



CNR: KAHC010407112017

NC: 2026:KHC:49698
RFA No. 944 of 2017

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 11TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE H.T. NARENDRA PRASAD

REGULAR FIRST APPEAL NO. 944 OF 2017 (DEC)

BETWEEN:

SRI B BALAGURIAH
AGED ABOUT 61 YEARS
W/O B GURUVAIAH
R/A NO.22/10(OLD NO.37)
NEAR L C R SCHOOL, FIRST D MAIN
THIRD PHASE, GOKULA FIRST STAGE
WARD NO.3, YESWANTHAPUR
BANGALORE-560022.

...APPELLANT

(BY SRI. M K VENKATRAMANA., ADVOCATE)

AND:

1. SMT NARASAMMA
AGED ABOUT 66 YEARS
W/O LATE B GURIAH
R/A NO.603, FIRST E CROSS
THIRD MAIN ROAD, MATHIKERE
BANGALORE-560054.
2. SRI B G NAGARAJU
AGED ABOUT 40 YEARS
S/O B GURIAH
R/A NO.603, FIRST E CROSS
THIRD MAIN ROAD, MATHIKERE
BANGALORE-560054.
3. SRI NAGIAH
AGED ABOUT 36 YEARS



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HAREKOPPA THIMMANNA GOWDA



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S/O B GURIAIAH

R/A NO.603, FIRST E CROSS
THIRD MAIN ROAD, MATHIKERE
BANGALORE-560054.

4. SRI NAGENDRA
AGED ABOUT 34 YEARS
S/O B GURIAIAH
R/A NO.603, FIRST E CROSS
THIRD MAIN ROAD, MATHIKERE
BANGALORE-560054.

...RESPONDENTS

(NOTICE TO R1 TO R4 ARE HELD SUFFICIENT
V/O DATED: 30.06.2023)

THIS RFA IS FILED UNDER SECTION 96 OF CPC 1908,
AGAINST THE JUDGMENT AND DECREE DATED: 03.04.2017
PASSED IN OS.NO.5222/2011 ON THE FILE OF THE XVIII
ADDL. CITY CIVIL JUDGE, AT BENGALURU CITY (CCH-10)
DISMISSING THE SUIT FOR DECLARATION AND PERMANENT
INJUNCTION.

THIS APPEAL, COMING ON FOR FINAL HEARING, THIS
DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:
CORAM: HON'BLE MR. JUSTICE H.T. NARENDRA PRASAD

ORAL JUDGMENT

1. Even though, the appeal was heard and admitted by
this Court on 16.10.2019, the respondents having been
served, remained unrepresented. Today, the matter is
posted for consideration of I.A.No.1/2026 filed for
amendment of the plaint in O.S.No.5222/2011.



2. This regular first appeal has been filed by the appellant-plaintiff under Section 96 of CPC, 1908, challenging the impugned judgment and decree dated 03.04.2017 passed by the XVIII Additional City Civil Judge, Bengaluru City (hereinafter referred to as 'Trial Court' for short) in O.S.No.5222/2011, whereby the suit filed by the plaintiff has been dismissed.

3. The appellant herein, who is the plaintiff, had initially filed the suit for bare injunction in O.S.No.5222/2011. Later, the plaint was amended seeking the relief of declaration and permanent injunction. The said suit filed by the plaintiff came to be dismissed vide judgment and decree dated 03.04.2017. Therefore, the plaintiff is before this Court.

4. The case of the plaintiff is that the suit schedule property is inherited by the plaintiff through his father as per the Partition Deed dated 28.05.2005 (Ex.P1). Even though the Trial Court has held that Ex.P1 has been



proved, only for the reason that the plaintiff has not produced any title documents to prove that his father was the absolute owner of the suit schedule property, has dismissed the suit.

5. None appears for the respondent.

6. After hearing the learned counsel for the appellant and on perusal of the materials available on record, the point that arises for consideration in this appeal is:

"Whether the judgment and decree passed by the Trial Court suffers from any perversity, illegality or arbitrariness and does it call for interference of this Court?"

7. The specific case of the plaintiff is that the suit schedule property is the joint family property at the hands of his father. Respondents-defendants are his family members. As per Ex.P-1, Partition Deed, the property has been divided amount the family members.



8. The Trial Court has given a finding that the plaintiff has proved the Partition Deed, Ex.P-1, and the respondents have failed to prove the oral partition among the parties subsequent to Ex.P-1. The Trial Court has dismissed the suit only on the ground that the plaintiff's title cannot be declared only on the basis of Ex.P-1, unless the plaintiff has produced the original title deeds pertaining to the suit schedule properties so as to establish the mode of acquisition of right over the suit property by his ancestors.

9. At this stage, the learned counsel for the appellant submits that the title over the suit schedule property at the hands of his ancestors can be proved by producing necessary documents, if this Court grants one more opportunity to the plaintiff.

10. In view of the above and in order to give one more opportunity, I am of the opinion that the matter requires to be remitted back to the Trial Court to reconsider the



matter afresh, in accordance with law after giving opportunity of hearing to both the parties. The point for consideration is answered accordingly.

11. In the result, the following order is passed:

ORDER

- a) The appeal is ***allowed***.
- b) The judgment and decree dated 03.04.2017 passed by the Trial Court in O.S.No.5222/2011, is aside.
- c) The matter is remitted back to the Trial Court to reconsider the matter afresh, in accordance with law, without being influenced by any observation made in the judgment and decree dated 03.04.2017.
- d) All the contentions of the parties are left open.
- e) The appellant-plaintiff is at liberty to file a fresh application before the Trial Court seeking for amendment of the plaint, if required. If such an



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application is filed, the Trial Court is directed to reconsider the same, in accordance with law.

f) Parties are at liberty to produce necessary documents and adduce evidence, if any, to establish their case.

g) Office is directed to return the Trial Court records, forthwith.

In view of the above, the I.A.No.1/2026 does not survive for consideration.

Digitally Signed by NARENDRA PRASAD
HAREKOPPA THIMMANNA GOWDA

(H.T. NARENDRA PRASAD)
JUDGE

HA
LIST NO.: 1 SL NO.: 54