND
SRI. R.S. UMESH, ADVOCATES)

THIS RSA IS FILED U/S. 100 OF CPC AGAINST THE
JUDGEMENT & DECREE DATED 22.2.2007 PASSED IN R.A.NO.
15/2001 ON THE FILE OF THE PRESIDING OFFICER, FAST
TRACK COURT NO.V, TUMKUR, PARTLY ALLOWING THE APPEAL
AND SETTING ASIDE AND MODIFYING THE JUDGEMENT AND
DECREE DATED 21.4.2001 PASSED IN OS .NO. 163/1996 ON
THE FILE OF THE PRL.CIVIL JUDGE (SR.DN.) & CJM, TUMKUR.

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

CORAM: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

ORAL JUDGMENT

The captioned second appeal was originally filed by
sole defendant Narasimha Shetty challenging the
concurrent judgments rendered by the Courts below
declaring respondent/plaintiff as adopted daughter of the
present appellant No.1.

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

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3. The facts leading to the case are as under.

The plaintiff, Talanki Archana, instituted the suit seeking a declaration that she is the adopted daughter of the defendant and, consequently, entitled to a half share in the suit schedule properties held by the defendant.

4. The plaintiff specifically pleaded that the defendant and his wife, Smt. Lakshmiddevamma, had no children and, therefore, approached her natural parents, namely, Sri Shankar Shetty and his wife Smt. Dhanalakshmi, with a request to give the plaintiff in adoption. It was further pleaded that her natural parents consented to the adoption and accordingly, the plaintiff was taken in adoption by the defendant and his wife in a ceremony held on 15.12.1989. According to the plaintiff, the adoption was performed in accordance with the customary rites and ceremonies prevailing in the Hindu community.

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5. The plaintiff further pleaded that, following the adoption, the name of the defendant was shown as her father in the school records. It was her case that after the death of her adoptive mother on 20.08.1994, the defendant started ill-treating her and ultimately drove her out of the house. The plaintiff further alleged that she subsequently came to know that the defendant was attempting to alienate the properties held by him. Hence, the suit was instituted seeking a declaration of her status as the adopted daughter of the defendant and for partition and separate possession of her legitimate half share in the suit schedule properties.

6. Upon service of summons, the sole defendant entered appearance and filed his written statement stoutly denying the plaint averments. The defendant specifically disputed the plaintiff's claim that she had been taken in adoption.

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7. The defendant contended that he was not aware of the entries in the school records showing his name as the plaintiff's father and alleged that such records had been created with an intention to lay a false claim over his properties. It was further contended that the plaintiff was, in fact, the daughter of his younger brother, namely, Sri T. K. Shankar Shetty, and that the suit had been instituted at the instance of the said brother with an oblique motive of securing the defendant's valuable properties.

8. The defendant further pleaded that the suit schedule properties had fallen to his share under a registered partition deed and that he was the absolute owner thereof. On these grounds, he sought dismissal of the suit.

9. On the basis of the pleadings of the parties, the Trial Court framed appropriate issues. The parties led both

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oral and documentary evidence in support of their respective claims.

10. Upon appreciation of the evidence on record, the Trial Court answered Issue No.1 in the affirmative, holding that the plaintiff had established that she had been taken in adoption by the defendant. Consequently, Issue No.2 was also answered in the affirmative and the plaintiff was held entitled to a half share in the suit schedule properties.

11. Aggrieved by the judgment and decree of the Trial Court, the defendant preferred R.A.No.15/2001 before the First Appellate Court. The First Appellate Court, upon an independent re-appreciation of the oral and documentary evidence, concurred with the findings recorded by the Trial Court and dismissed the appeal.

The aforesaid concurrent findings of fact are called in question in the present second appeal by the original defendant.



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12. During the pendency of the second appeal, the original defendant died. Thereafter, the present appellants, claiming to have purchased the suit properties from the original defendant during the pendency of the litigation, filed an application under Order XXII Rule 10 of the Code of Civil Procedure, 1908, asserting their interest as purchasers. The said application came to be allowed and appellants 2 and 3 were permitted to prosecute the present second appeal.

13. This Court, by order dated 25.10.2010, admitted the appeal for consideration of the following substantial question of law:

"Whether the reasoning of the learned Trial Judge that the plaintiff has proved the adoption is in accordance with law?"

14. Heard the learned counsel appearing for appellants 2 and 3 and the learned counsel appearing for

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the respondent-plaintiff. Perused the records of the Trial Court and the First Appellate Court.

FINDING ON SUBSTANTIAL QUESTION OF LAW:

15. The principal controversy centres around the plaintiff's claim that she was taken in adoption by the defendant and his wife on 15.12.1989. In order to substantiate her plea of adoption, the plaintiff produced, inter alia, ten photographs marked as Exhibits P1 to P10 depicting the ceremony. Both the Courts below, upon careful examination of these photographs in conjunction with the other documentary evidence, particularly the school records, have concurrently held that the ceremony depicted therein was the ceremony relating to the giving and taking of the plaintiff in adoption.

16. The Trial Court, while appreciating the said evidence, placed considerable reliance upon the photographs and the school records and concluded that the plaintiff had established the factum of adoption. The



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First Appellate Court, on an independent re-appreciation of the entire evidence, has concurred with the said finding.

17. It is significant to note that though the defendant disputed the plaintiff's status as an adopted daughter, the explanation offered by him with regard to the ceremony underwent a material change during the course of the trial. The defendant sought to contend in evidence that the ceremony depicted in the photographs was not an adoption ceremony but related to Gomukha Prasava Shanti, allegedly performed since the plaintiff was said to have been born with a 'dosha' requiring performance of certain rituals.

18. Such a defence, however, was not specifically pleaded in the written statement. The defendant also sought to explain the ceremony as forming part of the sixteenth-day celebrations following the plaintiff's birth. Both the Courts below have considered this explanation



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and found it wholly inconsistent with the documentary and photographic evidence on record.

19. The First Appellate Court, in particular, has undertaken a detailed examination of Exhibits P1 to P10 and has recorded a categorical finding that the photographs do not depict any ceremony connected with the sixteenth day after the plaintiff's birth. The child seen in the photographs was found to be approximately five months old.

20. Further, a material admission elicited from the defendant in cross-examination assumes significance. The defendant admitted that the Gomukha Prasava Shanti rituals are ordinarily performed outside the house. In contrast, the photographs marked as Exhibits P1 to P10 clearly depict the ceremony being conducted within the house.

21. These circumstances, when considered cumulatively, lend substantial support to the plaintiff's

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version. On a consideration of the evidence on the touchstone of preponderance of probabilities, both the Courts below have concurrently concluded that the ceremony depicted in the photographs was the ceremony of giving and taking the plaintiff in adoption.

22. The finding of adoption is further supported by the school records in which the defendant's name was recorded as the plaintiff's father. The defendant's explanation that such records were subsequently created with an intention to usurp his properties has not been substantiated by any cogent evidence.

23. The evidentiary value of the photographs, the school records, the circumstances surrounding the ceremony and the admissions elicited from the defendant have been considered by both the Courts below. On appreciation of the entire evidence, both the Courts have recorded a concurrent finding that the plaintiff has



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successfully established that she was taken in adoption by the defendant and his wife.

24. At this stage, another aspect requires consideration. During the course of hearing, this Court put a specific query to the learned counsel appearing for appellants 2 and 3 with regard to the nature of their purchase. The learned counsel fairly submitted that appellants 2 and 3 are purchasers pendente lite.

25. The learned counsel appearing for the plaintiff, in this regard, brought to the notice of this Court that an interim order had been operating restraining the defendant from alienating the plaintiff's half share in the suit properties. Notwithstanding the said order, the original defendant is stated to have alienated the entire extent in favour of the present appellants during the pendency of the proceedings.

26. The legal position governing the rights of a transferee pendente lite is well settled. A transferee



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pendente lite steps into the shoes of the transferor and takes the property subject to the result of the pending litigation. Such a transferee cannot claim an independent right to reopen or unsettle the issues which were already in dispute between the original parties.

27. In the present case, appellants 2 and 3 are admittedly pendente lite purchasers and are strangers to the family. They cannot, therefore, seek to reopen the fundamental dispute between the plaintiff and the original defendant concerning the factum of adoption, particularly when the said issue has already been conclusively determined by the Courts below on appreciation of the evidence.

28. Even otherwise, the present appeal is under Section 100 of the Code of Civil Procedure, 1908. The concurrent findings recorded by the Courts below on the factum of adoption are findings of fact based upon appreciation of oral and documentary evidence.



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29. The jurisdiction of this Court under Section 100 of CPC does not extend to re-appreciating the entire evidence merely because another view may be possible. Unless the findings recorded by the Courts below are shown to be perverse, based on no evidence, or contrary to settled principles of law, interference in second appeal is not warranted.

30. In the present case, the findings recorded by the Trial Court and affirmed by the First Appellate Court are founded upon cogent documentary and oral evidence. No perversity or illegality is demonstrated. The plaintiff has produced material evidence in support of the ceremony of adoption, whereas the defendant has failed to adduce evidence sufficient to displace the plaintiff's case.

31. The fact that the present appellants have acquired the property during the pendency of the proceedings does not confer upon them any better right than that possessed by their predecessor-in-interest. Their



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purchase is necessarily subject to the rights declared in favour of the plaintiff under the decree passed by the Courts below.

32. Consequently, the alienation made in favour of appellants 2 and 3 can operate only to the extent of the share and interest lawfully held by the original defendant and cannot defeat the half share declared in favour of the plaintiff. The pendente lite purchasers cannot, by virtue of their subsequent purchase, acquire a right to question the declaration of adoption or the plaintiff's consequential entitlement to her share.

33. Be that as it may, this Court has also permitted the learned counsel appearing for appellants 2 and 3 to address arguments on the merits of the finding relating to adoption. The submissions advanced on their behalf have been considered.

34. Even on an independent consideration of the material available on record within the limited scope of



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jurisdiction under Section 100 of CPC, this Court finds that the conclusion reached by both the Courts below is legally sustainable. The Courts below have considered the photographs, school records, the surrounding circumstances and the admissions elicited from the defendant and have thereafter recorded a finding that the plaintiff was taken in adoption by the defendant and his wife. The said finding does not suffer from perversity, misreading of evidence or any error of law warranting interference in second appeal.

36. Accordingly, the substantial question of law framed by this Court is answered in the ***affirmative***, holding that the reasoning of the learned Trial Judge that the plaintiff has proved the adoption is in accordance with law. Consequently, the substantial question of law is answered against appellants 2 and 3.

37. In view of the aforesaid discussion, the concurrent findings recorded by the Courts below do not



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warrant interference. The plaintiff has established her status as the adopted daughter of the original defendant and is consequently entitled to the share declared in her favour.

Accordingly, the second appeal stands dismissed.

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(SACHIN SHANKAR MAGADUM)
JUDGE

ALB
List No.: 3 Sl No.: 2