HC-KAR

NC: 2026:KHC:16829
RSA No. 1700 of 2014

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE E.S.INDIRESH

REGULAR SECOND APPEAL NO. 1700 OF 2014 (PAR)

BETWEEN:

1. SRI. M.P. ASHRAYA
S/O M.B. PADMESH,
AGED 18 YEARS,
OCC: STUDENT,
R/O C/O BRAMHASURAIAH,
M/S JWALAMALA TRADERS,
NO.710, JAIN STREET,
MANDYA-571401.
AT PRESENTE R/O FLAT NO.81,
PSF ARCADE2,
GUDDADAAHALLI MAIN ROAD, HEBBAL,
BENGALURU -560 032.

SMT. M B MAMATHA,
D/O BRAMHASURAIAH
AGED 45 YEARS,
R/O C/O BRAMHASURAIAH,
M/S JWALAMALA TRADERS,
NO.710, JAIN STREET, MANDYA-571401
(WAS THE MINOR GUARDIAN OF PLAINTIFF NO.1
DURING THE TRAIL AS ALSO DURING THE
PROCEEDINGS BEFORE THE FIRST APPELLATE
COURT.)

Digitally signed
by CHAYA S A
Location: HIGH
COURT OF
KARNATAKA

...APPELLANT

(BY SRI. V.R. DATAR, ADVOCATE)

AND:

1. M.B. PADMESH
SINCE DECEASED REP. BY LRS.

1(a). SMT. ERADEVI
SINCE DECEASED
RESPONDENTS NO. 2 & 5. AND
APPELLANT ARE THE LRS OF
R1(a)

2. M.B. PRASHANTH
S/O M.A. BHARATHARAJU,
AGED ABOUT 79 YEARS,
R/O D NO.1212,
MAHILA SAMAJA ROAD,
ASHOK NAGAR,
MANDYA CITY-571401.

3. M.A. BHARATHARAJU
SINCE DECEASED REP. BY LRS.
RESPONDENTS NO. 2 & 5. AND
APPELLANT ARE THE LRS OF R3.

4. C.M. MAHADEVA
S/O MANCHEGOWDA @ CHIKKANNA,
AGED ABOUT 39 YEARS,
R/O CHAMALAPURA VILLAGE,
KERAGODU HOBLI,
MANDYA TALUK-571446.

5. SMT. M.B. SUREKHA
D/O M.A. BHARATHARAJU,
W/O LATE PRAVEEN,
AGED ABOUT 38 YEARS,

R/O NO.2127, CHANERASHREE NILAYA,
4TH MAIN, MCC, 'A' BLCOK,
DAVANAGERE-577004.

6. SMT. M.B.MAMATHA,
W/O LATE M.B.PADMESH
AGED ABOUT 45 YEARS,
R/O C/O BRAHMASURAIAH,
M/S JWALAMALA TRADERS,
NO.710,JAIN STREET,
MANDYA-571401.

…RESPONDENTS

(BY SRI. P.P. HEGDE, SENIOR COUNSEL FOR
SRI. AKSHAY KUMAR JAIN AND
SRI. MAYUR K., ADVOCATE FOR R2;
SRI. H B CHANDRASHEKAR, ADVOCATE FOR R4;
SMT. DHRITI VISHWANATH, ADVOCATE FOR
SMT. MANASA B. RAO, ADVOCATE FOR R5;
V/O DATED 22.10.2020 R1(a) & R3 ARE DELETED AND R2, R5 AND THE APPELLANT ARE THE LRS OF R1(a) & R3;
R6 IS SERVED AND UNREPRESENTED)

THIS REGULAR SECOND APPEAL IS FILED UNDER SECTION 100 OF CODE OF CIVIL PROCEDURE, AGAINST THE JUDGEMENT & DECREE DATED 19.8.2014 PASSED IN R.A.NO.126/2012 ON THE FILE OF I ADDITIONAL DISTRICT AND SESSIONS JUDGE, MANDYA, DISMISSING THE APPEAL AND CONFIRMING THE JUDGEMENT AND DECREE DATED 31.8.2012 PASSED IN O.S.NO.205/2003 ON THE FILE OF PRINCIPAL CIVIL JUDGE (SR.DN.) & CJM, MANDYA.

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

CORAM: HON'BLE MR. JUSTICE E.S.INDIRESH

ORAL JUDGMENT

This Regular Second Appeal is filed by the Plaintiff No.1 challenging the judgment and decree dated 19.08.2014 passed in R.A. No.126 of 2012 on the file of the First Additional District and Sessions Judge, Mandya, whereby the appeal was dismissed and the judgment and decree dated 31.08.2012 passed in O.S. No.205 of 2003 on the file of the Principal Civil Judge (Senior Division), Mandya, dismissing the suit of the plaintiffs, was confirmed.

2. For the sake of convenience, the parties in this appeal are referred to as per their ranking before the Trial Court.

3. The plaint averments state that Plaintiff No.1 is the son of Plaintiff No.2 and Defendant No.1. Defendant No.3 is the father of Defendant Nos.1, 2, and 5. It is the case of the plaintiffs that the original

propositus, K. Anantharajaiah (father of Defendant No.3), had two wives, namely Padmavathamma and Rajamathamma. Defendant No.3, the grandfather of Plaintiff No.1 and son of K. Anantharajaiah through Rajamathamma. It is further stated that there was a registered Partition Deed dated 02.03.1964 in respect of the joint family properties of K. Anantharajaiah. Defendant No.3 inherited certain properties under the said partition deed and acted as the Kartha of his branch of the family. Defendant No.3 had two sons and one daughter, namely Defendant Nos.1 and 2 and daughter-Surekha.

4. It is also stated that there was a partition in the family of Defendant No.3 on 14.05.2003, under which certain properties were allotted to the share of Defendant No.1. The plaintiffs contend that the Defendant No.1 sold certain properties without their consent, which were the joint family and ancestral

properties. Hence, the plaintiffs filed O.S. No.205 of 2003 before the Trial Court seeking partition and separate possession of the suit schedule properties.

5. After service of summons, the defendants entered appearance. Defendant No.2 filed a detailed written statement admitting the relationship but contended that the suit schedule properties are the self-acquired properties of Defendant No.3. It was further contended that Plaintiff No.2 was not residing with Defendant No.1, and that Defendant No.1 sold certain properties for legal necessity, including the education of Plaintiff No.1. Accordingly, dismissal of the suit was sought.

6. Defendant No.3 filed a separate written statement admitting the relationship but denying the allegations made against him. It was contended that the properties were sold for the education of Plaintiff No.1, and therefore, the suit is liable to be dismissed.

7. Based on the rival pleadings, the Trial Court framed the necessary issues for consideration.

8. In support of their case, the plaintiffs examined three witnesses as PW1 to PW3 and marked eight documents as Exs.P1 to P8. On the other hand, the defendants examined two witnesses as DW1 and DW2 and marked eight documents as Exs.D1 to D8.

9. The Trial Court, after considering the material on record, by judgment and decree dated 31.08.2012, dismissed the suit. Aggrieved by the same, the plaintiffs preferred an appeal in R.A. No.126 of 2012 before the First Appellate Court. The appeal was resisted by the defendants. The First Appellate Court, upon re-appreciation of the evidence, dismissed the appeal by its judgment and decree dated 19.08.2014 and confirmed the judgment of the Trial Court.

10. Being aggrieved by the concurrent findings of the Courts below, Plaintiff No.1 has preferred this Regular Second Appeal under Section 100 of the Code of Civil Procedure.

11. Heard Sri. V. R. Datar, learned counsel for the appellant; Sri. P. P. Hegde, learned Senior Counsel appearing on behalf of learned counsel Sri. Akshay Kumar Jain and Sri. Mayur K., for Respondent No.2 and Sri. H.B. Chandrashekar, learned counsel for the respondent No.4 and Smt. Dhriti Vishwanath, learned counsel appearing on behalf of learned counsel Smt. Manasa B. Rao, for the respondent No.5.

12. Sri. V. R. Datar, learned counsel for the appellant submits that Defendant No.1 sold certain properties during the minority of Plaintiff No.1 for clearing alleged debts, which were raised not for legal necessity of the joint family. It is contended that such alienation is not binding on the plaintiff. It is further

argued that Smt. Surekha, daughter of Defendant No.3, is not entitled to a share in the joint family property as she was married prior to the amendment to the Hindu Succession Act, and therefore, the allotment of share in her favour requires interference.

13. Per contra, Sri. P. P. Hegde, learned Senior Counsel for Respondent No.2 supports the findings of both Courts below and submits that the sale was for legal and family necessity, particularly, for the education of Plaintiff No.1. It is further contended that the plaintiff has not challenged the partition dated 14.05.2003 or the earlier partition deed dated 02.03.1964, and therefore cannot now question the same.

14. Upon hearing the learned counsel for both the parties and perused the material on record. It is not in dispute that the original propositus, K. Anantharajaiah, had two wives, Padmavathamma and Rajamathamma. Defendant No.3 is the son of K. Anantharajaiah through

Rajamathamma and is the grandfather of Plaintiff No.1. Defendant No.3 had three children, namely Defendant Nos.1 and 2 and Smt. Surekha.

15. The records disclose that there was a registered partition deed dated 02.03.1964 (Ex.D1), which has not been challenged and has attained finality. Further, there was a partition deed dated 14.05.2003 among Defendant No.3 and his children, which has also not been challenged by the plaintiffs.

16. The contention of the plaintiffs that Defendant No.1 sold joint properties without their consent. However, it is not in dispute that the sale was effected on 25.07.2003, when Plaintiff No.1 was a minor. Both Courts below have concurrently held that the sale was for legal necessity, particularly for the education of Plaintiff No.1. The plaintiffs have not produced any evidence to prove otherwise.

17. With regard to the contention that Smt. Surekha is not entitled to a share, it is observed that the plaintiffs, despite being aware of the partition dated 14.05.2003, have not challenged the same. Therefore, the said contention cannot be accepted at this stage.

18. It is also pertinent to mention here that, both Courts below, upon appreciation of the evidence, have concluded that Defendant No.1 sold the property in favour of Defendant No.4 for valid consideration of Rs.10,00,000/- under a registered sale deed dated 25.07.2003, and Defendant No.4 has become the lawful owner of the property, particularly Item No.3 of the suit schedule.

19. In that view of the matter, this Court does not find any material irregularity or perversity in the judgments and decree passed by the Courts below. The appellant has not made out any substantial question of law as required under Section 100 of the Code of Civil

Procedure. Accordingly, the Regular Second Appeal is ***dismissed*** at the admission stage.

In view of the disposal of the appeal, all pending applications stand dismissed.

SD/-
(E.S.INDIRESH)
JUDGE

SB
List No.: 1 Sl No.: 24