

RESERVED ON : 17.04.2026

PRONOUNCED ON : 18.08.2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 18TH DAY OF AUGUST, 2026

PRESENT

THE HON'BLE MR. JUSTICE D K SINGH

AND

THE HON'BLE MR. JUSTICE T.M.NADAF

REGULAR FIRST APPEAL NO. 299 OF 2015 (PAR/POS)

C/W

REGULAR SECOND APPEAL NO. 976 OF 2018

IN RFA NO.299/2015

BETWEEN:

T. LOKPRAKASH REDDY,
DEAD BY LRS,

1(a). PADMINIPRAKASH,
W/O LATE. T. LOKPRAKASH REDDY,
AGED ABOUT 58 YEARS,
PRAKASH LODGE,
OPPOSITE KSRTC DEPOT ROAD,
CHITRADURGA - 577 501.

1(b). L. PAVITRA TANZEEM,
D/O LATE T. JAGATH PRAKASH REDDY,
AGED ABOUT 36 YEARS,
PRAKASH LODGE,
OPPOSITE KSRTC DEPOT ROAD,
CHITRADURGA - 577 501.

...APPELLANT

(BY SRI. B.M. SIDDAPPA, ADVOCATE FOR A1 (a & b))

AND:

1. MR. A.R.S. CHITRA REDDY,
W/O LATE MR. T.A. REDDY,

AGE ABOUT 69 YEARS,
R/O KSRTC DEPOT ROAD,
NEAR TALUK PANCHAYAT OFFICE,
CHURCH EXTENSION,
CHITRADURGA - 577 501.

2. SRI. P.M. NIRMALA,
W/O LATE T. JAGATHPRAKASH REDDY,
AGED ABOUT 50 YEARS,
R/AT FDA, GOVERNMENT GIRLS
JUNIOR COLLEGE,
NEAR TOWN POLICE STATION,
CHITRADURGA - 577 501.
3. T.J. YASHASHWINI,
D/O LATE T. JAGATH PRAKASH REDDY,
AGED ABOUT 30 YEARS,
LECTURER, SARASWATHI
HI-TECH COLLEGE,
OPPOSITE MUNICIPAL COMPLEX,
KELAGOTE, CHITRADURGA - 577 501.
4. PARTHASARATHI @ BABU REDDY,
S/O LATE T. JAGATH PRAKASH REDDY,
AGED ABOUT 49 YEARS,
PRAKASH LODGE,
KSRTC DEPOT ROAD,
CHITRADURGA - 577 501.
5. SYED,
PROPRIETOR OF HYDERABAD
BIRIYANI HOTEL, PRAKASH LODGE,
KSRTC DEPOT ROAD,
CHITRADURGA - 577 501.
6. SYED AHAMED,
PROPRIETOR,
KARNATAKA CHICKEN
AND BIRIYANI HOTEL,
PRAKASH LODGE,
KSRTC DEPOT ROAD,
CHITRADURGA - 577 501.

7. M.K. PADUVAL,
ASTROLOGER,
PAKASH LODGE,
KSRTC DEPOT ROAD,
CHITRRADURGA - 577 501.
8. VENKATESH,
PROPRIETOR HOTEL TRIVENI,
PRAKASH LODGE,
KSRTC DEPOT ROAD,
CHITADURGA - 577 501.
9. K. SATISH,
S/O MR. KRISHNAPPA,
AUTOMOBILE MECHANIC,
PRAKASH LODGE,
KSRTC DEPOT ROAD,
CHITRADURGA - 577 501.
10. SHIVAPPA BANGERA,
PROPRIETOR INDIAN COFFEE BAR,
PRAKASH LODGE,
KSTC DEPOT ROAD,
CHITRADURGA - 577 501.
11. SUJATHA,
W/O MR. MANJUNATHA,
PROP. AMULYA XEROX CENTRE,
PRAKASH LODGE,
KSRTC DEPOT ROAD,
CHITRADURGA - 577 501.
12. RANGANNA,
S/O MR. GURAPPA,
PROP: PAN BEEDA STALL,
PRAKASH LODGE,
KSRTC DEPOT ROAD,
CHITRADURGA - 577 501.
13. SHANTHAN REDDY,
PROP: REDY MILITARY HOTEL,
PRAKASH LODGE,
KSRTC DEPOT ROAD,
CHITRADURGA - 577 501.

14. SATHYANARAYAN,
PROP: TYRE VULCANIZING SHOP,
PRAKASH LODGE,
KSRTC DEPOT ROAD,
CHITRADURGA - 577 501.
15. KUMAR,
PROP: APPAJI HAIR DRESSERS,
PRAKASH LODGE,
KSRTC DEPOT ROAD,
CHITRADURGA - 577 501.

...RESPONDENTS

(BY SRI. B.R. VISHWANATH, ADVOCATE FOR R1,
SRI. R. SHASHIDHARA, ADVOCATE FOR R2 AND R3,
SRI. SHANTH KUMAR, ADVOCATE FOR R4 TO R7,
R10 TO R12,
VIDE ORDER DATED 21.03.2023 NOTICE IN R/O R8, R9,
R13 TO R15 ARE DISPENSED WITH)

THIS RFA IS FILED UNDER SECTION 96 R/W ORDER 41
RULE 1 AND 2 OF CPC, AGAINST THE JUDGEMENT AND
DECREE DATED:20.12.2014 PASSED IN O.S.NO.1/2010 ON
THE FILE OF PRINCIPAL SENIOR CIVIL JUDGE, CJM, AND
MACT-III, CHITRADURGA, THEREBY ALLOWING THIS APPEAL
AND DISMISSING THE SUIT.

IN RSA NO. 976/2018

BETWEEN:

- T. LOKPRAKASH REDDY,
DEAD BY LRS,
- 1(a). PADMINIPRAKASH,
W/O LATE. T. LOKPRAKASH REDDY,
AGED ABOUT 58 YEARS,
PRAKASH LODGE,
OPPOSITE KSRTC DEPOT ROAD,
CHITRADURGA - 577 501

1(b). L. PAVITRA TANZEEM,
D/O LATE T. JAGATH PRAKASH REDDY,
AGED ABOUT 36 YEARS,
PRAKASH LODGE,
OPPOSITE KSRTC DEPOT ROAD,
CHITRADURGA - 577 501.

...APPELLANT

(BY SRI. B M SIDDAPPA., ADVOCATE)

AND:

1. MRS A R S CHITRA REDDY
D/O SUBHA REDDY
R/O KSRTC DEPOT ROAD
NEAR TALUK PANCHAYAT OFFICE
CHURCH EXTENSION
CHITRADURGA 577 501
2. KARNATAKA STATE CO OPERATIVE
APEX BANK LTD., REP BY ITS
GENEAL MANAGER
JANATH BAZAR,
GANDHINAGARA
BANGALORE 560 009
3. THE UNION OF BANK OF INDIA
(A BODY INCORPORATED UNDER THE PROVISIONS OF
BANKING COMPANIES ACQUISITION AND TRANSFER OF
UNDERTAKING ACTS)
HAVING ITS HEAD OFFICE, AT 239
VIDHANA BHAVAN
MARG, MUMBAI, WITH
SEVERAL BRANCHES AND ONE
SUCH BRANCH AT CHITRADURGA
REP BY ITS BRANCH MANAGER ,
KSRTC DEPOT ROAD
CHITRADURGA 577 501
4. STATE BANK OF MYSORE
CHITRADURGA BRANCH
REPRESENTED BY ITS
BRANCH MANAGER

B D ROAD
CHITRADURGA 577 501

5. SECRETARY
KARNATAKA STATE BAR COUNCIL
OLD KGID BUILDING
DR AMBEDKAR VEEDHI
BENGALURU 560 001

...RESPONDENTS

(BY SRI. B.R. VISHWANATH, ADVOCATE FOR R1,
R2 TO 5 - SERVED AND UNREPRESENTED)

THIS RSA IS FILED UNDER SECTION 100 OF CPC,
AGAINST THE JUDGMENT AND DECREE DATED 09.04.2018
PASSED IN R.A.NO.21/2016 ON THE FILE OF THE SPL.2nd
ADDITIONAL DISTRICT AND SESSIONS JUDGE, CHITRADURGA,
DISMISSING THE APPEAL AND CONFIRMING THE JUDGMENT
AND DECREE DATED 20.12.2014 PASSED IN O.S.NO. 20/2011
ON THE FILE OF THE PRINCIPAL SENIOR CIVIL JUDGE, CJM
AND MACT-III CHITRADURGA.

THIS REGULAR FIRST APPEAL AND REGULAR SECOND
APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT,
COMING ON FOR PRONOUNCEMENT THIS DAY, **HON'BLE**
MR.JUSTICE D.K.SINGH PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE D K SINGH
and
HON'BLE MR. JUSTICE T.M.NADAF

CAV JUDGMENT

(PER: HON'BLE MR. JUSTICE D.K. SINGH)

These two appeals being RFA No.299/2015 and RSA No.976/2018 are by defendant No.1 and plaintiff respectively, assailing the common Judgment and Decree dated 20.12.2014 in O.S.No.01/2010 and O.S.No.20/2011 passed by the Principal Civil Judge, CJM and MACT-III, Chitradurga, so also the Judgment and Decree dated 09.04.2018 in R.A.No.21/2016 passed by the Court of Special, II Addl. District and Sessions Judge, Chitradurga.

2. By the impugned common Judgment and Decree, the Trial Court, decreed to suit filed by the plaintiff/Smt.A.R.S.Chitra Reddy, declaring that the plaintiff being the second wife of T.A.Reddy, Defendant No.1 being the son and defendant Nos.2 & 3 being the daughter-in-law and granddaughter of late T.A.Reddy, are entitled to get 1/3rd share each in all the properties left by late T.A.Reddy, with further direction and dismissed the suit in O.S.No.20/2011 filed by the appellant/plaintiff T.Lokprakash Reddy.

3. An appeal in R.A.No.21/2016 came to be filed by T.Lokprakash Reddy before the District Court, Chitradugra, which was also dismissed, confirming the Judgment and Decree passed by the Trial Court in O.S.No.20/2011.

4. The parties are referred to as per their ranking before the Trial Court and by their names.

5. Facts in brief leading to file the present appeals are as under:

5.1 The suit in O.S.No.01/2010 was filed by Smt.Chitra Reddy, for the relief of declaration, to declare that she is entitled to and allot 1/3rd share in all the suit schedule properties i.e., Item Nos.1 to 6 stated in the schedule of the plaint, by metes and bounds.

5.2 The suit in O.S.No.20/2011 was filed by T.Lokprakash Reddy for declaration, to declare that T.Lokprakash Reddy and his sister-in-law Nirmala and her daughter Yashaswini are the only Class-I legal representatives of Sri.T.A.Reddy, and for

permanent injunction restraining the Defendant No.1 from claiming and receiving the amount deposited by T.A.Reddy with defendant Nos.2 to 4 and also for permanent injunction restraining defendant Nos.2 to 4 from making any payments in respect of FDR deposited by T.A.Reddy in favor of defendant No.1 Chitra Reddy.

AS PER THE PLAINTIFF (SMT.CHITRA REDDY)

5.3 Plaintiff Smt.Chitra Reddy claims that she is the second wife of Late T.A.Reddy. Sri.T.A.Reddy is a well known Advocate in Chitradurga and a former Member of Legislative Council from 1976 to 1982. He married Smt.Yashodhara Reddy and from the wedlock T.Lokprakash Reddy and late T.Jagathprakash Reddy were born. Smt.Yashodhara Reddy was working as a Government School Teacher. She died on 29.10.1978.

5.4 In a family partition among late T.A.Reddy, T.Lokprakash Reddy and T.Jagathprakash Reddy,

registered before the concerned Registrar on 25.10.1979, they partitioned the properties available to the family as 'A', 'B' and 'C' and the land on which the hotel and commercial building complex under the name and style 'Prakash Lodge' subsequently constructed was allotted to the share of T.A.Reddy. Thereafter, T.A.Reddy availing loan from KSFC, constructed a commercial building in the name and style of 'Prakash Lodge' and rented the commercial complex to various tenants viz., defendant Nos.4 to 15.

- 5.5 After the partition, T.A.Reddy purchased item No.2 - an agricultural land in Sy.No.151/1 measuring 16 Acres 03 Guntas situated at Thopurumalige, Kasaba Hobli, Chitradurga Taluk and District. Item Nos.3 and 4 are the Savings Accounts and FDRs with Union Bank of India, Chitradurga and Karnataka State Co-operative Apex Bank Ltd., Janata Bazar, Bengaluru in the name of Mr.T.A.Reddy. Item No.5 & 6 are a

Kinetic Honda Motorcycle and Maruti Omni Car purchased by T.A.Reddy in his name.

5.6 After the death of first wife Yashodhara Reddy, due to the differences between the children and T.A.Reddy, they were separated and partitioned the family properties available to the family as on 25.10.1979 and started living separately.

5.7 Defendant No.1 Lokprakash Reddy shifted to Bengaluru and started his own earnings and he was an editor of paper called "Tantrika Jwala".

5.8 Since T.A.Reddy was feeling alone in his life, wanted to marry again. In that regard, he had issued matrimonial alliance in the newspaper, which was responded by several women and after several deliberation, T.A.Reddy found match with the plaintiff i.e., Smt.Chitra Reddy. T.A.Reddy married Chitra Reddy in the year 1985 i.e., on 10.10.1985 at Sri.Veerabhadreshwara Swami Temple, Lepakshi, Chitradurga and both were started living as husband

and wife, till the date of death of T.A.Reddy in the year 2009, i.e., on 08.09.2009.

5.9 During his lifetime, T.A.Reddy acknowledged plaintiff – Smt.Chitra Reddy as his second wife and made her as his nominee in several documents including FDR, Advocates Welfare Fund Certificate and documents pertaining to the pension with the Government to be paid to MLCs.

5.10 As per the plaint averments, defendant Nos.4 to 15 are the tenants in the commercial complex i.e., Item No.1 of the suit schedule properties and paying rent. Earlier they were paying rent to T.A.Reddy and after his death, defendant No.1 Lokprakash Reddy high handedly started collecting rents from them and not at all providing any accounts for the same and using the same to satisfy his bad vices.

5.11 On several occasions Smt.Chitra Reddy requested for Partition of her legitimate share, as well as share of other defendants i.e. Nirmala and Yashaswini.

However, the same was strongly rejected by the Lokprakash Reddy, which made the plaintiff to file the present suit in O.S.No.01/2010 seeking for partition, and declaration to declare that she is entitled for 1/3rd share, in all the suit schedule properties, item Nos.1 to 6, by metes and bounds.

5.12 Upon notice, all the defendants appeared with their respective advocates and filed their separate written statement.

AS PER DEFENDANT NO.1 - LOKPRAKASH REDDY:

5.13 Defendant No.1 Lokprakash Reddy, filed the written statement denying the case of Chitra Reddy that, she is the legally married second wife of T.A.Reddy and further denied that, she has any relationship with T.A.Reddy and he contended that she was just appointed as a Manager in the Prakash Lodge and taking advantage of her position and old age of T.A.Reddy, manipulated and created all the documents to suit her claim. However, he has

admitted the relationship with Nirmala and Yashaswini stating that, they are the legal representatives of Jagatprakash Reddy (husband of Nirmala and father of Yashaswini, who died in 1987).

5.14 Lokprakash Reddy claims that his father T.A.Reddy had executed three Wills in respect of different properties dated 20.10.1994, 20.10.2000 and 21.02.2008, in his favor and bequeathed all the properties, as such defendant Nos.2 and 3 i.e., Nirmala and Yashaswini have no right over the properties and they are his exclusive properties under the said Wills.

5.15 However during the pendency of the suit, Lokprakash Reddy filed a suit in O.S.No.20/2011 seeking to declare that, he, Nirmala and Yashaswini are the only legal heirs survived T.A.Reddy and they are entitled for the properties i.e., Item Nos.3 to 6 and sought a permanent injunction against defendant No.1 from claiming and receiving any amount deposited in the name of T.A.Reddy, so also an

injunction against the Bank and Secretary, Karnataka State Bar Council from releasing any benefit in the name of T.A.Reddy in favor of Chitra Reddy. He also claimed that suit schedule item No.1 was purchased by his mother Yashodhara Reddy, out of her own independent source of income. As such, no claim is maintainable in respect of item No.1 of the property. Defendant No.1 – Lokprakash Reddy though admits the tenements, denied that he is collecting rents, however stated that as an owner under the Wills, he is collecting rents. He further alleged that, Chitra Reddy is also called as Chitralekha, already married a person from Pondicherry and having a son by name Ganesh and sought to dismiss the suit.

AS PER DEFENDANT NOS.2 AND 3

5.16 Defendant Nos.2 and 3 i.e., Nirmala and Yashaswini filed their separate written statement though denying the status of the plaintiff Smt.Chitra Reddy as second wife of Late T.A.Reddy, however, they

have clearly and unequivocally admitted in their written statement that Smt.Chitra Reddy was living with Sri.T.A.Reddy for a period of 20 to 24 years during the lifetime of T.A.Reddy, till his last breath on 08.09.2009. They claimed that they being the legal heirs left behind T.A.Reddy along with defendant No.1 Lokprakash Reddy, are entitled for half share in the property. They have further admitted the tenaments created and the rents being paid.

5.17 Further, they submitted that during the lifetime of T.A.Reddy, the relationship between him and Lokprakash Reddy strained and there were several police complaints lodged by Late T.A.Reddy against Lokprakash Reddy. In that view of the matter, there is no circumstances for T.A.Reddy to execute Wills in favor of Lokprakash Reddy and all the Wills are created and concocted subsequent to death of T.A.Reddy, only to defeat their legitimate right in respect of the suit schedule properties.

AS PER DEFENDANT NOS.4 TO 15

5.18 Defendants 4 to 15, the tenants have filed written statement denying entire case of Chitra Reddy, that she is the second wife of T.A.Reddy. They admitted the ownership of defendant No.1 Lokprakash Reddy under the Wills and they were paying rents to him and stated that except defendant No.1 Lokprakash Reddy, no one have got any right in the properties.

5.19 After filing of written statement by Lokprakash Reddy, the plaintiff - Chitra Reddy filed rejoinder, denying the claim under the Wills and further stated that under the Registered Partition of 1979, T.A.Reddy and his children got separated and living separately by accepting their respective share under 'A', 'B' and 'C' scheduled thereunder. She further submitted that the Wills now being purported are created by Lokprakash Reddy to defeat her rights in the suit schedule properties. She further denied the allegations made against her that she was called as

Chitralekha and married to someone in Pondicherry and having a son by name Ganesh.

5.20 The Trial Court after completion of pleadings, framed following Issues:

IN O.S.NO.01/2010

1. *Whether the plaintiff proves that she is the wife of late T.A.Reddy?*
2. *Whether defendant No.1 proves that he is the absolute owner of the suit schedule property by virtue of "Will" deed executed by late T.A.Reddy?*
3. *Whether the plaintiff is entitled for the relief of partition and separate possession as sought?*
4. *What order/ decree?*

ADDL. ISSUE NO.1: *Whether defendant No.1 proves that the suit schedule property bearing katha No.226/7548/B is self-acquired property of his mother?*

IN O.S.No.20/2011

1. *Whether the plaintiff proves that himself, his sister-in-law Nirmala and Yashaswini are the only legal representatives of deceased T.A.Reddy as pleaded?*
2. *Whether defendant No.1 proves that suit is bad for non-joinder of necessary parties?*

3. *Whether defendant No1 proves that she is the second wife of T.A.Reddy, who married her after the death of his first wife?*
4. *Whether defendant No.1 proves that the suit is not properly valued and Court fee paid is not just and proper?*
5. *Whether the plaintiff proves that he is entitled for the relief as claimed?*
6. *What order or decree?*

5.21 In order to establish their case, Chitra Reddy examined herself as PW.1 and two witnesses by name Mrs.Justin D'Souza as PW.2 and K.Chennappa as PW.3 and marked totally 26 documents as Ex.P1 to P26. Among the documents, certain documents were marked by the plaintiff and some were confronted to Lokprakash Reddy and marked in his cross-examination. On the other hand, Lokprakash Reddy examined himself as DW.1 and examined five witnesses as DW.2, 3, 4, 5 and 7. Smt.Nirmala – defendant No.2 examined herself as DW.6. The defendants produced totally 16 documents and marked them as Ex.D1 to D16. Among them, Ex.D1 and 5 are two Wills of the year 1994 and 2000,

claimed by the Lokprakash Reddy. Though a specific Third Will dated 21.02.2008 has been stated in the written statement, however the same is neither produced nor any oral evidence adduced to that effect.

CONCLUSION OF THE TRIAL COURT:

5.22 The Trial Court after completion of trial, heard both the parties and proceeded to decree the suit filed by Chitra Reddy in O.S.No.01/2010 and dismissed the suit of Lokprakash Reddy in O.S.No.20/2011, on the following ground:

- (i) The deceased, T.A.Reddy, during his lifetime acknowledged Chitra Reddy as his second wife and they were manifestly clear from the documents i.e., FDR, Advocate Welfare Fund Certificate and request of T.A.Reddy in his handwriting to the Karnataka Legislative Council to nominate Chitra Reddy as his nominee and requested to pay the Family Pension to her upon his demise. This though denied by

Lokprakash Reddy in the Written statement, but in the further cross-examination has been admitted as true. Though Lokprakash Reddy claimed that, he has challenged the said order before this Court in Writ Petition, there is nothing forthcoming in the entire records regarding the status of said cases.

- (ii) Secondly, defendant Nos.2 and 3 i.e., Nirmala and Yashaswini, though have denied that Chitra Reddy as second wife of T.A.Reddy, but admitted in the written statement that she lived along with deceased T.A.Reddy till his death i.e., for a period of 20 to 24 years. However in her evidence, especially in cross-examination Nirmala has admitted that Chitra Reddy was the second wife of T.A.Reddy after the death of Smt.Yashodhara Reddy (mother-in-law of Nirmala and grandmother of Yashaswini) and she has further admitted that, during the

lifetime of T.A.Reddy, he had acknowledged Chitra Reddy as his wife before them.

- (iii) Thirdly, the Trial Court was of the opinion that though the Will was set up by defendant No.1, but he has failed to prove the said Will in terms of the Provisions of law, i.e., Indian Succession Act R/w Indian Evidence Act. The witnesses who have been examined to prove Wills at Ex.D1 & 5 i.e., DW.2, 4 and 5 were not trustworthy and highly unbelievable, as per their evidence and admissions in the cross-examination.
- (iv) Fourthly, though all the defendants have clearly stated that Yashodhara Reddy during her lifetime purchased the property i.e., a vacant site in suit schedule Item No.1. However in the registered Partition Deed of the year 1979, this property was allotted to the share of T.A.Reddy. As such, it becomes his separate property under the Partition between him and his two sons. This fact has been admitted by Lokprakash

Reddy unequivocally in his cross-examination stating that, the said property was allotted in favor of late T.A.Reddy, in the registered Partition of the year 1979. In that view of the matter, all the properties i.e., Item Nos.1 to 6 would be separate and self-acquired properties of Late T.A.Reddy.

- (v) Fifthly, in view of evidence of PW.2 and PW.3 acknowledging Chitra Reddy as wife of T.A.Reddy, especially PW2 who was the family friend of T.A.Reddy and this fact has also been admitted by Lokprakash Reddy in his cross-examination stating that during his education, he was living in Davangere in the house of PW.2. These are the circumstances for the Trial Court to disbelieve the case set forth by defendant No.1 Lokprakash Reddy and accordingly, decreed the suit of Chitra Reddy, holding that Chitra Reddy is second wife of T.A.Reddy and declining to accept purported

Wills set-up by Lokparaksh Reddy, the Trial Court declared that plaintiff Chitra Reddy and defendant No.1 Lokprakash Reddy each and defendant Nos.2 & 3 i.e., Nirmala and Yashaswini jointly are entitled for 1/3rd share each in the suit schedule properties. Consequently, dismissed the suit filed by Lokprakash Reddy in view of findings in O.S.No.01/2010, further adding that, the suit is also not maintainable for non-joinder of necessary parties i.e., Nirmala and Yashaswini, though in the suit it was claimed that the said parties with Lokprakash Reddy are the only legal heirs of T.A.Reddy.

5.23 Assailing the common Judgment and Decree passed by the Trial Court, Lokprakash Reddy filed an appeal in RFA No.299/2015 before this Court and R.A.No.21/2016 before the II Addl. District and Session Judge, Chitradurga.

5.24 During the pendency of this appeal, the First Appellate Court dismissed the appeal in R.A.No.21/2016 vide Judgment and Decree dated 09.04.2018, which was the subject matter in the connected appeal in RSA No.976/2018.

6. During the pendency of this appeal, Sri.Lokprakash Reddy died and his wife and daughter were brought on record as appellant No.1(A) and (B) in both the appeals.

7. Heard, Sri.B.M.Siddappa, learned counsel appearing for the appellant/Lokprakash Reddy, Sri.Srihari, learned counsel appearing for proposed applicants in I.A.Nos.2/2022 to 4/2022, Sri.B.R.Vishwanath, learned Counsel appearing for respondent No.1/Chitra Reddy, Sri.R.Shashidhara, learned counsel appearing for respondent Nos.2 & 3/Nirmala and Yashaswini and Sri.Shanth Kumar, learned counsel appearing for respondents 4 to 7 & 10 to 12. Vide order dated 21.03.2023, notice to respondent 8, 9, 13 to 15 is dispensed with.

8. Sri.B.M.Siddappa, learned counsel appearing for Lokprakash Reddy, with all vehemence submits as under:

- 8.1 Firstly, the Trial Court has failed to consider the fact that the plaintiff who has approached the Court staking a claim that, she is the second wife of Late T.A.Reddy, failed to adduce any appropriate cogent and corroborative evidence both oral as well documentary to prove the fact that, she is the second wife of Late T.A.Reddy.
- 8.2 Secondly that, Lokprakash Reddy proved the Wills by examining the attesting witnesses i.e., DW.2, 4 and 5, the Trial Court has failed to consider this aspect of the matter in respect of Item Nos.1 and 2 of the suit schedule properties to hold that, Lokprakash Reddy is the exclusive owner of the properties.
- 8.3 Thirdly, learned counsel submits that, for the sake of arguments without admitting, the fact that whenever in the family any third party intervenes, in the present case Smt.Chitra Reddy claiming as wife (but not admitted) of T.A.Reddy, it was quite natural that

she would make any endeavors to create documents against the only surviving son. Mere filing of a complaint against Lokprakash Reddy cannot be construed as a sole ground to debar him to claim under the Wills. Learned counsel submits that T.A.Reddy had two sons; one pre-deceased him and the only surviving son was Lokprakash Reddy. It is quite natural for the father to see that his properties be succeeded by his son, without there being any dispute after his lifetime.

8.4 Fourthly, the *bonafide* claim of Lokprakash Reddy by filing a suit, wherein he is claiming that he, Nirmala and Yashaswini were the only legal heir in respect of Item Nos.3 to 6 properties, clearly shows that he was standing with them in suit O.S.No.01/2010 in respect of properties left by T.A.Reddy.

8.5 Fifthly, plaintiff Chitra Reddy has failed to prove the relationship even by examining witnesses who are highly unbelievable i.e., PW.2 and 3, in view of their contradicting statements in the cross-examination

and this has not been properly considered by the Trial Court.

8.6 Sixthly, the Trial Court has misread the cross-examination of DW.1, that Item No.1 property has been allotted to the share of Late T.A.Reddy. He further submits that after the death of Yashodhara Reddy, T.A.Reddy in order to construct a building on the property, substituted his name with Yashodhara Reddy only for the purpose of availing loan on the said property. In that view of the matter, it cannot be termed as exclusive property of T.A.Reddy and it was for that reason, the property was shown to have been allotted to the share in 1979 Partition.

8.7 Seventhly, learned counsel submits that witnesses DW.2, 4 and 5 have clearly stated about both Wills in respect of Item Nos.1 and 2 of the suit schedule properties. The Trial Court only on the premise that there is nothing placed on record with reference to the third Will as stated in the Written Statement and non-examination of any witness in that regard as the

circumstances to discard the witness of DW.2, 4 and 5 in respect of Ex.D1 and D5 holding that these are created and concocted documents to suit the claim of Lokprakash Reddy. The said reason is unsustainable in law. In that view of the matter, the appreciation of evidence by the Trial Court is perverse.

8.8 Learned counsel further submits that the First Appellate Court in O.S.No.20/2011 has failed to consider this aspect of the matter and dismissed the appeal. As such, both the appeals filed by Lokprakash Reddy required to be allowed, setting aside the common Judgment and Decree passed by the Trial Court as well as the Judgment and Decree passed by the First Appellate Court and dismiss the suit filed by the plaintiff - Chitra Reddy.

9. In contrast, Sri.B.R.Vishwanath, and Sri.R.Shashidhara, learned counsel appearing for Chitra Reddy and Nirmala & Yashaswini, argued in support of the Common Judgment and Decree passed by the Trial Court

as well as the Judgment and Decree passed by the First Appellate Court.

9.1 Both the learned counsel in unison submits that the Trial Court in the teeth of admissions by Nirmala – DW.6 that, Chitra Reddy is the wife of T.A.Reddy, and their marriage was solemnized in 1985 and T.A.Reddy during his lifetime acknowledged her as his wife before them held that, Chitra Reddy proved her status as second wife of T.A.Reddy during his lifetime.

9.2 Both the learned counsel submit that the Trial Court apart from the evidence of DW.6, held Chitra Reddy as second wife of T.A.Reddy, on the basis of documents, more especially the Bank FDRs, Advocate Welfare Fund Certificate and the pension payment order in favor of Chitra Reddy, wherein she is shown as nominee so also person to claim Family Pension, held that Chitra Reddy has proved the fact that she married T.A.Reddy as second wife after demise of first wife Yashodhara Reddy.

- 9.3 They further submit that non-explanation of customs prevailed in their community is not fatal, when other documents and evidence clearly indicate the valid marriage of Chitra Reddy with T.A.Reddy. They further submit that even for the sake of arguments, however without admitting, a long relationship Chitra Reddy and T.A.Reddy from 1985 till his death i.e., 24 years as husband and wife recognized by T.A.Reddy during his lifetime as she was his wife, proved the fact that Chitra Reddy is the wife of T.A.Reddy.
- 9.4 They further submit in unison that Sri.Lokprakash Reddy has failed in *toto* to prove the purported Wills, as they fall short to the provisions of Indian Succession Act R/w. Indian Evidence Act. The witnesses examined were held to be unbelievable. T.A.Reddy was a well-known advocate and former MLC for a term i.e., during 1976 and 1982. A highly educated person with that stature would never require a witness like the one who have been examined in this case, who were not having

knowledge of Will and provisions of its evidence, accordingly held that these witnesses are highly unbelievable and very strange in an ordinary circumstance.

9.5 The witness - PW.2 and PW.3 supported the case of Chitra Reddy and also defendant Nos.2 & 3. In that view of the matter, the common Judgment and Decree passed by the Trial Court and the Judgment and Decree passed by the First Appellate Court do not call for any interference at the hands of this Court and sought to dismiss both the appeals.

10. Having considered the rival submissions, we have gone through, both the appeal papers so also the Trial Court record.

11. The only point that would arise for our consideration is:

Whether the Trial Court is right in decreeing the suit of plaintiff – Smt.Chitra Reddy, declaring plaintiff, defendant No.1 each

*and defendant Nos.2 & 3 jointly entitled for
1/3rd share each in respect of suit Item Nos.1
to 6 left by T.A.Reddy?*

12. Our answer to the above only point for consideration is, in the **AFFIRMATIVE** for the following:

REASONS

13. So far as the status of Chitra Reddy is concerned, it is trite law that a person who was living along with a woman according her the status of wife in public, is more than sufficient to hold that she is the wife of said person, even in the absence of any customs and other documents to that effect. It is not only the documents under which late T.A.Reddy recognized Chitra Reddy as his second wife, and making her as nominee and also requested the Karnataka Legislative Council to provide her family pension after his demise, adding to these the unequivocal and clear evidence of PW.2, 3 and defendant No.2, the marriage between Chitra Reddy and T.A.Reddy is proved within the meaning of Section 50 and 114 of the Indian Evidence Act. Their joint living and

recognition by T.A.Reddy and admission of defendant No.2 are more than sufficient, from the common course of natural events and conduct of the parties, borne out from the facts and circumstances of the case that, Chitra Reddy proved her relationship as second wife of T.A.Reddy.

14. One more reason for our view, is the admission by Lokprakash Reddy himself in his evidence with reference to the two documents, which he has produced the Sale Certificates at Ex.D2 and 3 effected by City Municipal Council, Chitradurga in the name of Chitra Reddy, wherein she was clearly stated as wife of T.A.Reddy, prove that Chitra Reddy is the wife of T.A.Reddy. Further, his admission with reference to the pension payment only to Chitra Reddy, as 'True' after the demise of T.A.Reddy, though Lokprakash Reddy has stated that he has challenged the said order before this Court in the Writ Petition, supports the case of the plaintiff Chitra Reddy, rather the case set-forth by Lokprakash Reddy.

15. Though, there were three Wills set up by Lokprakash Reddy in the Written Statement, however he

was able to produce only two Wills marked as Ex.D1 alleged Will of the year 1994 and Ex.D5 alleged Will of the year 2000. Though the witnesses were examined, however due to the unnatural circumstances arising out of these witnesses make them highly unbelievable and a suspicion arose in the mind of the Court that, a person with that high stature would ever require the persons like DW.2, 4 and 5 to witness the Wills, as the deceased was not an ordinary rustic ruralist, he was well-known Advocate in Chitradurga and a former Member of Legislative Council.

16. That apart, there were several complaints made by T.A.Reddy against Lokprakash Reddy, which clearly show that the relationship between them was strained. In that view of the matter, both Wills are highly surrounded by suspicious circumstances which Lokprakash Reddy has failed to remove by leading cogent and corroborative evidence.

17. Another circumstance is, though Lokprakash Reddy has pleaded in respect of third Will of the year 2008, however neither the Will was produced nor any

person examined in order to support the contention, which goes against the claim of Lokprakash Reddy – defendant No.1.

18. The Trial Court has relied on the Judgment of this Court as well as Supreme Court with regard to the aspect of Wills. This Court in the case of **J.T.SURAPPA AND ANOTHER VS. SATCHIDHANANDEENDRA SARASWATHI SWAMIJI PUBLIC CHARITABLE TURST AND OTHERS**, reported in **2008 (3)KCCR 1484**, after referring several Judgments, issued guidelines as to how a Will should be taken note of and decide its validity, wherein this Court has formulated 05 steps which are called as “Panchapadi” (the path of enquiry and steps to be traversed), which are as follows:

- 1) Whether the Will bears the signature or mark of the testator and is duly attested by two witnesses and whether any attesting witness is examined to prove the Will?*
- 2) Whether the natural heirs have been disinherited? If so, what is the reason?*
- 3) Whether the testator was in a sound state of mind at the time of executing the Will?*

4) Whether any suspicious circumstances exist surrounding the execution of the Will?

5) Whether the Will has been executed in accordance with Section 63 of the Indian Succession act, 1925, read with Section 68 of the Evidence Act?

19. Lokprakash Reddy though invented the Wills to claim under the same, but has failed to explain the circumstances as to what was the reason for T.A.Reddy to exclude other persons, especially defendant Nos.2 & 3, who are none other than his daughter-in-law and granddaughter and Chitra Reddy, whom he has acknowledged as wife and made her as a Nominee in all the documents in the Bank, Advocate Welfare Fund and Karnataka Legislative Council. There is no reason stated for their exclusion. It was an admitted fact that T.A.Reddy was suffering from several age-related illness. The said Wills were executed one in Chitradurga in the year 1994 in respect of Item No.1 of the suit schedule properties and another in the year 2000 in respect of Item No.2 of the suit schedule properties, create suspicion with respect to the said Wills. As admitted by the witnesses, there were

several adjustments made in the line spacing of the Wills, which clearly show that the documents were created on signed blank papers. The Trial Court has rightly considered this aspect of the matter and held that these Wills are created subsequent to death of T.A.Reddy.

20. Other circumstance to subscribe our view to the view of the Trial Court is that, both the Wills are typed on a plain paper. We are alive to the situation that, there is no need of Will being typed on stamp papers and registered. All depends on the facts and circumstances of each case. However the circumstances involved in this case creates several suspicion, especially with the conduct of T.A.Reddy and Lokprakash Reddy, which had transpired during their lifetime. Several complaints filed by T.A.Reddy with police, clearly shows that the relationship between T.A.Reddy and Lokprakash Reddy was very strained. Further, in the cross examination of DW.6, it was clearly elucidated that during the lifetime, T.A.Reddy was looking after the well being of defendant Nos.2 & 3 and he has provided entire education to Yashaswini - the

granddaughter. This again creates suspicion in the mind of the Court with respect to reason for exclusion of these persons in the Will.

21. A perusal of the Will and the highly unbelievable and preposterous evidence of the alleged witnesses clearly show that, the Wills are not fitting within the provisions of Section 63 of Indian Succession Act, 1925 and Section 68 of Indian Succession Act.

22. In that view of the matter, this Court is of the opinion that the Trial Court after appreciating the entire evidence, both oral and documentary, has come to a right conclusion by decreeing the suit filed by Chitra Reddy and dismissing the suit filed by Lokprakash Reddy.

23. In that view of the matter, we find no reasons to interfere with the well considered and well reasoned Common Judgment and Decree passed by the Trial Court as well as the Judgment and Decree passed by the First Appellate Court. Accordingly, the Regular First Appeal sans merits and is ***dismissed***, consequently the Regular

Second Appeal is also ***dismissed*** as no substantial question of law having been made out. The common Judgment and Decree passed by the Trial Court dated 20.12.2014 is confirmed.

24. The Registry is directed to draw the decree accordingly.

25. In view of dismissal of appeals, pending interlocutory applications, if any, stand disposed of.

Sd/-
(D K SINGH)
JUDGE

Sd/-
(T.M.NADAF)
JUDGE

TKN