



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 9TH DAY OF JUNE, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

REGULAR SECOND APPEAL NO.1727 OF 2017 (DEC/INJ)

BETWEEN:

1. SMT RASHMI PRASAD
D/O LATE MEGHAMALA
W/O RAJU K GOPALAN
AGED ABOUT 38 YEARS
2. SMT. RAKHEE PRASAD
D/O LATE MEGHAMALA
W/O B.A.ASHWIN
AGED ABOUT 30 YEARS

APPELLANT NOS.1 AND 2 ARE
RESIDENTS OF NO.20, 'VYNATHEYA',
4TH MAIN ROAD, MARUTHI EXTENSION,
NEAR MODERN ENGLISH SCHOOL,
BENGALURU-560 021

PRESENTLY THE APPELLANTS NO.1 AND 2 ARE
RESIDENTS OF NO.276, 'VYNATHEYA',
2ND FLOOR, 15TH MAIN ROAD,
37TH CROSS, JAYANAGAR 4TH 'T' BLOCK,
BENGALURU-560 041

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signed by
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Location:
HIGH
COURT OF
KARNATAKA

3. SMT. VANAMALA
W/O S.R. RANGARAJU
AGED ABOUT 63 YEARS
R/AT NO.214, BLOCK II
SRINIKAT APARTMENT,
RAMAIAH COLLEGE ROAD,
MATHIKERE, BENGALURU-560 054



PRESENTLY RESIDING AT
R/AT NO.17, PRESTIGE KENSINGTON GARDEN,
APARTMENT NO.1096
HMT MAIN ROAD, JALAHALLI,
BANGALORE-560 017

4. SMT. REKHA
W/O SRINIVAS
AGED ABOUT 56 YEARS
R/AT C/O B.S.NARYANA MURTHY,
BHEEMANAHALLI M.N.POST,
BIDADI HOBLI,
RAMANAGARA TALUK-562 109

PRESENTLY RESIDING AT
NO.25, VENKATESHWARA NILAYA,
4TH MAIN ROAD, MARUTHI EXTENSION,
SRIRAMPURA, BANGALORE-560 021

...APPELLANTS

[BY SRI P.M.GOPI, FOR SRI P.M.SIDDAMALLAPPA, ADVOCATES
FOR A1, A2, A3 AND A4 (A2-REP. BY GPA A4)]

AND:

1. SMT B N PRABHA MURTHY
W/O B.S.NARAYANA MURTHY,
AGED ABOUT 80 YEARS
NO.1, 'BANGALOW',
BHEEMANAHALLI VILLAGE,
BIDADI HOBLI,
RAMANAGARA TALUK-562 109

(RESPONDENT NO.1 DEAD LIVING BEHIND
APPELLANTS ARE THE LR_s)

2. SMT.K.BHARATHI
W/O SRI M.V.PRASAD BABU
AGED ABOUT 58 YEARS
R/AT NO.11/1,
SUBRAMANYAPURA MAIN ROAD
UTTARAHALLI



BENGALURU – 560 061

...RESPONDENTS

(BY SRI M.S.BHAGWAT, SENIOR COUNSEL FOR
SRI B.C.AVINASH AND SRI SRIKANTH.S, ADVOCATES FOR R2;
VIDE ORDER DATED 29.10.25, APPELLANTS ARE TREATED AS
LR'S OF R1)

THIS RSA IS FILED UNDER SECTION 100 OF CODE OF
CIVIL PROCEDURE, AGAINST THE JUDGMENT AND DECREE
DATED 04.07.2017 PASSED IN RA No.50/2007 ON THE FILE OF
THE III ADDL. DISTRICT AND SESSIONS JUDGE,
RAMANAGARA, DISMISSING THE APPEAL AND CONFIRMING
THE JUDGMENT AND DECREE DATED 4.07.2005 PASSED IN OS
NO.9/1997 ON THE FILE OF THE PRL. CIVIL JUDGE (SR.DN),
RAMANAGARAM.

THIS APPEAL, COMING ON FOR FINAL HEARING, THIS
DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:
CORAM: HON'BLE MR. JUSTICE V SRISHANANDA

ORAL JUDGMENT

Heard Sri P.M. Gopi, learned counsel appearing on behalf
of Sri P.M. Siddamallappa, counsel for the appellants and Sri
M.S. Bhagwat, learned Senior Counsel appearing on behalf of
Sri B.C. Avinash, counsel for respondent No.2.

2. Appellants are the daughters of defendant No.1 -
Smt. Meghamala in O.S.No.09/1997.



3. Facts of the case in the nutshell challenging the validity of the judgment and decree passed in O.S.No.09/1997, confirmed in R.A.No.50/2007 are as under:

4. Smt. B.N. Prabha Murthy filed a suit for declaration that she is the owner of the following immovable property (hereinafter referred to as suit property) and consequential relief of permanent injunction in O.S.No.09/1997.

"Lands in Sy.No.52, measuring 0.30 guntas and constructed house with kottige having K.No.1 of Manchanayakanahalli village Panchayathi and a pumpset, situated at Bheemanahalli Village Bidadi(H), Ramanagaram Taluk bounded by:

East by : landed property of Jagadesha

West by : Bangalore –Mysore Road

North by : Shanmangala Road

*South by : House property belonging to
Padmanabha and Rangaraju."*

5. In the suit she claimed that she is the second wife of Sri. Narayana Murthy who was the absolute owner of the suit property.



6. It is further contented that Sri Narayana Murthy had married Smt. Seethalakshmi and from the said marriage, she had three children, who are the defendants – Meghamala, Vanamala and Rekha.

7. It is further contented that after the demise of Seethalakshmi, Narayana Murthy married the plaintiff and she discharged her duty as the mother for the defendants and a dutiful wife for Sri Narayana Murthy.

8. Narayana Murthy performed the marriage of the first defendant - Meghamala when Seethalakshmi was alive. After the demise of Seethalakshmi, marriage of plaintiff has taken place with Narayana Murthy. Thereafter she participated in the marriage of defendant Nos.2 and 3 as their mother.

9. Narayana Murthy died on 03.04.1995. During the lifetime of Narayana Murthy, he had executed a will in favour of the plaintiff and bequeathed the suit property by Will dated 16.11.1994.

10. After the death of Narayana Murthy, a legal notice was caused demanding the partition by the defendants and therefore, a suit came to be filed seeking the aforesaid relief.



11. Pursuant to the suit summons, all the defendants entered appearance and filed detailed written statement admitting the relationship of plaintiff with Narayana Murthy.

12. However, they denied that huge sum of money was spent for the marriage. They denied the execution of the Will by Narayana Murthy in favour of the plaintiff and they demanded 1/4th share each in the suit property ignoring the Will of Narayana Murthy.

13. Based on the rival contentions, learned Trial Judge raised following issues.

- 1. Whether the plaintiff proves that she is the absolute owner and in actual possession of the entire suit schedule property by virtue of the Will executed by her husband B.S. Narayana Murthy dated 16.11.1994 as alleged?*
- 2. Whether the plaintiff further proves that the defendants have illegally interfered with the plaintiff's peaceful possession and enjoyment over the suit schedule property as alleged?*
- 3. Whether the defendants prove that the 3rd defendant is residing with her husband in a portions of Bungalow situated in the suit schedule property as alleged in para 1 of their Written Statement?*



- 4. Whether the defendants prove that the plaintiff forged, concocted and created the Will in her favour under the circumstances pleaded in para No.5 of their Written Statement?*
- 5. Whether the suit is not valued properly and the Court fee paid is insufficient?*
- 6. Whether the plaintiff is entitled for the relief of declaration of title and for permanent injunction against defendants as prayed?*
- 7. To what relief? if any the parties are entitled?"*

14. In order to prove the case of the plaintiff, she got examined herself as PW1 and two more witnesses to prove the Will by name, M.R. Ramaiah and Panchalinga Murthy as PW2 and PW3.

15. On behalf of the plaintiff, 21 documentary evidence were placed on record which were exhibited and marked as Exs.P1 to Ex.P21, comprising of marriage registration certificate of the plaintiff with Narayana Murthy, death certificate of Narayana Murthy, RTC extract in respect of the suit property, copy of the legal notice issued by the defendant and the reply notice, copy of the complaint, endorsement, original Will,



signature of the attesting witnesses, tax paid receipt in respect of the suit property.

16. As against the material evidence placed on record by the plaintiff, defendants for the reasons best known to them did not choose to place any oral or documentary evidence on record.

17. Thereafter learned Trial Judge heard the arguments of the parties and decreed the suit of the plaintiff.

18. Being aggrieved by the same, the defendants filed an appeal before the District Court in R.A.No.50/2007.

19. Learned Judge in the First Appellate Court after securing the records heard the arguments of the parties in detail.

20. During the pendency of the appeal, first defendant - Meghamala died and therefore her daughters have been brought on record who are the appellants before this Court.

21. Learned Judge in the First Appellate Court dismissed the interlocutory applications filed by the appellants



and dismissed the appeal confirming the judgment of the Trial Court.

22. Being further aggrieved by the same, the legal representatives of first defendant and other defendants have filed the present second appeal.

23. Appellants contended that the approach of the First Appellate Court in dismissing the interlocutory application and not permitting to address the arguments on the counter claim which was allowed by allowing the amendment to the written statement is incorrect and thus suffers from serious legal infirmity.

24. It is also contended by the appellants that the First Appellate Court without considering the counter claim and without granting 1/4th share to the defendants, rejection of the same has resulted in miscarriage of justice.

25. It is further contended on behalf of the appellants that the First Appellate Court committed an error in not raising necessary point with regard to the counter claim especially having allowed the amendment to the written statement and



thus sought for remanding the matter to the First Appellate Court.

26. In support of his contentions, appellants placed reliance on the judgment of the Hon'ble Apex Court in the case of ***Jayanandan and another vs. Suresh Kumar and another, 2024 SCC OnLine SC 3851.***

27. It is further contented on behalf of the appellants that Narayana Murthy got the property as an ancestral property at a partition among his brothers. Therefore, the suit property is ancestral property of Narayana Murthy. Defendants being the daughters of Narayana Murthy also have a share in the suit property and Narayana Murthy being the kartha did not have competence in executing the Will and bequeathing the suit property in entirety to the plaintiff. Thus, the judgment of the Trial Court and the First Appellate Court is incorrect.

28. To substantiate the said contention, learned counsel for the appellants has placed reliance on the judgment of the Hon'ble Apex Court in the case of ***Darubai and Another vs. Kamalabai and others,*** reported in **2026 SCC OnLine SC 1054.**



29. The appeal came to be admitted on following substantial questions of law.

1. *Whether the First Appellate Court was right in law in rejecting several applications filed in R.A. No.50/2007 along with the main appeal?*
2. *Whether the Courts below were right in law in holding that the plaintiff has proved the due execution of the Will by Narayanamurthy in her favour in respect of the suit properties?*
3. *Whether the Courts below have failed to consider that Narayanamurthy could not have bequeathed the suit schedule properties in favour of the plaintiff in light of the fact that suit properties are ancestral properties and he did not have exclusive right over the same?*
4. *Whether the First Appellate Court was right in law in not exercising its jurisdiction to compare the disputed signatures of Narayanamurthy found in the Will-Ex.P8 with that of his admitted signatures available in the registered deeds produced in the case by exercising its power under Sections 45 and 73 of Indian Evidence Act? and*
5. *To consider any another questions of law which arise for consideration while hearing the appeal?"*

30. Having heard the arguments of Sri P.M.Gopi, learned counsel for the appellants and Sri M.S. Bhagwat,



learned Senior counsel for the respondent, this Court bestowed its best attention to the material on record meticulously.

31. In the case on hand, at a partition, Narayana Murthy becoming the owner of the suit property is not in dispute.

32. Admittedly, at that juncture, plaintiff did not have any right whatsoever in respect of the suit property inasmuch as in the absence of any other co-parcener, property in the hands of Narayana Murthy thus becomes the absolute property of Narayana Murthy. As such, Narayana Murthy had every power to bequeath the suit property in favour of his second wife namely, Smt. B.N. Prabha Murthy – plaintiff.

33. Therefore, the contention urged on behalf of the appellants that Narayana Murthy being the Karta had no power to execute the Will in favour of Smt. B.N. Prabha Murthy cannot be countenanced in law.

34. Further, when Narayana Murthy had every power to execute the Will in favour of Smt. B.N. Prabha Murthy being the



second wife, filed the suit after she issued the reply to the legal notice issued by the defendants.

35. Thereafter, The learned Trial Judge has taken into consideration the oral and documentary evidence placed on record including the proof of Will by examining P.W.2 and P.W.3.

36. Pertinently, for the reasons best known defendants did not choose to lead any evidence before the Trial Court to substantiate their claim or to question the validity of the Will.

37. In the absence of any contra evidence placed on record, learned Trial Judge appreciated the material evidence placed on record on behalf of the plaintiff - Smt.Prabha Murthy including the oral testimony of PW2 and PW3 coupled with the documentary evidence placed on record, rightfully decreed the suit of the plaintiff.

38. Being aggrieved by the same, it is the defendants who filed the appeal.

39. No doubt in the appeal filed by the defendants, applications are filed seeking counter claim as well.



40. Learned judge in the First Appellate Court no doubt allowed the amendment to the written statement.

41. However, thereafter the application is filed for recasting of the issue in the absence of the rejoinder filed by the plaintiff.

42. All that the First Appellate Court was required to do is to dispose of those applications at the first instance and thereafter proceed with the judgment.

43. In this regard, opportunity was granted to the appellants to verify and submit whether such applications were disposed of before passing the judgment.

44. Sri P.M.Gopi, learned counsel for the appellants after verifying the records would submit that all the applications are no doubt disposed of, but on the very same day of passing the judgment and therefore it has resulted in miscarriage of justice.

45. There is little force in the said argument put forth on behalf of the appellants in this regard; but taking note of the factual aspects of the matter including the counter claim in the



form of an amendment that has been pleaded, all that the Court was required to consider was whether the Narayana Murthy possessed the absolute right to bequeath the entire property in favour of his second wife namely, Smt. B.N.Prabha Murthy.

46. In that regard, First Appellate Court while re-appreciating the material on record has recorded a categorical finding that Narayana Murthy was suffering from cancer disease and he was taking medical treatment.

47. It is also found from the First Appellate Court and has also recorded that the Will executed by Narayana Murthy is not surrounded by any suspicious circumstances. Therefore, the competency and power to execute the Will has been properly appreciated by the learned Trial judge and upheld the judgment of the Trial Court.

48. In para 37 and 38 of the judgment of the First Appellate Court, it has been held as under:

"37. The counsel for the appellants/defendants has placed reliance on a decision reported in (2001) 7 Supreme Court Cases 503 in a case between N.Kamalam



(Dead) and another vs. Ayyasamy and another and argued that, it is for the plaintiff to prove the execution of Will and the testator signing signature in the presence of attesting witness. It is submitted that, 'the execution of Will must be proven by evidence to have animo attestandi or animus or intent to attest – Only then would the signature of such witness stand up as a complete attestation of the Will'. By placing reliance on the above decision, it is also submitted that, it is for the plaintiff to show that, attesting witnesses have seen the testator signing or marking his Will. The evidence of PW.3 Panchalingamurthy would clearly establish the fact that, after preparing the Will, the scribe has read over the same to B.S.Narayana Murthy and there afterwards, B.S.Narayana Murthy has affixed his signature and subsequently, they have affixed their signature. Therefore, the evidence given by PW.3 is in tune with the ratio of the decision referred to above. Thus the ratio of the above decision is not applicable to the present case.

38. Similarly, the counsel for the appellants/defendants has placed reliance on a decision reported in CDJ 1998 SC 294 in a case between Gurdial Kaur and others vs. Kartar Kaur and others and argued that, since the defendants being the daughters have disinherited the property, no sanctity can be attached to Ex.P.8. From the evidence placed on record, it is crystal clear that, it is the plaintiff who has sacrificed her life for the health of B.S.Narayana Murthy, that too after the death of her own sister. The plaintiff has no issues from



B.S.Narayana Murthy. The legal notice at Ex.P4 would show that, the plaintiff has been residing in the house property, which is schedule property. The fact that, the plaintiff has taken care of B.S.Narayana Murthy till his last breath as he was suffering from cancer is not in dispute. The fact that, B.N.Prabha Murthy is the own sister of Seethalakshmi who is the 1st wife of B.S.Narayana Murthy is not in dispute. Under such circumstances, no fault can be attached in B.S.Narayana Murthy bequeathing the schedule property in favour of his 2nd wife who has taken care of him till his last breath. Then, this court is of the opinion that, the ratio of the above decision is not applicable to the present case."

49. Taking note of these aspects of the matter, this Court is of the considered opinion that the defendants failed to make out any independent rights with respect to the suit property so as to claim the partition of their 1/4th share in the suit property.

50. After the suit has been instituted, Smt. Prabha Murthy who was aged about 67 years has executed a sale agreement in favour of present respondent No.2 - Smt. K.Bharathi. Therefore, while allowing the application to bring the legal representative of deceased Prabha Murthy in this



appeal, Smt. K. Bharathi has been impleaded and she is now in possession of suit property.

51. Based on that agreement executed by plaintiff in favour of Bharathi, a suit was filed in O.S.No.101/ 2014. Said suit on contest came to be decreed on 28.04.2016.

52. Admittedly, appellants Nos.1 and 2 who are the legal representatives of deceased defendant No.1 – Meghamala and appellant Nos.3 and 4, who were defendant Nos.2 and 3 namely, Smt. Vanamala and Smt. Rekha including Prabha Murthy who was the original respondent in the second appeal were parties to the said suit. Said decree has become final as there is no challenge by the appellants or respondent Nos.3 and 4 in this appeal.

53. In fact to execute the said decree, an execution petition was also filed by the present respondent Smt. Bharathi and the same is not proceeded in view of the pendency of the present appeal.

54. When the right of Smt. B.N. Prabha Murthy possessed by her in respect of suit property which was



transferred to the present respondent – Smt. Bharathi was again subject matter of O.S.No.101/2014, the defendants were required to challenge the said decree as admittedly the said decree went against them.

55. Non challenging the said decree by the present appellants is a significant factor in appreciating the grounds of appeal as well.

56. Since the independent right was not made out by the appellants herein in respect of the suit property as Narayana Murthy had become absolute owner in the absence of any co-parceners when he got the property, the power to execute the Will by Narayana Murthy in favour of Smt. B.N. Prabha Murthy is just and proper.

57. In view of the foregoing discussions, this Court does not find merit in any one of the substantial questions of law raised at the time of admitting the appeal.

58. Accordingly, the substantial questions of law are answered against the appellants.



59. Consequently, the following:

ORDER

Appeal is meritless and hereby dismissed.

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

MR
List No.: 1 Sl No.: 134