



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 2ND DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

REGULAR SECOND APPEAL NO.1228 OF 2025(PAR)

BETWEEN:

1. T M KRISHNAPPA
S/O LATE THIMMAIAH
AGED 62 YEARS
2. T M LAKSHMINARAYANA
S/O LATE THIMMAIAH
AGED 53 YEARS
3. T M MAJUNATHA
S/O LATE THIMMAIAH
AGED 46 YEARS

LRs OF LATE
SHANKARAMMA
W/O LATE THIMMAIAH(DEFENDANT NO.1)

ALL APPELLANTS ARE
RESIDING AT MARALURU VILLAGE,
KASABA HOBLI,
TUMAKURU DISTRICT,
KARNATAKA - 572 105.

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signed by
MALATESH
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Location:
HIGH
COURT OF
KARNATAKA

...APPELLANTS

(BY SRI. CHIDAMBHAR SWAROOP T.P, ADVOCATE)

AND:

1. YASHODAMMA
WIFE OF LATE NARASIMHAMURTHY,
AGED 68 YEARS



2. ASHWATHNARAYANA
SON OF LATE NARASIMHAMURTHY,
AGED 48 YEARS

RESPONDENT NO.1 AND 2 ARE
RESIDING AT BANADAPALYA VILLAGE,
TAVAREKERE POST, HEBBUR HOBLI,
TUMAKURU TALUK AND DISTRICT,
KARNATAKA 572 122

3. BHAGYA B N
DAUGHTER OF LATE NARASIMHAMURTHY,
WIFE MANJUNATHA.K.R,
AGED 46 YEARS

R/AT KURUGUNDA VILLAGE,
HONNUDIKE POST, GULUR HOBLI,
TUMAKURU TALUK AND DISTRICT -572122

4. BHARATHI.B.N
DAUGHTER OF LATE NARASIMHAMURTHY,
WIFE OF RAJESH,
AGED ABOUT 41 YEARS.
R/AT APPAIHNAPALYA VILLAGE,
HONNUDIKE POST, GULUR HOBLI,
TUMAKURU TALUK AND DISTRICT,
KARNATAKA 572 122.

5. PUSHPALATHA.B.N,
DAUGHTER OF LATE NARASIMHAMURTHY,
WIFE OF THIGUNA,
AGED 39 YEARS,
R/AT NO.282, 7TH CROSS,
BANNERUGATTA ROAD,
LAKSHMI LAYOUT,
BANGALORE SOUTH,
KARNATAKA -560 083.

RESPONDENT NO.1 TO 5 ARE LRS OF
LATE NARASIMHAMURTHY



S/O LATE KUMBAIAH (PLAINTIFF)

6. T.A.RAJAMMA,
WIFE OF LATE C.HANUMANTHARAYA.
AGE NOT KNOWN
7. T H MURALIDHAR
SON OF LATE C.HANUMANTHARAYAPPA,
AGE NOT KNOWN
8. T H NALINA
DAUGHTER OF LATE C.HANUMANTHARAYAPPA,
W/O CHANDRASHERAIAH
AGED ABOUT 33 YEARS
9. T.H.SUJATHA
D/O LATE C.HANUMANTHARAYAPPA
WIFE OF JAGADEESH
AGE NOT KNOWN

RESPONDENT NO.6 TO 9 ARE
LRS OF C.HANUMANTHARAYA
(DEFENDANT NO.2)

RESPONDENT NO.6 TO 9 ARE
RESIDING AT NO.62/7,
KEB MAIN ROAD, HITMEN ROAD,
BANASHANKARI 3RD STAGE,
BANGALORE - 560085.

...RESPONDENTS

(BY SRI P.M.GOPI, ADVOCATE FOR R1 TO R5)

THIS RSA IS FILED UNDER SECTION 100 OF CODE OF CIVIL PROCEDURE AGAINST THE JUDGMENT AND DECREE DATED 24.04.2025 PASSED IN R.A.NO.73/2024 ON THE FILE OF THE I ADDITIONAL PRINCIPAL JUDGE, FAMILY COURT, TUMAKURU, DISMISSING THE APPEAL AND CONFIRMING THE JUDGMENT AND DECREE DATED 19.11.2018 PASSED IN OS.NO.1108/2009 ON THE FILE OF THE V ADDITIONAL CIVIL JUDGE AND JMFC, TUMAKURU.



THIS APPEAL, COMING ON FOR ADMISSION, THIS DAY,
JUDGMENT WAS DELIVERED THEREIN AS UNDER:
CORAM: HON'BLE MR. JUSTICE V SRISHANANDA

ORAL JUDGMENT

Heard Sri Chidambhar Swaroop T. P., learned counsel for the appellants and Sri P.M. Gopi, learned counsel for the respondent Nos.1 to 5.

2. First defendant has challenged the decree passed in O.S.No.1108/2009, decreeing the suit by granting half share to the plaintiff and half share to the first defendant/appellant, which was confirmed in R.A.No.73/2024.

3. Facts which are utmost necessary for disposal of the present second appeal are as under:

3.1. The suit property was jointly purchased by mother of the plaintiff - Doddamma, first defendant - Shankaramma and C.Hanumantharaya by a registered sale deed dated 06.03.1961. Since there is a dispute as to the division of the property, suit for partition came to be filed by the son of Doddamma against Shankaramma and C.Hanumantharaya.



C.Hanumanthraya died and his legal representatives are brought on record.

3.2. Defendant No.1 took up a contention that C.Hanumantharaya relinquished the property in favour of Shankamma and in that partition, only two guntas of land has fallen to the share of Doddamma. Therefore, suit of the plaintiff seeking share in the suit property as equal sharer cannot be granted and resisted the suit.

4. Learned Trial Judge after raising necessary issues and recording the evidence, decreed the suit, granting half share each, holding that relinquishment made by C.Hanumantharaya, only two sharers remained in respect of the suit property and thus they are entitled for half share and the alleged adjustment and partition is impermissible as the property was not a joint family property, but it is a jointly acquired property.

5. Being aggrieved by the same, defendant No.1 filed an appeal before the First appellate Court in R.A.No.73/2024.

6. Learned Judge in the First Appellate Court after securing the records, heard the arguments of the parties and



on re-appreciation of the material on record dismissed the appeal of defendant No.1.

7. Being further aggrieved by the same, legal representative of defendant No.1 are before this Court in this appeal on the following grounds:

- *Initially, the plaintiff, in his plaint dated 11.12.2009, sought partition and separate possession of his 1/3rd share in the suit schedule property. Subsequently, the legal representatives of defendant No.2 (respondent Nos.6 to 9 herein) filed their written statement dated 26.09.2012, stating that their father, C.Hanumantharaya had relinquished his rights over the suit schedule property. Accordingly, they adopted the same stand and submitted that the suit may be decreed as prayed for by the plaintiff, but only as against defendant No.1 and plaintiff.*
- *Thereafter, on 27.01.2014, the plaintiff filed an Interlocutory Application under Order VI Rule 17 of the Civil Procedure Code seeking amendment of the prayer column to delete "1/3rd share" and substitute it with a "1/2 share" in the suit schedule property. The said amendment was allowed.*
- *At the time of amendment, the value of the suit schedule property was Rs.12,60,000/- (Rupees Twelve Lakhs and Sixty Thousand only), and as the plaintiff claimed 1/2 share, it was valued at Rs.6,07,500/- (Rupees Six Lakhs and Seven Thousand*



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and Five Hundred only). In spite of defendant No.1/appellants raising the said objection with respect to pecuniary jurisdiction, the Trial Court did not consider the same or framed any issue with respect to the same. As the Hon'ble Trial Court was empowered to try only civil suits valued up to Rs.5,00,000/- as per Section 17 of Karnataka Civil Courts, Act, 1964. Therefore, it did not possess the pecuniary jurisdiction to entertain and try the original suit in purview of Section 5 of the Code of Civil Procedure.

➤ *Thereafter, the plaintiff filed another Interlocutory Application under Order VI Rule 17 of the Civil Procedure Code dated 23.06.2015, seeking amendment of the plaint by adding an prayer for declaration, namely, "to declare that the plaintiff is the owner of the northern portion of the suit schedule property." This application was allowed by order dated 08.09.2015.*

Subsequently, defendant No.1 filed an additional written statement dated 13.10.2015, contending that since the plaintiff was now seeking a prayer for declaration, appropriate court fees had to be paid afresh based on the prevailing market value. Defendant No.1 further brought to the notice of the trial Court in the said additional written statement that the suit schedule property fell within the jurisdiction of the Tumkur City Corporation Limits at the relevant time, and therefore, the plaintiff was required to file a fresh revaluation slip and pay the requisite court fees. It was also submitted that failure to comply with these



requirements would disentitle the plaintiff from claiming any relief, and the suit was liable to be dismissed.

➤ *Thereafter, the plaintiff filed a fresh valuation slip dated 07-12-2016 and the appellants submit that the plaintiff failed to disclose or plead any material particulars to demonstrate that the plaintiff's share in the suit schedule property came within the pecuniary jurisdiction of the Hon'ble Trial Court.*

➤ *The appellants further submit that if the valuation of the entire suit schedule property is calculated based on it being an agricultural land at the time of amendment of the plaint dated 23.06.2015, it amounted to Rs.25,65,000/- (Rupees Twenty-Five Lakhs and Sixty Five Thousand only). Accordingly, the plaintiff's half share would be valued at Rs.12,82,500/- (Rupees Twelve Lakhs and Eighty Two Thousand), and therefore, the Trial Court did not possess the requisite pecuniary jurisdiction to try the civil suit in purview of Section 17 of the Karnataka Court Fees, Act 1964 and Section 6 of the Code of Civil Procedure.*

➤ *The appellants respectfully submit that the Hon'ble Trial Court or the appellate Court has failed to consider the specific objections raised with regard to the lack of pecuniary jurisdiction. Despite the clear and categorical plea taken in the additional written statement, the Trial Court or the Appellate Court neither framed any issue on this vital aspect nor rendered any finding thereon in its judgment. As a*



result, a crucial jurisdictional question, which goes to the root of the matter, was left unaddressed, thereby vitiating the entire proceedings.

➤ *The calculation of court fees by the plaintiff was both incorrect and inadequate, as it did not reflect the true market value of the suit schedule property or the reliefs sought in the amended plaint, The plaintiff failed to properly assess and pay the requisite court fees in accordance with the Karnataka Court Fees and Suits Valuation Act, 1958. As a result, the plaint suffers from a fundamental defect, and the suit ought not to have been entertained or proceeded with unless and until the proper court fees were paid in accordance with law.*

➤ *As the suit schedule property falls within the jurisdiction of the Tumkur City Corporation, it ceases to retain its agricultural character. Consequently, the valuation provisions applicable to agricultural land under Section 7(2)(a) or (b) of the Karnataka Court Fees and Suits Valuation Act, 1958, are not attracted in the present case. Instead, the plaintiff was required to compute the valuation under Section 24(a) of the said Act, which pertains to suits for declaration with consequential relief involving non-agricultural property within corporation limits. Therefore, the plaintiff failed to adopt the correct mode of valuation and did not pay the court fees in accordance with the provisions applicable to properties falling under the Corporation Limits. Therefore, the appellants respectfully submit that the court fees paid by the plaintiff/respondent*



No.1 to 5 are insufficient and not in conformity with the statutory requirements.

➤ *Furthermore, defendant No. 1 contended that there was a partition on 23.03.1999, under which 2 guntas were allotted to the plaintiff's mother and the remaining 25 guntas to defendant No.1. Notably, PW2 (brother of defendant No.2) has admitted that there was a partition between the plaintiff's mother and defendants No.1 on 23.03.1999. Which is completely contrary to the stand taken by PW1.*

➤ *The appellants further submits that Ex.P2 to Ex.P15 (RTC's from the year 2002 till 2016) reflect only the names of the plaintiff and defendant No.1 in the possession column, and not that of defendant No.2, which clearly establishes that a prior partition had occurred. Even the Trial Court makes the observation that the reason for RTC's to only show the name of Doddamma and Shankamma is may be due to the fact that defendant No.2 had relinquished his rights in the property. In these circumstances, the appellate court ought to have considered the effect of this earlier partition.*

➤ *Furthermore, the appellate court has failed to appreciate that there was a partition as admitted by the PW2 who is none other than the younger brother of 2nd defendant, which is contrary to the evidence of PW1.*



8. Sri Chidambhar, learned counsel for the appellant reiterating the grounds urged in the appeal memorandum would contend that both the Courts have not properly taken into consideration the relinquishment made by C.Hanumantharaya, who is one of the joint purchasers of the suit property and wrongly decreed the suit by granting half share to the plaintiff and half share to the first defendant.

9. Therefore, sought for admitting the appeal on the following substantial questions of law:

- 1) Whether the Trial Court erred in law in adjudicating the of original suit despite the valuation the plaintiff's/respondent No.1 to 5's share over the suit schedule property exceeded the pecuniary jurisdiction of the its Court after the plaintiff amending the plaint despite the defendant No.1 raising the objection with respect to the pecuniary jurisdiction through additional written statement at first instance at the earliest possible opportunity?*
- 2) Whether the courts below erred in law in failing to frame any issue or make any observation in their judgement on the specific objection raised immediately by the appellants in their additional written statement regarding the pecuniary jurisdiction in purview of Section 21 of the Code of Civil Procedure, 1908.*



- 3) *Whether the courts below erred in law in proceeding with the original suit, inspite the plaint or the valuation slip failing to plead/state as to whether the Trial Court had pecuniary jurisdiction to adjudicate the suit.*
- 4) *Whether the Court below erred in law in accepting the court fees, after the plaintiff amending their plaint, inspite the defendant No.1/appellants stating in their additional written statement that the suit schedule property falling within Tumkur City Corporation limit and as such is not properly valued under the Karnataka Court Fees and Suits Valuation Act, 1958?*
- 5) *Whether the courts below erred in law not recognizing the partition under panchayat palupatti dated 23.03.1999 between the plaintiff and defendant No.1 as admitted by PW2 in purview of Section 18 of the Evidence Act, 1872 or Bharatiya Suraksha Adhiniyam, 2023?.*
- 6) *Whether the trial court and first appellate court failed to properly frame and decide the material issue as to whether the earlier partition under panchayat palupatti extinguished the plaintiff's right to claim partition again?*

10. Per contra, Sri P.M.Gopi, learned counsel for the contesting respondents would support the impugned judgment.



11. Sri Gopi would further contend that the contentions taken by defendant No.1 that there is a relinquishment in her favour by C.Hanumantharaya and there is a partition could not have been countenanced in law, which has been rightly appreciated by both the Courts, as the nature of the property was jointly acquired property and not joint family property.

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

13. On such perusal of the material on record, as could be seen from Ex.D1, the property is jointly acquired by Doddamma, defendant No.1 and C.Hanumantharaya through Ex P1 by a common joint sale deed dated 06.03.1961. In other words, each of the purchasers had equal share in the property.

14. According to defendant No.1, it is C.Hanumantharaya, who relinquished his share in favour of defendant No.1. Such a relinquishment is impermissible having regard to the nature of the property which is a joint acquisition by Doddamma, mother of the plaintiff, Shankamma - defendant No.1 and C Hanumantharaya, without a registered



document. In other words, relinquishment of share of C. Hanumantharaya is not established in accordance with law.

15. However, in the written statement filed by the legal representative of C.Hanumantharaya, they admit that the property was relinquished.

16. Taking note of the same, since only two persons are remaining among the joint purchasers of the suit property, learned Trial Judge granted half share in the suit property rejecting the plea of alleged partition.

17. Admittedly, the nature of property is jointly acquired property and not joint family property.

18. Therefore, the judgment of the Trial Court, confirmed by the First Appellate Court needs no interference in the second appeal.

19. Accordingly, the following:

ORDER

- (i) Admission is declined.
- (ii) Appeal is dismissed.

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

MR, List No.: 1 SI No.: 77