



CNR: KAHC010512482012

NC: 2026:KHC:44226
RFA No. 1128 of 2012

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 18TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MS. JUSTICE JYOTI M

REGULAR FIRST APPEAL NO. 1128 OF 2012 (DEC)

BETWEEN:

1. ARJUNAPPA,
S/O. LATE BYRAPPA,
SINCE DECEASED BY HIS LRS

1(A) SMT. KADARAMMA,
AGED ABOUT 62 YEARS,
W/O. LATE ARJUNAPPA,

1(B) ABHIMANYU,
AGED ABOUT 43 YEARS,
S/O. LATE ARJUNAPPA,

1(C) VIJAYAKUMAR,
AGED ABOUT 40 YEARS,
S/O. LATE ARJUNAPPA,

1(D) VINODKUMAR,
AGED ABOUT 38 YEARS,
S/O. LATE ARJUNAPPA,

1(A) TO 1(D) ARE RESIDING AT
NO.90, ARJUNAPPA BUILDING,
NEAR NETHAJINAGAR,
CHOKKASANDRA,
T.DASARAHALLI,
BENGALURU-560057.

...APPELLANTS

(BY SRI. PRADEEP NAIK, ADVOCATE FOR LRS)

AND:

Digitally signed
by
PREMCHANDRA
M R
Location: HIGH
COURT OF
KARNATAKA



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1. SMT. RAMAKKA,
W/O. THAMMAPPA,
SINCE DECEASED BY HER LRS,

(AS PER COURT ORDER DATED 05.06.2025
RESPONDENT NO.2 SMT.CHINNAMMA IS
TREATED AS LRS OF DECEASED RESPONDENT NO.1)

2. SMT. CHINNAMMA,
W/O. NAGARAJU,
D/O. THAMMAPPA,
AGED ABOUT 52 YEARS,
RESIDING AT CHOKKASANDRA MAIN ROAD,
T. DASARAHALLI,
YASHAWANTHAPURA HOBLI,
BENGALURU-560057.
3. THE COMMISSIONER,
DASARAHALLI MUNICIPAL COUNCIL,
T. DASARAHALLI,
BENGALURU-560057
NOW IT IS MERGED WITH BBMP
COMMISSIONER,
BBMP, HUDSON CIRCLE,
BENGALURU-560009.
4. SRI. NANDA KRISHNAIAH,
S/O. NOT KNOWN TO APPELLANT
AGED ABOUT 70 YEARS,
5. SRI. YADUKUMAR,
S/O. NANDA KRISHNAIAH,
AGED ABOUT 40 YEARS,

RESPONDENTS 4 AND 5 ARE
R/AT NO.12,
CHOKKASANDRA MAIN ROAD,
GOVERNMENT COLONY, T.DASARAHALLI,
CHOKKASANDRA, BENGALURU-560057.



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...RESPONDENTS

(BY SRI. K.BHANUPRASAD, ADVCOATE FOR R2;
R1 IS DEAD, R2 IS THE LR OF DECEASED R1;
VIDE COURT ORDER DATED 07.08.2012,
NOTICE TO R3 TO R5 DISPENSED WITH)

THIS REGULAR FIRST APPEAL IS FILED UNDER SECTION
96 READ WITH ORDER 41 RULE 1 OF THE CODE OF CIVIL
PROCEDURE.

THIS REGULAR FIRST APPEAL HAVING BEEN HEARD AND
RESERVED FOR JUDGMENT ON 31.07.2026, THIS DAY, AN
JUDGMENT IS PRONOUNCED AS UNDER:

CAV JUDGMENT

Sri.Pradeep Naik, counsel for the legal representatives of
the appellants, and Sri. K. Bhanuprasad, counsel for
respondent No. 2, appeared in person.

2. The plaintiff has filed this appeal challenging the
Judgment and Decree dated 06.06.2012, passed by the Trial
Court in O.S. No.6908/2002.

3. For convenience, the parties are referred to by their
status and ranking before the Trial Court.

4. The brief facts are as follows.



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One Byrappa, Thammappa and Mahimappa are brothers. Thammappa had a daughter named Chennamma, who is defendant No.2. Arjunappa, the plaintiff, is Byrappa's son. He filed suit for a declaration that the sale deed executed by Thammappa, defendant No.1, in favor of Chennamma, defendant No.2, dated 07.12.1995, is null and void. The plaintiff specifically contends that his father allotted the site on 12.12.1960.

It is contended that, during his lifetime, Mr Byrappa took a loan to construct the suit schedule property. Mr Byrappa died on 29.07.1992. After his death, the plaintiff, being the son, applied to the concerned authorities to have his name entered in respect of the property. That was not done. Thereafter, he learnt that his uncle, defendant No.1, had executed a sale deed in favor of his daughter, defendant No.2; hence, he was compelled to approach the Court of law to file a suit for a declaration.

Upon service of the summons, defendants 1 and 2 filed a written statement. They contended that Byrappa, Thammappa, and Mahimappa had partitioned the property, and that the



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subject land was allotted to Thammappa's share. Hence, he had become the absolute owner of the property. Therefore, he had the right to deal with the property and executed a sale deed in favor of his daughter. On other grounds, they prayed for the dismissal of the suit.

The Trial Court framed the issues, and the parties exhibited the documents and led evidence. The Trial Court dismissed the suit. Accordingly, the plaintiff has filed the present appeal on several grounds as outlined in the memorandum of appeal.

5. Counsel for the appellants contend that the Judgment and Decree are illegal and conflict with the facts and circumstances of the case.

Next, he submits that the Trial Court has not properly framed the issues. It is submitted that the Trial Court failed to note that a panchayat parikatha was held between the parties on 24.04.1979, and that a subsequent registered partition deed dated 05.04.1994 relates to the same properties. In this



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regard, the court should have directed the parties to produce the said 1979 document to do justice.

It has been strongly argued that the court failed to consider the evidence from the correct perspective and erred in determining that PW1, in his testimony, indicated a division between the father and his brothers in 1979 concerning ancestral properties. Additionally, he did not state that the scheduled property was part of the first defendant's father's share. Therefore, it is submitted that, given the specific admissions of PW1 and PW2, the Trial Court overlooked the need to verify whether the scheduled property belonged to the first defendant's father.

Urging additional grounds, he lastly submitted that, viewed from any angle, the Judgment and Decree of the Trial Court are unsustainable in law and, therefore, may be set aside, and the appeal may be allowed.

Conversely, counsel for the respondent justified the Judgment and Decree of the Trial Court. He argued that the plaintiff has not filed a suit for a declaration that he be declared



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the owner of the property. Hence, he cannot seek consequential relief to declare the sale deed null and void.

He further stated that the properties were partitioned on 24.04.1979, and another partition took place on 05.04.1994. The suit-scheduled property was not included in the 1994 partition deed because it was allocated to Mr Thammappa's share. The parties were aware of this; therefore, they intentionally excluded the property from the 1994 partition.

Finally, he argued that the Trial Court thoroughly examined the record and correctly dismissed the plaintiff's claim. Accordingly, the Judgment should not be disturbed, and the appeal should be rejected.

6. Heard the arguments and perused the record with utmost care.

7. The following points arise for consideration.

1. Whether the Trial Court erred in dismissing the suit without properly framing the issues regarding ownership and partition of the suit schedule property.



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2. Whether the appellant established that the property was allotted to his father, Byrappa, in 1960 and thus devolved upon him after Byrappa's death.

3. Whether the sale deed dated 07.12.1995 is liable to be declared null and void.

4. Whether the Judgment and Decree of the Trial Court warrants interference.

8. The facts are sufficiently stated and need no repetition. The issue falls within a narrow compass.

9. The plaintiff relies on the alleged allotment of the site to his father, Byrappa, in 1960, and on the subsequent loan taken for construction. However, no registered document evidencing such allotment was produced. It is undisputed that Mr Byrappa died on 29.07.1992. Thereafter, the plaintiff applied to the authorities to have his name entered in respect of the property, but this was not done. Subsequently, the plaintiff discovered that his uncle, defendant No.1, had executed a sale deed dated 07.12.1995 in favor of his daughter, defendant No.2. He therefore filed the suit seeking a declaration that the sale deed is null and void.



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It is undisputed that partitions took place on 24.04.1979 (panchayat parikath) and again on 05.04.1994. The plaintiff himself admitted under oath that a partition occurred in 1979. Ex.P3, the registered partition deed dated 05.04.1994, does not include the suit-scheduled property, corroborating the respondents' case that it was allotted to Thammappa.

The Trial Court noted the absence of evidence that the suit property formed part of Byrappa's share. It held that the burden lay on the plaintiff to establish his title before seeking to invalidate the sale deed. Moreover, the plaintiff did not seek a declaration of ownership in his favor but only sought to nullify the sale deed. The Trial Court, in extenso, referred to the material on record and rightly dismissed the suit. In my view, the dismissal is just and proper.

In appeal, it is argued that the Trial Court failed to frame proper issues and should have directed production of the 1979 document. It is contended that the property remained in Byrappa's name until his death and was not divided earlier.



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The respondents countered that the plaintiff, having admitted partition, cannot now contend otherwise without cogent proof. They emphasised that the property's exclusion from the 1994 partition deed corroborates its allotment to Thammappa.

This Court has thoroughly reviewed the depositions. During PW1's cross-examination, a suggestion was raised regarding the omission of the suit property from the 1994 document. He denied any intentional exclusion. The son-in-law, acting under a power of attorney for the defendants, confirmed that Thammappa sold the property to his daughter on 07.12.1995. PW1 made certain admissions, and PW2 was examined to counter them.

The appellants grievance that the Trial Court failed to frame proper issues is not sustainable. Parties are bound to produce evidence in support of their case. The plaintiff, having admitted partition, cannot now contend that the property belonged to Byrappa without producing cogent proof.



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10. It is a settled principle that a plaintiff must succeed on the strength of his own case and not on the weakness of the defendant's case. Here, the plaintiff did not establish ownership. Consequently, the relief of declaring the sale deed null and void cannot be granted. The points are answered accordingly.

11. The appeal is ***dismissed***. The Judgment and Decree of the Trial Court are affirmed.

Because of dismissal of the appeal, interim order granted if any stands discharged and pending interlocutory applications if any are disposed of.

**Sd/-
(JYOTI M)
JUDGE**

MRP/List No.1 Sl.No.1