



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

REGULAR SECOND APPEAL NO. 1021 OF 2021 (PAR)

BETWEEN:

GURUVAIAH BY LR'S

1. SMT. NINGARAJAMMA
W/O LATE GURUVAIAH
AGED ABOUT 58 YEARS,
NAGVANAHALLI POST,
BELAVADI VILLAGE, KASABA HOBLI
SRIRANGAPATNA TALUK - 571 477.
2. SMT. SHIVAMMA
W/O MURTHY
AGED ABOUT 33 YEARS
NAGVANAHALLI POST,
BELAVADI VILLAGE, KASABA HOBLI
SRIRANGAPATNA TALUK - 571 477.
3. SMT. SHASHIKALA
D/O LATE GURUVAIAH
AGED ABOUT 30 YEARS
NAGVANAHALLI POST,
BELAVADI VILLAGE, KASABA HOBLI
SRIRANGAPATNA TALUK - 571 477.
4. CHANDRASHEKARA
S/O LATE GURUVAIAH
AGED ABOUT 28 YEARS
NAGVANAHALLI POST,
BELAVADI VILLAGE, KASABA HOBLI
SRIRANGAPATNA TALUK - 571 477.

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5. MALLESHA
S/O LATE MALLIKARJUNA ALIAS MALALIAH
AGED ABOUT 34 YEARS
NAGVANAHALI POST,
BELAVADI VILLAGE, KASABA HOBLI
SRIRANGAPATNA TALUK - 571 477.
6. RAJU
S/O LATE MALLAIAH
AGED ABOUT 53 YEARS
BELAVADI VILLAGE, KASABA HOBLI
SRIRANGAPATNA TALUK - 571 477.
7. SMT. GOWRAMMA
D/O LATE MALLAIAH
AGED ABOUT 64 YEARS
BELAVADI VILLAGE, KASABA HOBLI
SRIRANGAPATNA TALUK - 571 477
MANDYA DIST.
8. SMT. USHA
W/O MALLILARJUNA
AGED ABOUT 37 YEARS
BELAVADI VILLAGE, KASABA HOBLI
SRIRANGAPATNA TALUK - 571 477
MANDYA DIST.

...APPELLANTS

(BY SRI. M.J. ALVA, ADVOCATE)

AND:

1. SMT. CHAMARAJAMMA
W/O LATE PAPAIAH
AGED ABOUT 54 YEARS
BELAVADI VILLAGE, KASABA HOBLI
SRIRANGA PATNA TALUK - 571 477
MANDYA DIST.
2. RAJU
S/O LATE PAPAIAH
AGED ABOUT 72 YEARS



BELAVADI VILLAGE, KASABA HOBLI
SRIRANGAPATNA TALUK - 571 477
MANDYA DIST.

3. MALLAIAH
S/O LATE CHIKKANANJIAH
AGED ABOUT 67 YEARS
BELAVADI VILLAGE, KASABA HOBLI
SRIRANGAPATNA TALUK - 571 477
MANDYA DIST.
4. CHIKKAMALLAIAH
S/O LATE CHIKKANANJIAH
AGED ABOUT 67 YEARS
BELAVADI VILLAGE, KASABA HOBLI
SRIRANGAPATNA TALUK - 571 477
MANDYA DIST.
5. MAHADEVA
S/O LATE CHIKKANANJIAH
AGED ABOUT 64 YEARS
BELAVADI VILLAGE, KASABA HOBLI
SRIRANGAPATNA TALUK - 571 477
MANDYA DIST.
6. SHIVANNA
S/O LATE CHIKKANANJIAH
AGED ABOUT 61 YEARS
NO.115, DODDA GARADI ROAD
KYATHAMARANAHALLI
MYSORE TALUK - 570 019
MYSORE DISTRICT.
7. SMT. MAHADEVAMMA
W/O NANJIAH
AGED ABOUT 64 YEARS
LALITHADRIPURA VILLAGE
VARUNA HOBLI
MYSORE TALUK - 570 028
MYSORE DISTRICT.



8. SMT. JAVARAMMA
W/O DEVARAJU
AGED ABOUT 59 YEARS
BELAGUNDA VILLAGE
NAGARLE POST
NANJANGUD TALUK - 571 129
MYSORE DISTRICT.
9. MAHESHA
S/O LATE MAHADEVAIAH @ PATELAIAH
AGED ABOUT 55 YEARS
BELAVADI VILLAGE
KASABA HOBLI
SRIRANGAPATNA TALUK - 571 477
MANDYA DIST.
10. SMT. PUTTAMMA
W/O RAJU
AGED ABOUT 50 YEARS
VARAKODU VILLAGE
VARUNA HOBLI
MYSORE TALUK - 570 010
MYSORE DISTRICT.

...RESPONDENTS

(BY SRI. N. BYREGOWDA, ADVOCATE FOR R1, R2, R4 TO R6
(ABSENT);
R7, R8, R9, R10 - SERVED;
VIDE ORDER DATED 15.06.2026, APPEAL AGAINST R3 STAND
DISMISSED AS ABATED)

THIS RSA IS FILED UNDER SEC.100 OF CPC., AGAINST
THE JUDGMENT AND DECREE DATED 23.04.2021 PASSED IN
RA.NO. 5061/2014 ON THE FILE OF THE III ADDITIONAL
DISTRICT AND SESSIONS JUDGE, MANDYA (SITTING AT
SRIRANGAPATNA), ALLOWING THE APPEAL AND SETTING
ASIDE THE JUDGMENT AND DECREE DATED 30.10.2014
PASSED IN OS.NO. 280/2007 ON THE FILE OF THE
ADDITIONAL SENIOR CIVIL JUDGE SRIRANGAPATNA.



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

CORAM: HON'BLE MR. JUSTICE V SRISHANANDA

ORAL JUDGMENT

1. Heard learned counsel for the appellants. None appears for the respondents.

2. Plaintiffs' second appeal challenging the dismissal of the suit by reversing the finding recorded by the learned Trial Judge in O.S.No.280/2007 dated 30.10.2014 and decreeing the suit.

3. Facts of the case are as under:

3.1. A suit for partition and separate possession was filed by the legal representatives of Guruvaiah, Mallesha, Raju, Gowramma and Usha claiming to be members of the joint family through the son born to the second wife – Manchamma.

3.2. Suit was contested by the defendants and on contest, suit came to be decreed by considered judgment dated 30.10.2014.



4. Being aggrieved by the same, defendant Nos.1, 3 to 6 filed an appeal before the First Appellate Court in RA No.5061/2014.

5. Learned Judge in the First Appellate Court after securing the records, heard the arguments of the parties in detail and on reappreciation of the material evidence on record, allowed the appeal filed by the defendants and dismissed the suit inter alia holding in paragraph Nos.30 to 32 as under:

"30. I have carefully perused the plaint and there is no averments in the plaint as to how the joint family acquired the title over the suit schedule properties. There is no pleading in the plaint that the grant of Item No.1 of the suit schedule properties to Manchamma was for the benefit of the undivided joint family. In the case on hand neither the plaintiffs nor the defendants have produced the title deed pertaining to the Item No.1 of the suit schedule properties and the parties have asserted their title in this case only by placing reliance upon the entries made in the revenue record. The Hon'ble Supreme Court in case of Bhemabai Mahadeo Kamgekar(D) Th. LR V/s Arthur Import and Export Company & Ors., held that:

"Mutation entry in the revenue records does not create or extinguish the title over land nor such entry has any presumptive value on the title of such land".



31. *The plaintiffs nowhere in the plaint pleaded that the Item No.1 of the suit schedule property was granted to original propositor Malla S/o Daggalli. No grant order or saguvali chit issued in favour of the Malla S/o Daggalli has been produced by the plaintiffs to show that Malla S/o Daggalli was the absolute owner of the Item No.1 of suit schedule property. The Ex.P12 index of land, Ex.P13 and Ex.P14 records of rights shows that the Item No.1 of the suit schedule property was a Government land. Ex.P13 reveals that khata of Item No.1 of suit schedule land then in occupation of Malla S/o Daggalli changed as Beelu as per the order GP 64/ 7.1.1938. The revenue documents i.e. Ex.P12 to Ex.P14 only shows that the Malla S/o Daggalli was in possession of Item No.1 of the suit schedule property prior to 07.01.1938. Plaintiffs names does not figure in any of R.T.C. pertaining to Item No.1 of suit schedule property.*

32. *It is pertinent to note that the PW1 to PW3 in their cross-examination denied the grant of Item No.1 of the suit schedule properties to Late Manchamma, mother of defendants No.3 to 6. There is no pleading in the plaint that Manchamma daughter-in-law of original propositor Malla S/o Daggalli on behalf of undivided joint family filed an application for grant of land on Darakast to the Tahasildar, Srirangapatna. Further, there is no pleading that the property to Manchamma devies to the benefit of all the members of joint family. How the joint family acquired the Item No.1 of suit schedule properties has not been pleaded in the plaint. The Hon'ble Supreme Court in the case of National Textile Corporation Ltd., V/s*



Naresh Kumar Badrikumar Jagad and others reported in AIR 2012 SC 264 it was held that:

"Pleadings and particulars are necessary to enable the court to decide the rights of the parties in the trial. Therefore, the pleadings are more of help to the court in narrowing the controversy involved and to inform the parties concerned to the question in issue, so that the parties may adduce appropriate evidence on the said issue. It is a settled legal proposition that "as a rule relief not founded on the pleadings should not be granted". A decision of a case cannot be based on grounds outside the pleadings of the parties. The pleadings and issues are to ascertain the real dispute between the parties to narrow the area of conflict and to see just where the two sides differ."

In the case on hand there is no pleading in the plaint that the property was granted to Late Manchamma on behalf of the joint family. None the less the trial Court by holding that the grant of the property in favour of the Manchamma and ensures for the benefit of undivided joint family decreed the suit in respect of Item No.1 of the suit schedule properties. Even though the relief granted by the trial Court not founded on the pleading. Since, the defendants have contended that the suit schedule properties were exclusively granted to Late Manchamma and it was her self-acquired property, the initial burden is on the plaintiffs to prove that Item No.1 of the suit schedule properties are ancestral joint family



properties of themselves and the defendants. Under Hindu Law a female member is not permitted to manage the joint Hindu family affairs, as such the deceased Manchamma could not have made an application for the grant of Item No.1 of suit schedule properties on behalf of the joint Hindu family. In Ex.D4 RTC Manchamma W/o Chikkananjaiah was shown to be in possession of Item No.1 of suit schedule property from Ex.D5 shows that on death of Manchamma the khata of said property mutated in the name of her sons i.e., defendants NO.3 to 6 and one Papaiah. The Ex.D2 and D3 are the RTC extracts of Item No.1 of suit schedule property pertaining to the year 2008-2009 which stands in the name of Defendants No.3 to 6 and their brother Papaiah. Thus, the aforesiad RTCs clearly shows that from 1968 till her death Manchamma was in possession of Item No.1 of suit schedule property and after her death defendants No.3 to 6 and their brother Papaiah are in possession of Item No.1 of suit schedule properties. Since, the title of the joint family of plaintiffs over the Item No.1 of the suit schedule properties itself has not been established the finding of the trial Court that the Item No.1 of suit schedule property was ancestral and joint family properties available for partition is erroneous. With regard to Item No.2 and 3 of the suit schedule properties the assessment register extract produced by the defendants No.1 to 6 goes to show that the khata of Item No.2 and 3 of the suit schedule properties stands in the name of defendant No.4 and 5 and they are in possession of the said house properties. Ex.D7 is the assessment register extract with



respect to Item No.3 of suit schedule properties wherein the 5th defendant Mahadeva is shown to be owner and in possession of said house. The Ex.D9 is the assessment register extract with respect to the property bearing No. 159 standing in the namd of 4th defendant Chikkamallaiah. In view of the above reasoning, I am of the view that the plaintiffs have utterly failed to prove that the suit schedule properties are the ancestral joint family properties of plaintiffs and defendants available for partition. Hence, the trial Court though justified in dismissing the suit in respect of Item No.2 and 3 of suit schedule property it has erred in decreeing the suit of the plaintiffs in respect of Item No.1 of the suit schedule properties. As such I have answered the point No.1 in Negative and point No.2 in Affirmative."

6. Being further aggrieved by the same, plaintiffs are before this Court, in this appeal on following grounds:

- *The impugned judgement and decree dated 23.4.2021 passed by the first appellate court in RA No. 5061/2014 upsetting the well considered judgement and decree dated 30.10.2014 passed by the trial court in OS No. 280/2007 is illegal, improper, perverse and the same is an error apparent on the face of the records. Hence the impugned judgement passed by the first appellate court is liable to be set aside and consequently the judgement and decree passed by the trial court is required to be confirmed.*



- *The defendants themselves were uncertain about the sufficiency of evidence adduced by them before the trial court and therefore they had filed IA Nos. 4 & 5 under Order XLI Rule 27 of CPC praying the first appellate court to permit them to lead further evidence. The first appellate court has rightly dismissed both the applications by giving cogent reasons while considering point No. 3 more particularly in para 34 of the judgement of the first appellate court. The defendants themselves were fully convinced that the evidence produced by them before the trial court is insufficient. Therefore having rejected the said applications the first appellate court had no other option than to dismiss the appeal itself filed by the defendants. In view of the same the approach of the first appellate court is totally erroneous.*
- *The trial court in para 51 of its judgement had relied upon Ex. P12 to P14 for its conclusion that the property belonged to Malla and his daughter-in-law Smt. Manchamma had filed the application for grant of occupancy right in her capacity as the member of undivided family since no partition had been effected between the members of the joint family. The trial court had rightly come to the conclusion that the occupancy right granted in favour of Manchamma enure to the benefit of the joint family. Therefore there was absolutely no reason for the first appellate court to disturb the well reasoned judgement of the trial court. By upsetting the judgement the first*



appellate court has committed an error of law and error of jurisdiction which has resulted in gross failure of justice.

- *At undisputed point of time item No. 1 property stood in the name of the propositor Malla S/o Daggalli and subsequently the same was transferred into the name of Manchamma on the basis of the application filed by her for grant of occupancy right. Therefore in any stretch of imagination it cannot be said that the property is the absolute self acquired property of Manchamma. The pivotal point in deciding the above suit is the original title which had been vested with Malla. The claim of the defendants cannot be considered in the backdrop of the admitted facts.*
- *The first appellate court had gone with the hyper technical approach in deciding the appeal. On the basis of the existence of the revenue records in the name of Manchamma for the subsequent period, the first appellate court had reversed the judgement of the trial court. But the previous title and the possession of the property is the crux of the matter which had been lost the sight of the first appellate court. Therefore, the approach of the first appellate court is opposed to the rule and the law.*
- *The trial court had relied upon the judgement of this Hon'ble Court passed in Ismail Vs Abdul Rahiman reported in 2012 (4) KCCR 2896 (DB) and concluded*



in para 50 thereof to the effect that the grant of occupancy right in respect of the joint family property in favour of any one member enures for the benefit of the family. But the first appellate court had sidelined the same by referring to the technicalities of the pleadings that the same has not been pleaded properly. It is the specific case of the plaintiffs that the suit schedule property is the joint family property which belonged to Malla S/o Daggalli. Having taken such plea to the effect that it is the joint family property, it was improper upon the first appellate court to harp upon the plaintiff by raising the question of technicality of pleadings. The ends of justice demands that substantial justice has to be done. This basic cannons of law had been lost the sight of the first appellate court while reversing the judgement

- *The first appellate court had failed to consider the basic principles of law to the effect that in a suit for partition all the parties are the plaintiffs and the rights of all the parties will be individually and independently decided. Ex. P12 to P14 discloses that the suit schedule item No. 1 property originally belonged to Malla S/o Duggalli right from the year 7.1.1938. Therefore the subsequent transfer of mutation entries in the name of Smt. Manchamma will not change the nature of property and the relationship between the parties. The mutation extract cannot be equated with the title deeds and the first appellate court has erred in law in concluding that the suit schedule item No. 1*



property had been granted to Smt. Manchamma. With such erroneous conclusions the first appellate court had reversed the well reasoned judgement of the trial court. Therefore the whole approach of the first appellate court is erroneous which has resulted in gross failure of justice.

- *The first appellate court has failed to notice that the relationship between the parties is the undisputed fact and the genealogical tree produced at Ex. P7 is admitted by the parties. Therefore the property which had flown from Malla S/o Duggalli is liable to be partitioned among the two branches and by virtue of the same the plaintiffs belongs to one branch the defendants belong to another branch and accordingly both the parties are entitled for equal share.*
- *The trial court had properly appreciated all the material evidences available on record from its proper perspective. But the first appellate court had unnecessarily harped upon the grant of the same land in the name of Smt. Manchamma and as a matter of fact there is no such grant made in her favour and there is absolutely no material evidence available on record for such conclusion to hold that it is the granted land. On the contrary the mutation extract itself discloses that it was the ancestral property and the khatha was transferred into her name on her individual letter without any other positive evidence as disclosed from the mutation extract at Ex. P8. The first*



appellate court has overlooked the material evidences available on record and arrived at erroneous conclusions which has resulted in failure of justice."

7. Learned counsel for the appellants reiterating the grounds urged in the appeal memorandum would contend that item No.1 of the suit properties at an undisputed point of time was shown as Government property. In the revenue records, it was shown as 'Beelu' (ಬೀಳು) meaning thereby barren land.

8. He would further point out that in respect of the said property, name of the common prepositus namely Malla son of Daggalli was shown in the revenue records. Therefore, it is to be presumed that grant made by the Government is for and behalf of the joint family as Malla died intestate. It is the joint family which was entitled to the grant and it was granted in the name of Manchamma being the wife of Malla. Therefore, it should enure to the benefit of the joint family.

9. He would further contend that there is no dispute that the plaintiffs are claiming right, title or interest in respect of the suit properties being the grandchildren of Malla through



the son Mallaiah who was born to Kivuda Manchamma who is the second wife of Malla.

10. He would also contend that since the property was possessed by Malla, at an undisputed point of time, only on the ground that it is granted in the name of Manchamma, it should not be construed that it did not enure to the benefit of the entire joint family and reasoning recorded by the First Appellate Court is just perverse and sought for admitting the appeal on following substantial questions of law:

"i) Whether the first appellate court is justified in reversing the well reasoned judgement and decree passed by the trial court?

ii) Whether the first appellate court is justified in reversing the judgement of the trial court despite having rejected IA Nos. 4 & 5 filed by the respondents under Order XLI Rule 27 of CPC?

iii) Whether the reversal of the judgement is proper when the respondents themselves are uncertain about their case?

iv) Whether the first appellate court has acted illegally with material irregularity in reversing the judgement?



v) Whether the first appellate court is justified in holding that the land had been granted to the mother of the defendants during her lifetime in the absence of any material evidence available on record?

vi) Whether the first appellate court had misread the documentary evidences produced before it when mutation extract at Ex. P8 itself recites that the same is ancestral property?

vii) Whether the first appellate court is justified in reversing the judgement ignoring the revenue records in the name of Malla S/o Duggalli from 17.1.1938?"

11. Learned counsel for the respondents is absent today.

12. In the light of the arguments put forth on behalf of the appellants, this Court perused the material on record meticulously.

13. On such perusal of the material on record, as per the genealogy placed on record by learned counsel for the appellants, Malla did not have a wife by name Manchamma. In fact, he had two wives namely Gumballi Madamma and Kivuda Manchamma.



14. The plaintiffs are claiming right through the son born to Malla through second wife Kivuda Manchamma by name Mallaiah. Mallaiah also died and the plaintiffs are the grandchildren of Kivuda Manchamma.

15. Plaintiffs have failed to show that the suit properties are the joint family properties having been granted to Malla.

16. On the contrary, material evidence placed on record has been discussed in detail by the First Appellate Court while reappreciating the material evidence by exercising the power under Section 96 of Code of Civil Procedure that the item No.1 of the suit property was granted to Manchamma who is the wife of Chikkananjaiah. Therefore, it cannot be treated as joint family property and rightly dismissed the suit of the plaintiffs.

17. This Court on reconsideration of the material evidence on record, in the light of the appeal grounds as well as the substantial questions of law raised in the appeal memorandum, noticed that since the property was granted exclusively in favour of Manchamma, the grandchildren of second wife cannot lay any claim that it is a joint family property and thus dismissal of the suit is just and proper.



18. As such, appeal grounds and substantial questions of law *sans merit*.

19. Accordingly, the following:

ORDER

- i. Admission is declined.
- ii. Appeal is ***dismissed***.

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

KAV
List No.: 1 Sl No.: 73