HC-KAR

NC: 2026:KHC:17010
RSA No. 2344 of 2017

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. 2344 OF 2017 (PAR)

BETWEEN:

SMT. VENKATAMMA
W/O SRI. RAMAPPA J.,
AGED ABOUT 70 YEARS,
R/AT #85, HOLY CROSS CHURCH ROAD,
KATHIHALLI, MARUTHI NAGAR, BEML NAGAR POST,
K.G.F. - 563 115.

...APPELLANT

(BY SRI. AMIT DESHPANDE, ADVOCATE FOR
SRI. V. SURESH, ADVOCATE)

AND:

1. SRI. MUNIRATHNAM NAIDU
AGED ABOUT 66 YEARS,
S/O LATE THIMMAAIH,
R/A MAGONDI VILLAGE, MAGONDI POST,
BUDIKOTE HOBLI,
BANGARPET TALUK - 563 114.

2. SMT. KANTHAMMA
AGED ABOUT 64 YEARS,
W/O SRI. CHINNAPPA,
R/A DHOOLAPALLI VILLAGE, TAYALUR POST,
MULBAGAL TALUK - 563 131.

3. SRI. VENKATESHAPPA
AGED ABOUT 62 YEARS,
S/O LATE THIMMAIAH,

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

4. SMT. SUSHEELAMMA
AGED ABOUT 59 YEARS,
W/O SRI. SRINIVAS NAIDU,
R/A NO.1/A1, 3RD CROSS,
29TH MAIN, BTM 2ND STAGE,
BENGALURU - 560 076.

5. SRI. SRINIVAS NAIDU
AGED ABOUT 56 YEARS,
S/O. LATE THIMMAIAH,

6. SRI. NAGARAJ
AGED ABOUT 54 YEARS,
S/O LATE THIMMAIAH,

7. SMT. MANGAMMA
AGED ABOUT 52 YEARS,
W/O SRI. PERUMAL,
R/A DEVELAPURAM VILLAGE,
MADHANOOR POST, VIA AMBUR,
TAMIL NADU - 635 802.

8. SMT. SHANTHAMMA
AGED ABOUT 50 YEARS,
W/O LATE THIMMAIAH,

9. SMT. KRISHNAVENI
AGED ABOUT 56 YEARS,
W/O SHRI NANDA,

10. SRI. NANDA
AGED ABOUT 61 YEARS,
S/O LATE RAMACHANDRAIAH SHETTY,
R-9 & 10 ARE R/AT BAZAR STREET,
NANDA TEXTILES, BANGARPET TALUK,
BANGARPET - 563 114.

11. SMT. VENKATALAKSHMAMMA
AGED ABOUT 83 YEARS,
W/O. LATE GANGAIAH NAIDU,

12. SMT. MANGAMMA
AGED ABOUT 63 YEARS,
W/O GOPALAPPA,
D/O LATE GANGAIAH NAIDU,
R/A GORLAGUNTA VILLAGE,
VEGAMADAGU POST, TAYALUR HOBLI,
MULBAGAL TALUK - 563 131.

13. SMT. UMA
AGED ABOUT 31 YEARS,
W/O. BABU,
D/O. OF LATE PONNIAH NAIDU

14. SMT. GUNA
AGED ABOUT 22 YEARS,
W/O. SEENA,
D/O. OFLATE PONNIAH NAIDU,

15. SRI. RAGHU
AGED ABOUT 20 YEARS,
S/O. LATE PONNAIAH NAIDU

16. SMT. MANIKAMMA
AGED ABOUT 51 YEARS,
W/O. RAGAVAPPA
D/O. LATE GANGAIAH NAIDU,

17. SMT. INDRANI
AGED ABOUT 46 YEARS,
W/O. RANGASWAMY,
D/O. LATE GANGAIAH NAIDU,

R-16 & 17 ARE R/AT KOTHAKOTA VILLAGE,
BANDAPALLI POST, V. KOTA MANDAL,
KUPPAM TALUK, CHITTOR DISTRICT,
ANDHRA PRADESH - 517 001.

18. SRI. PAPAIAH NAIDU
AGED ABOUT 41 YEARS,
S/O. LATE GANGAIAH NAIDU,

19. SRI. SUNDAR NAIDU
AGED ABOUT 39 YEARS,
S/O. LATE GANGAIAH NAIDU,

20. SMT. YASHODA
AGED ABOUT 36 YEARS,
W/O. PRABHAKAR NAIDU
D/O. LATE GANGIAH NAIDU
R/AT SANTHIPURAM VILLAGE & POST,
KUPPAM TALU, CHITTOR DISTRICT,
ANDHRA PRADESH - 517 423.

21. SMT. ADHILAKSHMI
AGED ABOUT 34 YEARS,
W/O. GANSHEKAR,
D/O. LATE GANGAIAH NAIDU

22. SRI. B.K. PALANISWAMY
AGED ABOUT 57 YEARS,
S/O. LATE B.A. KANNAN
R/AT S.A. MOHAN NAGAR,
KARAHALLI ROAD, BANGARPET TOWN,
KASABA HOBLI,
BANGARPET TALUK - 563 114.

23. SMT. B.V. VIMALA
AGED ABOUT 36 YEARS,
W/O. LATE B.V. MANJUNATH,

24. KUM. B.M. DIVYA PRIAYA
AGED ABOUT 19 YEARS,
D/O. LATE B.V. MANJUNATH,

25. KUM. .B.M. SUPRIAYA,
AGED ABOUT 15 YEARS,
D/O. LATE B.V. MANJUNATH.

26. KUM. B.M. LAKSHIMI PRIYA
AGED ABOUT 9 YEARS,
D/O. LATE B.V. MANJUNATH,

27. MASTER B.M. NITHEN
AGED ABOUT 7 YEARS,
S/O. LATE B.V. MANJUNATH,

R25 TO R-27 ARE REPRESENTED BY THEIR MOTHER AND NATURAL GUARDIAN SMT. B.V. VIMALA,

R-23 TO R-27 ARE R/AT:
#1072/A, DANDU ROAD,
BANGARPET TALUK AND THEY HAVE COMPROMISED THE MATTER BEFORE LOWER COURT AND HENCE THEY ARE FORMAL PARTIES AND NO NOTICE/SUMMONS IS ISSUED TO THEM.

28. SRI. CHANDRAPPA
AGED ABOUT 40 YEARS,
S/O VENAKTESHAPPA,

29. SRI. VENKATARAMAPPA
AGED ABOUT 38 YEARS,
S/O VENAKTESHAPPA,

30. SRI. ANAND
AGED ABOUT 36 YEARS,
S/O. VENKATESHAPPA,

31. SRI. KRISHNAPPA
AGED ABOUT 34 YEARS,
S/O. VENKATESHAPPA,

32. SRI. SRINIVAS
AGED ABOUT 31 YEARS,
S/O. VENKATESHAPPA,

R-3, 28 TO 32 ARE R/AT
GADDAMCHINEPALLI VILLAGE,
VEGAMADUGU POST, TAYALUR HOBLI,
MULBAGAL TALUK - 563 136.

33. SRI. M. SRINIVAS,
AGED ABOUT 44 YEARS,
S/O. MUNIRATHAM NAIDU,

34. SRI. M. VENKATESHAPPA
AGED ABOUT 39 YEARS,
S/O. MUNIRATHANM NAIDU,

RESPONDENT NOS.1, 5, 6, 8, 11, 13 TO 15, 18, 19, 21, 33 & 34 ARE R/AT MAGONDI VILLAGE, MAGONDI POST, BUDIKOTE HOBLI, BANGARPET TALUK - 563 114.

…RESPONDENTS

(BY SMT. S. AISHWARYA, ADVOCATE FOR
SRI. RAJESWARA P.N. ADVOCATE FOR CAVEATOR/R3 AND FOR R4, R18 AND R19)

THIS RSA IS FILED U/S. 100 OF CPC, 1908 PRAYING TO SET-ASIDE THE JUDGEMENT AND DECREE DATED 23.08.2017 PASSED IN R.A.NO.85/2016 BY THE III ADDITIONAL DISTRICT AND SESSIONS JUDGE, KOLAR, (SITTING AT K.G.F.) IN CONSEQUENCE THEREOF, BY DECREEING THE SUIT IN O.S.NO.20/2009, ON THE FIEL FOTHE ADDITIONAL SENIOR CIVIL JUDGE, KGF., AS PRAYED FOR, BY ALLOWING THE REGULAR SECOND APPEAL.

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 appeal is preferred by the plaintiff assailing the judgment and decree dated 23.08.2017 in R.A.No.85/2016 on the file of the III Additional District and Sessions Judge, Kolar (sitting at K.G.F.), (hereinafter termed as 'First Appellate Court'), dismissing the appeal and confirming the judgment and decree dated 16.04.2016 in O.S.No.20/2009 on the file of the Additional Senior Civil Judge and JMFC., K.G.F. (hereinafter termed as 'Trial Court'), dismissing the suit of the plaintiff.

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

3. The relevant facts for adjudication of this appeal are that, the plaintiff has filed a suit seeking relief of partition and separate possession in respect of item No.1 of the suit schedule property, so also, sought for declaration that the registered Sale Deeds are not binding

on the plaintiff *inter alia* sought for permanent injunction in respect of item No.2 of the suit schedule property.

4. The facts in brief are that, one Pillappa was the original propositus who had two sons Muniswamy and Thimmaiah. Muniswamy married one Achamma and they have two children, namely Lakshmakka and Venkatamma (plaintiff). The said Lakshmakka died issueless. It is further stated that the second son of Pillappa i.e., Thimmaiah married Lakshmamma and have no children. Thereafter, the said Thimmaiah married one Rajamma and defendant Nos.1 to 8 are the children of Thimmaiah and Rajamma.

5. It is stated in the plaint that, the father of the plaintiff - Muniswamy and her uncle Thimmaiah have purchased item No.1 of the suit schedule property as per the registered Sale Deed dated 14.08.1943. It is further stated that the property was purchased in the joint names of the father of plaintiff - Muniswamy and her uncle Thimmaiah. However, a Sale Deed has been executed on

10.01.1953 by the mother of the plaintiff - Achamma and her uncle Thimmaiah in respect of item No.1 of the suit schedule property, alienating the properties in question. It is also stated in the plaint that, various Sale Deeds have been made subsequently and therefore, the plaintiff has filed a suit in O.S.No.20/2009 seeking declaration and partition in respect of item No.1 of the suit schedule property as well as seeking permanent injunction as to item No.2 of the suit schedule property.

6. After service of notice, the defendants entered appearance, and defendant No.4 filed the written statement the same has been adopted by defendant Nos.7 and 8 denying the averments made in the plaint. It is the specific case of these defendants that item No.1 of suit schedule property was purchased by the father of the plaintiff - Muniswamy along with his brother Thimmaiah as per registered Sale Deed dated 14.08.1943 and thereafter the mother of the plaintiff and the uncle of the plaintiff have jointly sold the item No.1 of the suit schedule

property in favour of Basappa as per the registered Sale Deed dated 10.01.1953. It is also stated in the written statement that, thereafter, some of the Sale Deeds have been made by Basappa in favour of various defendants and their legal heirs. Hence, the defendants have sought for dismissal of the suit.

7. It is also stated that, defendant No.4 has filed O.S.No.400/2004 before the Civil Judge and JMFC, Bangarpet and the said suit came to be decreed in favour of defendant No.4 admitting the possession in respect of the schedule property and same has reached finality and accordingly the aforementioned respective defendants sought for dismissal of the suit.

8. Based on the pleadings on record, the Trial Court has formulated the issues and additional issues for its consideration.

9. In order to establish their case, plaintiff has examined two (2) witnesses as P.W.1 and P.W.2 and got

marked thirty six (36) documents as Ex.P1 to Ex.P36. The defendants have examined four (4) witnesses as D.W.1 to D.W.4 and produced sixty (60) documents and same were marked as Ex.D1 to D60.

10. The Trial Court after considering the material on record by its judgment and decree dated 16.04.2016 dismissed the suit. Feeling aggrieved by the same, the plaintiff has preferred R.A.No.85/2016 on the file of the First Appellate Court and same was resisted by the defendants. The First Appellate Court after re-appreciating the material on record by its judgment and decree dated 23.08.2017 dismissed the appeal, consequently confirming the judgment and decree in O.S.No.20/2009. Feeling aggrieved by the same, the plaintiff has preferred this appeal.

11. Heard Sri. Amit Deshpande, learned counsel appearing on behalf of Sri. V. Suresh, learned counsel appearing for appellant and Smt. S. Aishwarya, learned counsel appearing on behalf of Sri. Rajeshwara P.N.,

learned counsel appearing for Caveator/respondent No.3, respondent No.4, 18 and 19.

12. It is argued by the learned counsel appearing for the appellant that, the plaintiff is in possession of the schedule property and both the Courts below have not properly appreciated the material on record as to the fact that the father of the plaintiff along with his brother - Thimmaiah had purchased the property as per registered Sale Deed dated 14.08.1943 and the subsequent Sale Deed dated 10.01.1953 executed by the mother of the plaintiff - Achamma and Thimmaiah in favour of Basappa is a concocted document and therefore sought for interference of this Court.

13. It is also argued by the learned counsel appearing for the appellant that the appellant had filed additional documents under Order LXI Rule 27 of CPC before the First Appellate Court by way of I.A.No.II and same has not been considered by the First Appellate Court. Accordingly, sought for interference of this Court.

14. It is also argued by the learned counsel appearing for the appellant that the registered Sale Deed dated 10.01.1953 executed by the mother of the plaintiff Achamma along with her uncle Thimmaiah in favour of Basappa was during the minority of the plaintiff and therefore, the sale made in favour of the said Basappa requires to be set aside.

15. In the light of the submissions made by the learned counsel appearing for the parties and on careful examination of the finding recorded by both the Courts below, it would indicate that, the father of the plaintiff - Muniswamy and his brother Thimmaiah have purchased the schedule property as per the registered Sale Deed dated 14.08.1943. It is also forthcoming from the finding recorded by the Courts below that the mother of the plaintiff - Achamma and her uncle Thimmaiah had sold the property in question in favour of Basappa as per the registered Sale Deed dated 10.01.1953.

16. It is the case of the plaintiff that, she is entitled for share in the item No.1 of the suit schedule property and the sale made in favour of Basappa is void as the said Sale Deed was made during the minority of the plaintiff.

17. Having taken note of the finding recorded by the Trial Court as well as the material on record, it would indicate that the property in question was sold on 10.01.1953 by the mother and uncle of the plaintiff - Achamma and Thimmaiah in favour of the said Basappa and thereafter, several Sale Deeds have been made and executed in respect of the very same property however, the same were not the subject matter in the suit. It is also to be noted that, the suit is filed in the year 2009 challenging the Sale Deed made on 10.01.1953 which has reached finality. It is also to be noted that after the execution of the first Sale Deed between the mother and uncle of the plaintiff - Achamma and Thimmaiah in favour

of Basappa, subsequently there have been six (6) Sale Deeds made in respect of the very same property.

18. Perusal of the plaint would indicate that the plaintiff has not sought for cancellation of those Sale Deeds but however, sought for partition in respect of the suit schedule property concerned.

19. In that view of the matter, taking into consideration the fact that the first Sale Deed made by the mother of the plaintiff - Achamma with the uncle of the plaintiff - Thimmaiah is during the year 1953, I am of the opinion that, the finding recorded by the Trial Court particularly with respect to issue No.2 has been properly answered by the Trial Court.

20. In that view of the matter, as both the Courts below have concurrently held that the Sale Deed which has been the core of the issues sought under which the plaintiff is claiming right over the property is the Sale Deed dated 14.08.1943 by which the father of the plaintiff

- Muniswamy and her uncle Thimmaiah had purchased the property, and thereafter the property in question was sold during the year 1953, the finding recorded by the Trial court on issue No.2 requires to be confirmed.

21. Taking into consideration that both the Courts below have re-appreciated the material on record with right perspective, I am of the opinion that no interference is called for in this appeal. Insofar as the Application filed before the First Appellate Court for production of Additional evidence is concerned, the First Appellate Court has considered the same and rightly dismissed the same as the plaintiff has not made out a sufficient cause to accept the same.

22. Accordingly, the Regular Second Appeal is ***dismissed*** as the plaintiff/appellant has not made out case for formation of substantial question of law as required under Section 100 of Code of Civil Procedure.

23. In view of the dismissal of the Regular Second Appeal, I.A.No.1/2026 does not survive for consideration and accordingly disposed of.

SD/-
(E.S.INDIRESH)
JUDGE

KLV
List No.: 1 Sl No.: 29