



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

REGULAR SECOND APPEAL No.2384 OF 2017 (PAR)

BETWEEN:

1. SRI. U. SIDDAPPA
S/O. MANJAPPA,
AGED ABOUT 66 YEARS
R/O. SUNKADAKATTE VILLAGE,
HONNALI TALUK,
DAVANAGERE DISTRICT – 577 101

SRI. MAHESHWARAPPA
SINCE DEAD BY LRS
2. SMT. RATHNAMMA
W/O. MAHESHWARAPPA,
AGED ABOUT 56 YEARS
R/O. RAGIDUDDA,
SHIMOGA TALUK AND DISTRICT -576 101
3. SMT. GOWRAMMA
W/O. CHANDRAPPA,
AGED ABOUT 36 YEARS
R/O. RAGIDUDDA,
SHIMOGA TALUK AND DISTRICT -576 101
4. SMT. NEELAMMA @ LEELAMMA
W/O. DHARMAPPA,
AGED ABOUT 31 YEARS
R/O. CHIRDONI,
CHANNAGIRI TALUK,
5. SRI. MANJULA
W/O. RAMESHA,

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signed by
MALATESH
K C
Location:
HIGH
COURT OF
KARNATAKA



AGED ABOUT 29 YEARS
R/O. HONNAPURA,
SHIVAMOGA TALUK
AND DISTRICT- 577 101

...APPELLANTS

(BY SRI GURURAJ.R ADVOCATE FOR APPELLANT No.1,
SRI. SANTOSH R NELKUDURI, ADVOCATE)

AND:

1. SRI. LOHITAPPA
S/O. MANJAPPA,
AGED ABOUT 58 YEARS
R/O. DEVARAHONNALI VILLAGE,
HONNALI TALUK,
DAVANAGERE DISTRICT
SINCE DEAD BY LEGAL REPRESENTATIVES

1(a) SMT.HIRIYAMMA
W/O LATE LOHITAPPA
AGED ABOUT 62 YEARS
OCC: HOUSEHOLD
R/O DEVARAHONNALI VILLAGE
HONNALI TALUK
DAVANAGERE DISTRICT – 577 217

1(b) SRI MANJAPPA
S/O LATE LOHITAPPA
AGED ABOUT 39 YEARS
OCC: AGRICULTURE
R/O DEVARAHONNALI VILLAGE
HONNALI TALUK
DAVANAGERE DISTRICT – 577 217

SMT. SUGANDAMMA
W/O. NARASAPPA,
SINCE DEAD BY HER LRS,



2. SRI NARASAPPA
S/O BENCHAPPA @ SANNAMANJAPPA,
R3 IS THE LR'S OF DECEASED R2 AND LR'S ALREADY
ON RECORD
3. SRI RAMESHA
S/O. NARASAPPA
AGED ABOUT 48 YEARS
R/AT SHARAVATHI NAGAR,
7TH CROSS, ,
SHIMOGA- 576 101
4. SMT. KAMALAMMA
W/O. PRAHALADAPPA,
AGED ABOUT 43 YEARS
R/O. TAKKANAHALLI VILLAGE,
HONNALI TALUK,
DAVANAGERE DISTRICT - 577 101

SMT. PARVATAMMA
SINCE DEAD BY LRS,
5. SRI. CHANDRAPPA,
S/O. SIDDAPPA,
AGED ABOUT 43 YEARS,
R/O. TAKKANAHALLI VILLAGE,
HONNALI TALUK,
DAVANAGERE DISTRICT- 577 101
6. SRI. NARASIMHAPPA
S/O. SIDDAPPA,
AGED ABOUT 43 YEARS
R/O. TAKKANAHALLI VILLAGE,
HONNALI TALUK,
DAVANAGERE DISTRICT- 577 101
7. SMT. PREMAMMA
W/O. PRAHALADAPPA,
AGED ABOUT 63 YEARS
R/O. SUNKADAKATTI VILLAGE,



HONNALI TALUK,
DAVANAGERE DISTRICT,

8. SMT. GIRIJAMMA
W/O. BASAPPA,
AGED ABOUT 58 YEARS
R/O. GOLLARAHALLI VILLAGE,
HONNALI TALUK,
DAVANAGERE DISTRICT

SRI. MANJAPPA
S/O. BASAPPA,
DEAD BY LRS,

9. SMT. MADAMMA
W/O LATE MANJAPPA,
R/O. GOLLARAHALLI VILLAGE,
HONNALI TALUK
DAVANAGERE DIST.

...RESPONDENTS

(BY SRI S.V.PRAKASH, ADVOCATE FOR R3;

R4, R5, R6, R7, R8, R9 –SERVED;

VIDE ORDER DATED 23.06.2026, R-3 IS TREATED AS LR OF
DECEASED R-2;

R1(A), R1(B) –SERVED)

THIS RSA IS FILED UNDER SECTION 100 OF CIVIL
PROCEDURE CODE, 1908 AGAINST THE JUDGMENT AND
DECREE DATED 18.08.2017 PASSED IN R.A No.29/2014 ON
THE FILE OF THE SENIOR CIVIL JUDGE AND JMFC, HARIHAR,
DISMISSING THE APPEAL AND CONFIRMING THE JUDGMENT
AND DECREE DATED 1.4.2014 PASSED IN O.S No.212/2007 ON
THE FILE OF THE CIVIL JUDGE AND JMFC, HONNALI



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

CORAM: HON'BLE MR. JUSTICE V SRISHANANDA

ORAL JUDGMENT

Heard Sri R.Gururaj, learned counsel for the appellant
No.1 and Sri S.V.Prakash, learned counsel for respondent No.3.

2. Parties are referred to as plaintiffs and defendants as per
their original ranking before the Trial Court, for the sake of
convenience.

3. Unsuccessful plaintiffs are the appellants challenging the
dismissal of the suit in O.S No.212/2007 dated 01.04.2014 on
the file of the Civil Judge and JMFC, Honnali, confirmed in R.A
No.29/2014 dated 18.08.2017 on the file of the Senior Civil
Judge and JMFC, Harihara.

4. Facts of the case are as under:

4.1 A suit for partition and separate possession came to be
filed in O.S No.212/2007 in respect of the following properties
(hereinafter referred to as 'suit properties') contending that



Plaintiffs and defendants are the members of Hindu joint family and they being the brothers and sisters.

"1. The agricultural land bearing Sy.No.49/2 old No.49 total extent of 11 acre 31 guntas out of which 5 acre 35 1/5 guntas including -01 guntas of karab land is situated at Sunkadakatti village, Honnali Taluk, is bounded by:

East: Narasappa's land,
West: Uppara Putta Kenchappa's land,
North: Rampurada Narasappa's land,
South: Arabagatti Gadi.

2. The agricultural land bearing Sy.No.48/2A1-P2 in extent of 03 acres 06 guntas is situated at Sunkadakatti village, Honnali Taluk, is bounded by:

East: Sy.No.49 and partition of Narasappa's land,
West: Goliyappa's land,
North: Dari,
South: Arabagatti Gadi.

3. The house property bearing khatha No.22 property No.18 two ankana and Hitalu is situated at Sunkadakatti village, Honnali Taluk, is bounded by:

East: S.Hanumantaiah's house,
West: Narasappa's share house,
North: A.K.Colony,
South: Road.

4.2 It is further contented that there is no partition among the parties and Siddappa was the grandfather of parties. Said



Siddappa had two sons namely Manjappa and Narasappa. Plaintiff Nos.1, 4 and 5 are the sons of Manjappa. Plaintiff Nos.2 and 3 are the daughter-in-law and son-in-law. Basappa is no more. Defendant Nos.1, 3 and 5 are the daughters of Manjappa. Defendant No.2 is the daughter-in-law of Manjappa and her husband Prahlada is also no more. The other son and daughter of Manjappa namely Ashoka and Basamma are also no more. Ashoka died unmarried.

4.3 Plaintiffs also contended that Manjappa and Narasappa got divided their properties. After the death of Manjappa the revenue entries stood in the name of first defendant-Sugandamma. When there was demand for partition, same was flatly refused by the defendants which necessitated the filing of the suit.

5. Pursuant to the suit summons, all the defendants entered appearance through advocate. Defendant Nos. 2 and 3 filed written statement admitting the relationship among the parties and also nature of property. They sailed with the plaintiffs by contending that there is no partition among the members of the joint family.



6. Defendant No.4, though appeared through an advocate, did not choose to file any written statement.

7. It is the defendant No.1 who filed a separate written statement and denied the plaint averments in *toto*. It was contended by him that suit properties are entirely belonging to him. It was further contented that defendant No.1/ Sugandamma had purchased the said property under registered sale deed and has thus become the absolute owner of the suit property.

8. It is also contended that plaintiffs and other defendants have colluded and filed one more suit with an intention to grab the suit property belonging to her. Thus, plaintiffs are not entitled for any share in the suit property.

9. The sale deeds are in the name of defendant No. 1 since the year 1977 to 1979 and after lapse of 20 years, the plaintiffs have approached the Court and thus sought for dismissal of the suit.

10. Based on the rival contentions, learned Trial Judge raised necessary issues and after recording the evidence of the parties



and hearing the arguments, dismissed the suit of the plaintiffs by recording a categorical finding that plaintiffs failed to prove that the suit properties are the joint family properties.

11. Being aggrieved by the same, plaintiffs filed R.A No.29/2014 on the file of the Senior Civil Judge and JMFC, Harihara.

12. Learned Judge in the First Appellate Court after securing the records, heard the arguments of the parties and on re-appreciation of the material evidence on record, dismissed the appeal *inter alia* holding in paragraphs 25 to 29 as under:

25. From the above rival contentions of both the parties it reveals that there is no dispute between the parties in regard to their jural relationship. On one hand the plaintiffs claiming their share in the suit schedule properties as the same are all ancestral and joint family properties. On the other hand, the 1st defendant claiming her ownership on the basis of registered sale deeds. Therefore, the initial burden lies on the plaintiffs to prove the nature of properties. Let us see whether the plaintiffs have placed sufficient material before the Court to prove their case or not.

26. The plaintiffs have not produced the documents, except the Ex.P9 & 10 to prove that the suit schedule



properties are all ancestral and joint family properties. Admittedly, the 1st defendant is the sister of 1st plaintiff. She was married and residing separately more than 30 to 40 years. On careful scrutiny of the sale deeds produced by the 1st defendant which clearly discloses the signatures of 1st plaintiff and his brothers. From, this it made clear that they have knowledge about the execution of sale deeds in favour of 1st defendant by previous vendors. Hence, the plaintiffs cannot estopped from contending that the sale deeds are concocted by the 1st defendant. The sale transactions are all taken place during the year 1977 to 1978. The sale deeds are 30 years old documents. The only core point is whether the sellers have saleable right to sold the properties are not is to be considered.

27. It is pertinent to note that from Ex.P9 & 10 it reveals that Manjappa the father of the plaintiffs had mortgaged the property bearing Sy.No.48/2 measuring 29Gs and 28Gs in favour of one Somamma for Rs.500/- i.e., item No.2 of suit property. The plaintiffs have not produced the documents before the Court to show that the said mortgage deed was redeemed and the vendor of the 1st defendant has no saleable right over the said property. The plaintiffs have not produced any single scrap of paper to evidence their contention in this regard. As such it is not probable to accept the contention of the plaintiff that item No.2 of the suit property is ancestral and joint family property.



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28. Further, as per Ex.P9 it could be seen that Manjappa had repaid the mortgaged amount of Rs.2,000/- to Rayappa in respect of the land bearing Sy.No.49 towards mortgage deed alleged to have been executed on 29/11/1963. The payment was made on 28/05/1969. The said property measuring 5A-37Gs which is item No.1 of suit property. The 1st defendant has produced original registered sale deed as per Ex.D1 to show that she purchased the property on 06/05/1974 in respect of item No.1 of the suit property. The recitals of sale deed clearly goes to show that the vendor of 1st defendant by name Rajappa had purchased the property under SR.No.279/74-75. So the vendor has alienable right to sell the property in favour of the 1st defendant. The plaintiffs have not produced any document before the Court to show that the mortgage amount was redeemed. Therefore there is no impediment on the part of the Court to come to the conclusion that the vendors of 1st defendant have salable right to sell the property in favour of 1st defendant. The plaintiffs have not produced the document to prove the redemption of mortgage deed in respect of item No.1 and 2 of the suit schedule properties. The plaintiffs have not produced the documents' in respect of other properties.

29. It is well-settled principle of law that the Court can draw presumption in regard to existence of joint family, but not in regard to existence of joint family property. Apart from the certified copies of the sale deeds and except Ex.P9 and Ex.P10 there are no other documents



placed by the plaintiffs to prove the nature of suit properties as ancestral and joint family properties. On the other hand the documents produced by the 1st defendant which are registered documents and has presumptive value in the eye of law. As I have stated above the sale deeds are all of the 30 years old documents on which the Court can draw presumption about execution of sale deeds. Further the 1st defendant being the purchaser of the suit properties has paid taxes towards the said properties, if the plaintiffs are in joint possession and enjoyment of the suit properties what prevented them to pay the taxes due thereon. There are no such documents produced by the plaintiffs in the suit. Thus, the sale deeds Dt: 06/12/1977, 28/04/1978, 17/01/1979 are all binding on the plaintiffs. The plaintiffs have failed to prove that the suit schedule properties are all ancestral and joint family properties. Per contra the 1st defendant has proved that the suit properties are all self-acquired properties. Therefore, I answer the point No.2 in Negative and point No.3 in Affirmative."

13. Being further aggrieved by the same, plaintiffs have filed the present Second Appeal.

14. Sri R.Gururaja, learned counsel for the appellants/ plaintiffs reiterating the grounds urged in the appeal memorandum would contend that both the Courts have not



properly appreciated the material evidence on record and wrongly dismissed the suit of the plaintiffs and thus sought for admitting the appeal on the following substantial questions of law:

- "a) *Whether the courts below were justified in dismissing the suit of the plaintiffs as suit properties are not the joint family properties in the absence of any oral or registered partition in the family of plaintiffs and defendants?*
- b) *Whether the courts below were justified in dismissing the suit of the plaintiffs on the point of limitation by applying Article 110 of Limitation Act when 1st defendant failed to prove the doctrine of ouster?*
- c) *Whether the courts below were justified in dismissing the suit of the plaintiffs holding that suit properties are the self acquired properties of 1st defendant in the absence of cogent evidence with regard to source of income for purchase of suit properties?*
- d) *Whether courts below were justified in dismissing the suit of the plaintiffs without framing proper issues?*



- e) *Whether the courts below were justified in dismissing the suit of the plaintiffs without considering the oral and documentary evidence lead by the plaintiffs with regard to the nature of the properties and relationship between the parties?*
- f) *Whether the lower appellate court was right in dismissing the application filed under Order 41 Rule 27 of CPC?"*

15. *Per contra*, Sri S.V.Prakash, learned counsel for the contesting respondent supports the impugned judgments by contending that, sale deeds are in the name of first defendant. At that juncture there was no existence of joint family in the absence of any further male co-parceners.

16. Thus, there was automatic severance of the status of the joint family and after the severance of the joint family, when the properties are purchased by the first defendant/Sugandamma and sale deeds are in her name, at no stretch of imagination, the contentions urged on behalf of the plaintiffs could have been considered by the learned Trial Judge



for decreeing the suit and thus, dismissal of the suit is just and proper and sought for dismissal of the appeal.

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

18. On such perusal of the material on record, it is crystal clear that the plaintiffs, except making omnibus statement that the suit properties are joint family properties, are unable to place any cogent material evidence on record to establish that the suit properties are the joint family properties or there was existence of joint family at the time of purchase of suit properties by first defendant.

19. Merely on the ground that the relationship is admitted, the suit of the plaintiffs cannot be decreed, as has been rightly done by the Trial Court.

20. Learned Judge in the First Appellate Court not only agreed with the reasoning recorded by the learned Trial Judge, but also supplemented additional reasons for upholding the dismissal of the suit.



21. Hence, this Court does not find any merit in any one of the substantial questions of law.

22. Hence, the following:

ORDER

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

Sd/-
(V SRISHANANDA)
JUDGE

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List No.: 1 Sl No.: 63