



CNR: KAHC010534062012

NC: 2026:KHC:48785
RSA No. 1069 of 2012

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 8TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

REGULAR SECOND APPEAL NO. 1069 OF 2012 (DEC/INJ)

BETWEEN:

SRI HONNAPPA
DEAD BY LRS

1. THIMMEGOWDA G.H
AGED ABOUT 45 YEARS

2. RAVISH .G.H
AGED ABOUT 34 YEARS

BOTH ARE S/O LATE HONNAPPA
R/O GOWDANAKATTE VILLAGE
TIPTUR TALUK, TUMKUR DIST.

3. SMT. GANGAMMA
W/O SHANTHAPPA
AGED ABOUT 39 YEARS
R/O ABBANAGATTA
ARASIKERE TALUK
HASSAN DISTRICT.

4. SMT. PADMA
W/O RANGASWAMY
AGED ABOUT 41 YEARS
R/O MOTIHALLI
CHIKKANAYAKANA HALLI TALUK
TUMKUR DIST.

5. SMT. VIMALA
W/O RENUKAPPA
AGED ABOUT 37 YEARS

Digitally signed
by ALBHAGYA
Location: HIGH
COURT OF
KARNATAKA

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R/O HUNASHEGATTE, ARASIKERE TALUK
HASSAN DISTRICT.

...APPELLANTS

(BY SRI. M.V. HIEMATH, ADVOCATE)

AND:

1. SMT. SUSHEELAMMA
W/O GIRIYAPPA
AGED ABOUT 60 YEARS
2. SRI. SIDDESH
S/O LATE GIRIYAPPA
AGED ABOUT 36 YEARS
3. SRI. HEMAVATHI
D/O LATE GIRIYAPPA
AGED ABOUT 42 YEARS
4. SMT. BHARATHI
D/O LATE GIRIYAPPA
AGED ABOUT 30 YEARS
5. GAYATHRI
D/O LATE GIRIYAPPA
AGED ABOUT 38 YEARS

R1 TO R5 ARE R/O
GOWDANAKATTE VILLAGE
KASABA HOBLI, TIPTUR TALUK
TUMKUR DISTRICT

...RESPONDENTS

(BY SRI. R. VIJAY KUMAR, ADVOCATE FOR R1-R5)

THIS RSA IS FILED UNDER SEC.100 OF CPC., AGAINST
THE JUDGMENT AND DECREE DATED 22.02.2012 PASSED IN
R.A.NO.18/2000 ON THE FILE OF THE SENIOR CIVIL JUDGE &
JMFC, TIPTUR, DISMISSING THE APPEAL AND FILED AGAINST

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THE JUDGMENT AND DECREE DATED 28.2.2000 PASSED IN O.S.NO.105/1989 ON THE FILE OF THE CIVIL JUDGE(JR.DN) AND JMFC., TIPTUR.

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

CORAM: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

ORAL JUDGMENT

The captioned appeal is filed by the defendant calling in question the concurrent judgments and decrees rendered by the Courts below, whereby the suit instituted by the plaintiff came to be decreed declaring him to be the absolute owner of the suit schedule properties allotted to his share under the family partition dated 10.03.1975 and consequently granting the relief of injunction.

2. For the sake of convenience and brevity, the parties shall be referred to as per their rank before the Trial Court.

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3. Facts leading to the case are as under:

The plaintiff, who is the brother of the defendant, instituted the suit seeking declaration of his title and consequential injunction in respect of the suit schedule properties. The plaintiff founded his claim on a family partition dated 10.03.1975, under which the suit schedule properties were allotted to his share.

4. The defendant entered appearance and contested the suit. His specific defence was that the parties had already effected a comprehensive partition on 01.10.1974 and, therefore, the subsequent partition relied upon by the plaintiff dated 10.03.1975 was not binding and could not confer any title upon the plaintiff.

5. On the basis of the rival pleadings, the Trial Court framed the necessary issues and called upon the parties to lead evidence. The plaintiff and defendant examined themselves and produced documentary evidence in support of their respective cases.

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6. Upon appreciation of the evidence, the Trial Court found that the plaintiff had satisfactorily established the family partition dated 10.03.1975. In arriving at such conclusion, the Trial Court placed considerable reliance on the evidence of the defendant himself, who admitted in the course of cross-examination that he had signed the partition deed dated 10.03.1975, marked as Ex.P-1. The evidence of the witnesses to Ex.P-1 was also taken into consideration.

7. The Trial Court further noticed that, although the defendant had set up an earlier partition dated 01.10.1974, he had not examined any of the witnesses to the said document nor placed any independent and cogent evidence before the Court to establish that such partition had, in fact, taken place. Accordingly, the Trial Court answered Issue No.2 in favour of the plaintiff and Issue No.5 against the defendant and proceeded to decree the suit, declaring the plaintiff to be the absolute owner of the

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suit schedule properties and granting consequential injunction.

8. The defendant carried the matter in appeal in R.A.No.18/2000. The First Appellate Court, being the final Court of fact, independently re-appreciated the entire oral and documentary evidence. Upon such re-appreciation, the Appellate Court concurred with the Trial Court that the plaintiff had established the partition dated 10.03.1975. The Appellate Court also found that the alleged prior partition dated 01.10.1974 set up by the defendant had not been proved. Consequently, the appeal came to be dismissed.

9. It is these concurrent findings which are assailed in the present appeal.

10. Heard the learned counsel appearing for the appellant/defendant and the learned counsel appearing for the respondent/plaintiff. Perused the judgments and

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decrees of the Courts below and the material available on record.

11. The controversy essentially revolves around two rival assertions: firstly, whether the plaintiff has established the family partition dated 10.03.1975; and secondly, whether the defendant has established his specific plea that the parties had already effected a comprehensive partition on 01.10.1974.

12. In support of the partition dated 10.03.1975, the plaintiff has examined himself and has also examined two witnesses to the transaction. The evidence led by the plaintiff has been appreciated by both the Courts below and found to be credible.

13. In contrast, the defendant, while setting up a specific plea of prior partition dated 01.10.1974, has not examined any of the witnesses to the alleged transaction. Thus, a specific plea which formed the foundation of the

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defendant's defence remained unsupported by any acceptable independent evidence.

14. More importantly, the evidence of the defendant in cross-examination contains a material admission which goes to the root of the controversy. The defendant has admitted that he signed the partition deed dated 10.03.1975, Ex.P-1. His attempt to neutralise the effect of such admission is by asserting that his signature was obtained forcibly and under threat and coercion in the police station.

15. The plea of coercion, once specifically raised by the defendant to explain away his admitted signature on Ex.P-1, required him to establish the circumstances constituting such coercion. The allegation is not a routine or incidental assertion. It is a serious allegation that the defendant's signature on a document recording partition was procured against his will within the premises of a police station.



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16. If the defendant intended the Court to disregard Ex.P-1 on the ground that his signature was obtained by threat or coercion, it was incumbent upon him to place before the Court some acceptable evidence in support of that plea. He could have examined persons who were present at the relevant point of time, placed material concerning the alleged intervention of the police, or otherwise demonstrated the circumstances under which his signature was allegedly secured.

17. Nothing of that nature has been done. The defendant has rested his case on a mere assertion. There is no tangible, independent or credible material on record establishing that his signature on Ex.P-1 was obtained by force or coercion or that any police official had compelled him to execute or sign the said document.

18. The consequence is significant. The defendant's admission regarding his signature on Ex.P-1 remains substantially intact. The explanation offered by him for

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such admission has not been substantiated by evidence. The Courts below were, therefore, justified in taking the admission into consideration along with the evidence of the witnesses to Ex.P-1 and in accepting the plaintiff's case that the partition dated 10.03.1975 was acted upon.

19. Equally significant is the complete failure of the defendant to establish the alleged prior partition dated 01.10.1974. The defendant cannot succeed merely by putting forward an alternative version of partition. Once the plaintiff's case was supported by oral evidence and Ex.P-1, and the defendant sought to defeat that claim by asserting an earlier and comprehensive partition, the defendant was required to substantiate that specific plea by acceptable evidence. The Courts below have concurrently found that he failed to do so.

20. It is also not the case of the defendant that the Courts below have ignored any material evidence or have arrived at their conclusions on the basis of inadmissible



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evidence. On the contrary, the findings are founded upon the defendant's own admission, the evidence of the witnesses examined by the plaintiff and the failure of the defendant to substantiate the alleged prior partition.

21. This Court, while exercising jurisdiction in a second appeal, is not required to undertake a fresh re-appreciation of evidence merely because another view of the evidence may be possible. Interference with concurrent findings of fact is warranted only where such findings are shown to be perverse, based on no evidence, founded upon an erroneous approach to the evidence, or otherwise give rise to a substantial question of law.

22. In the present case, no such infirmity is demonstrated. Both the Courts below have independently considered the material on record and have arrived at concurrent findings that the plaintiff established the partition dated 10.03.1975 and that the defendant failed to prove the alleged prior partition dated 01.10.1974.



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Such findings are findings of fact based on evidence and cannot be characterised as perverse merely because the appellant seeks a different appreciation of the same material.

23. The appellant has, therefore, failed to demonstrate the existence of any substantial question of law warranting consideration in the present appeal. The concurrent judgments and decrees do not suffer from any jurisdictional error or legal infirmity calling for interference by this Court.

24. For the foregoing reasons, this Court proceeds to pass the following:

ORDER

The appeal stands ***dismissed***. The concurrent judgments and decrees passed by the Courts below are affirmed.

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Pending interlocutory applications, if any, stand disposed of.

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(SACHIN SHANKAR MAGADUM)
JUDGE

CA
List No.: 2 Sl No.: 3