



CNR: KAHC010470102025

NC: 2026:KHC:46672
RSA No. 1120 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

REGULAR SECOND APPEAL NO.1120 OF 2025 (PAR)

BETWEEN:

SMT. SAROJAMMA
W/O LATE N.MAHADEVAPPA,
AGED ABOUT 55 YEARS,
R/AT NADAPPANAHALLI VILLAGE,
CHUNCHANAKATTE HOBLI,
K.R. NAGAR TALUK,
MYSURU DIST. PIN-571 602

...APPELLANT

(BY SRI. G.V.NARASIMHA MURTHY, ADVOCATE)

AND:

1. SMT. PUTTAGOWRAMMA
SMT.PUTTAGOWRAMMA,
W/O LATE PUTTASWAMAPPA
(SINCE SHE WAS DEAD HER LRS
ALREADY ON RECORDS AS RESPONDENTS)

SMT.SUNDRAMMA,
W/O SHIVANANDA
AGED ABOUT 57 YEARS,
R/AT HADYA GRAMA
CHUNCHANAKATTE HOBLI,
K.R. NAGAR TALUK.
MYSURU DISTRICT – 571 602

2. SMT.SAROJAMMA.
W/O H.S.BASAVARAJAPPA.
AGED ABOUT 62 YEARS,
R/AT MURTHUR VILLAGE.



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Location:
HIGH COURT
OF
KARNATAKA



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PERIYAPATNA TALUK.
MYSURU DIST. PIN-571 107

3. SMT.RATHNAMMA,
W/O DHARMAPPA D.N.
AGED ABOUT 60 YEARS,
R/AT SRIRANGALA VILLAGE.
NAKUR POST.
KUSHALNAGARA TALUK
MADIKERI DISTRICT
PIN – 571 234

...RESPONDENTS

(BY SRI KASHINATH.J.D, ADVOCATE FOR C/R2 AND R3 AND R4;

VIDE ORDER DATED 28.04.2026, NOTICE TO R3 IS HELD SUFFICIENT;

R1 DECEASED AS PER CAUSE TITLE)

THIS RSA IS FILED UNDER SECTION 100 OF CIVIL PROCEDURE CODE, AGAINST THE JUDGMENT AND DECREE DATED 24.03.2025 PASSED IN RA NO.415/2018 ON THE FILE OF VIII ADDITIONAL DISTRICT AND SESSIONS JUDGE, MYSURU, SITTING AT HUNSUR, DISMISSING THE APPEAL AND CONFIRMING THE JUDGMENT AND DECREE DATED 23.06.2018 PASSED IN O.S.NO.31/2013 ON THE FILE OF CIVIL JUDGE AND JMFC, K.R.NAGAR.

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

CORAM: HON'BLE MR. JUSTICE V SRISHANANDA



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ORAL JUDGMENT

Heard Sri G.V. Narasimha Murthy, learned counsel for the appellant and Sri Kashinath J.D., learned counsel for Caveator/respondent Nos.2, 3 and 4.

2. First defendant is the appellant challenging the judgment and decree dated 23.06.2018, on the file of Civil Judge and JMFC., K.R. Nagar, confirmed in R.A.No.415/2018, dated 24.03.2025, on the file of VIII Additional District and Sessions Judge, Mysuru, sitting at Hunsur.

3. Parties are referred to as plaintiffs and defendants as per their original ranking before the Trial Court.

4. Facts of the case which are utmost necessary for disposal of the present appeal are as under:

5. A suit for partition and separate possession came to be filed by Puttagowramma, being the wife of Puttaswamappa (common prepositious) and last daughter of Puttaswamappa – second plaintiff – Sundramma against other siblings of second plaintiff.

6. It is contented that suit properties are the joint family properties of Late Puttaswamappa. At a partition,



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Puttaswamappa got the property and after his death, his legal heirs namely, Puttagowramma being the first plaintiff and four children namely, second plaintiff and three defendants got the suit property equally. Share of the mother and last daughter of Puttaswamappa, Sundramma was denied and therefore suit came to be filed.

7. Suit was resisted by the defendants by filing detailed written statement.

8. Learned Trial Judge after raising necessary issues and after recording the evidence of the parties and hearing the arguments of the parties, decreed the suit.

9. Operative portion of the Trial Court judgment reads as under:

"The suit of the plaintiffs is hereby decreed.

The plaintiffs are entitled for 1/5th shares each in the suit schedule properties.

Having regard to the relationship between the parties to the suit, no order as to cost.

Draw preliminary decree accordingly."

10. Being aggrieved by the same, an appeal came to be filed before the First Appellate Court in R.A.No.415/2018 by the



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first defendant, who is the wife of the eldest son of Puttaswamappa and Puttagowramma.

11. Learned Judge in the First Appellate Court after securing the records, heard the arguments of the parties and on re-appreciation of the materials on record, dismissed the appeal.

12. Thereafter, defendant No.1 has filed the present appeal on the following grounds and substantial questions of law:

- *The first appellate court has erred in confirming the judgment of the trial court.*
- *The first appellate court without going on merits and dismissal the appeal. Hence the dismissal the appeal and decreed the suit of the trial court has resulted in mis-carriage of justice.*
- *The trial court as well as first appellate court failed to appreciate the evidence and records of the defendant/appellant.*
- *The first appellate court without considering on real facts, the 1st appellate court without considering on real facts of the case and prayer of appellant's and simply dismissed the Regular appeal, it is bad under law and procedure. Hence the decreed the suit and dismissal of the appeal of the trial court as well as first appellate court is without application of mind.*



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- *That, in any view of the matter, the impugned judgment and decree of the first appellate court is very much bad and not sustainable in law and liable to be set aside.*
- *That, the appellant may be permitted to urge any other legal ground at the time of hearing the above appeal on merits.*
- *The lower 1st appellate courts had erred in confirming the judgment of the trial court.*
- *The court below has grossly erred in decreeing the suit of the plaintiff for partition and separate possession of 1/5th share of the plaintiffs, the item No.1 to 6 and 10 to 12 properties are the self acquired properties of 1st defendant, the trial court taking view that, the suit schedule properties are ancestral and joint family properties of the plaintiffs and defendants. Hence the judgment and decree of the trial court has resulted in mis- carriage of justice.*
- *Aggrieved by the judgment and decree of the trial court the appellant have filed Regular appeal before appellate court in R.A.No.415/2018. But the 1st appellate court basically proceeded one sided and dismissed the appeal. Hence the judgment and decree of 1st appellate court is without application of mind and the appellant had got good case on merits. Hence the judgment and decree of trial court are to be set aside.*

Substantial questions of law.

1. *Whether the court below is right in law in placing the reliance on revenue records instead of placing*



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reliance on the lands situated at Nadappanahalli are all Inam lands that upon Inam Abolition act, mutation and RTCs is all carried out in the name of 1st defendant considering his possession and cultivation, as such the properties all are not belonging to the joint family property and also the suit schedule properties are not ancestral properties.

- 2. The father of plaintiff No.2 and defendant No.1 to3 by name Puttaswamappa was died on 26.10.2006, the plaintiffs No.2 had filed a suit in the year 2013. Whether the court below is right in declaring the suit of the plaintiff for partition and separate possession suit schedule properties.*
- 3. Whether the first appellate court is right in law in dismissing the regular appeal without going on the merits of case, in spite of the respondents not denying the case of the appellant.*
- 4. 1st defendant and his father to get divided the properties through an oral partition in respect of Sy.No.106, 90/1, 87/1, 220/3, 214/4 72 of Nadappanahalli and 132, 113/3 of Kolur Hantha and 1 acre 2.08 guntas of land in Sy.No.15 of Maradur fallen to the No.204/1 of Nadappanahalli, Chunchankatte Hobli, K.R.Nagar taluk and 12th Item property was gone to the share of father of 1st defendant and his wife. The father of 1st defendant as a government teacher was not took the task of agriculture and repayment of debt*



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which borrowed at the time of marriage of 2nd plaintiff and defendant No.2 and 3.

- 5. I submit that, the suit schedule properties in view of oral partition got obtained mutation and RTCs in favor of the 1st defendant with suit schedule properties as per M.R.No.08/1995-96, 09/1993-94 18/1993-94 RR1 203/1995-96, 13/2006-07 39/2002-03 and 17/2006-07. After demise of 1st defendant, all the schedule properties are transferred in my name. The 1st defendant in order to discharge loans borrowed from various bank from time by mortgaging the properties fallen to his share.*
- 6. The Trial court failed to consider the oral and documentary evidence placed on record in proper perspective and failed to answer to issue No.1 and 4 as affirmative instead of negative and issue No.2 and 3 as affirmative instead of negative. The Trial court wrongly answered the issues as the affirmative instead of negative. Whereas the Trial court decreed the suit instead of dismissing is untenable and perverse.*
- 7. Whether the 1st appellate court dismissal of the same without going on merits of case, it is one sided judgment. The trial court without appreciating evidence the defendant of No.1[a]/appellant, the trial court erred by decreeing the suit, instead of dismissing the suit."*



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13. Sri G.V. Narasimha Murthy, learned counsel for the appellant, reiterating the grounds urged in the appeal memorandum would contend that the sharing pattern is incorrect as mother Puttagowramma being the first plaintiff is no more.

14. Further, an application along with Document namely, Will said to have been executed by Puttagowramma in favour of Sundramma and son of Sundramma. As such, he sought for allowing the appeal.

15. Since the Will is not propounded by Sundramma or grandson, each of the children namely, Mahadevappa, Sarojamma, Rathnamma, Sundramma would get $1/4^{\text{th}}$ share each in the suit properties in the light of Puttagowramma being no more as the Will said to have been executed by first plaintiff in favour of second plaintiff and her son is not yet established.

16. Moreover, there is no appeal nor any plea by the Sundramma who is a contesting respondent in this appeal in that regard.



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17. Taking note of the same, the sharing pattern needs to be readjusted is the submission made by counsel for appellant.

18. Per contra, Sri Kashinath J.D., learned counsel for the respondents would support the impugned judgments and would say that there is no claim made by grandson of Puttaswamappa being the son of Sundramma in respect of the alleged will and therefore, no additional factual aspects can be entertained by this Court having regard to scope of Section 100 of code of Civil Procedure.

19. Accordingly, in view of the death of Puttagowramma, the sharing pattern needs to be appropriately worked out.

20. Having heard the arguments of both sides, this Court perused the material on record meticulously.

21. In view of the above factual aspects and the arguments put forward, the sole substantial questions of law that would arise for consideration is:

"Whether sharing pattern needs modification?"



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22. The above substantial questions of law is answered in the ***affirmative*** for the following reasons:

23. On perusal of the material on record, 1/5th share granted by the Trial Court was to the wife and last daughter, namely, Puttagowramma, being the first plaintiff and Sundramma, being the second plaintiff.

24. Since, Puttagowramma died and there is no other factual aspects placed on record, share of Puttagowramma will be again divided into four parts namely, one for the second plaintiff and one for the daughter-in-law who is the first defendant and two more shares to each of two more children namely, Sarojamma and Rathnamma – defendant Nos.2 and 3.

25. Accordingly, appeal needs to be allowed in part by modifying the share as 1/4th share each to the second plaintiff and three defendants.

26. Hence, following:

ORDER

(i) Appeal is ***allowed in part***.



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- (ii) Sharing pattern is modified by granting $1/4^{\text{th}}$ share to the second plaintiff and $1/4^{\text{th}}$ share each to defendant Nos.1 to 3.
- (iii) Office to pass modified decree accordingly.
- (iv) Parties shall work out equitable partition in respect of the suit properties in the Final Decree Proceedings.

Sd/-
(V SRISHANANDA)
JUDGE

MR
List No.: 1 Sl No.: 79