



CNR: KAHC010547812019

NC: 2026:KHC:42400
RSA No. 148 of 2020

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

REGULAR SECOND APPEAL No.148 OF 2020 (DEC)

BETWEEN:

P KUMARA
S/O LATE PUTTASWAMY GOWDA
AGED ABOUT 54 YEARS,
OCC : AGRICULTURIST
R/O SEEGETKOPPA
GANAKANAKOPPA VILLAGE,
KASABA HOBLI
HOSANAGARA TALUK
SHIVAMOGGA DISTRICT-577418

...APPELLANT

(BY SRI P.V.CHANDRASHEKAR, ADVOCATE)

AND:

1. NETRAVATHAMMA
W/O LATE PUTTASWAMY GOWDA
AGED ABOUT 79 YEARS,
R/O SEEGETKOPPA, GANAKANAKOPPA VILLAGE
KASABA HOBLI
HOSANAGARA TALUK-577 418

SINCE DEAD BY HER LR'S
- 1(a) SHIVASHANKAR
S/O LATE PUTTASWAMY GOWDA
SINCE DEAD BY HIS LR'S
- 1(a)(a) SMT.KAMALAMMA
AGED ABOUT 62 YEARS
W/O LATE SHIVASHANKAR

Digitally
signed by
MALATESH
K C

Location:
HIGH
COURT OF
KARNATAKA



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1(a)(b) SMT.GEETHA
AGED ABOUT 35 YEARS
D/O LATE SHIVASHANKAR

1(a)(c) SMT.MANJULA
AGED ABOUT 33 YEARS
D/O LATE SHIVASHANKAR

1(a)(a) to 1(a)(c) ARE
R/O M.GUDDEKOPPA VILLAGE
KASABA HOBLI
HOSANAGARA TALUK
SHIVAMOGGA DISTRICT – 577 418

1(b) SRI OMAKESHA
AGED ABOUT 64 YEARS
S/O LATE PUTTASWAMY GOWDA
R/O HOSANAGARA ROAD
BEHIND ANEJNEYA TEMPLE
HOSANAGAR
SHIVAMOGGA DISTRICT – 577 418

1(c) SRI P.S.NAGARAJ
AGED ABOUT 62 YEARS
S/O LATE PUTTASWAMY GOWDA
SEEGAKOPPA
GANGAKOPPA VILLAGE
HOSANAGAR
SHIVAMOGGA DISTRICT – 577 418

1(d) SRI EERESHA
AGED ABOUT 58 YEARS
S/O LATE PUTTASWAMY GOWDA
S/O SEEGAKOPPA
GANGAKOPPA VILLAGE
HOSANAGAR
SHIVAMOGGA DISTRICT – 577 418



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- 1(e) SMT.KUSAMA.P
AGED ABOUT 56 YEARS
D/O LATE PUTTASWAMY GOWDA
W/O SRI SOMASHEKAR
R/O ATHODI VILLAGE
HONNESARA POST
ANATHAPURA HOBLI
SAGARA TALUK
SHIVAMOGGA DISTRICT – 577 412
2. V GANAPATHI
S/O VEERABHADRAPPA GOWDA
MAJOR
R/O HOSAMANE, PUNAJE VILLAGE
KASABA HOBLI,
HOSANAGAR TALUK
SHIVAMOGGA DISTRICT-577418

...RESPONDENTS

(BY SRI H.R.NARAYANA RAO, ADVOCATE FOR R1(d AND e);
VIDE ORDER DATED 15.07.2026, AS PER POSTAL TRACK
REPORT R1(b), R1(c) AND R1a(a to c) ARE SERVED)
SRI UMESH MOOLIMANI FOR SRI S.V.PRAKASH, ADVOCATES
FOR R2)

THIS RSA IS FILED UNDER SECTION 100 OF CIVIL
PROCEDURE CODE, 1908 AGAINST THE JUDGMENT AND
DECREE DATED 30.10.2019 PASSED IN RA NO 10012/2018 ON
THE FILE OF THE V ADDITIONAL DISTRICT AND SESSIONS
JUDGE, SHIVAMOGGA (SITTING AT SAGAR) DISMISSING THE
APPEAL AND CONFIRMING THE JUDGMENT AND DECREE
DATED 29.06.2018 PASSED IN OS NO.22/2016 ON THE FILE
OF THE ADDITIONAL SENIOR CIVIL JUDGE AND JMFC, SAGAR.

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



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CORAM: HON'BLE MR. JUSTICE V SRISHANANDA

ORAL JUDGMENT

Heard Sri P.V.Chandrashekar, learned counsel for the appellant and Sri Umesh Moolimani for Sri S.V.Prakash, learned counsel for the respondent No.2.

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

3. Plaintiff's Second Appeal challenging the dismissal of the suit in O.S No.22/2016 by the judgment and decree dated 29.06.2018 on the file of the Additional Senior Civil Judge and JMFC, Sagar, confirmed in R.A No.10012/2018 dated 30.10.2019 passed by the V Additional District and Sessions Judge, Shivamogga sitting at Sagar.

4. Facts in the nutshell which are utmost necessary for disposal of the present Appeal are as under:

4.1 A suit for the relief of declaration and possession came to be filed on the file of the Additional Senior Civil Judge and JMFC, Sagar, in O.S No.22/2016 in respect of the following



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immovable property, hereinafter referred to as the 'suit property'.

"Coconut garden in dry land measuring 0-20 guntas situate in Sy.No.19/1B of Gangananoppa village, Kasaba Hobli, Hosanagara Taluk, Shivamogga District, bounded by boundary stones."

4.2 It is contended that plaintiff filed the suit for himself and on behalf of the other members of the joint family contending that they are the owners of the suit property. It is contended that defendant No.1 is the mother of the plaintiff. Originally, suit property belonged to grandfather of the plaintiff i.e., father of the first defendant. During the lifetime of the grandfather of the plaintiff, registered settlement deed dated 17.08.1953 came to be executed and settled the suit property.

4.3 In the said settlement, life interest was given to first defendant and her mother. After their death, properties were required to be settled in favour of sons of the first defendant.

4.4 It is further contended that first defendant and her mother therefore did not get any absolute right over the suit property in the aforesaid settlement deed.



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4.5 It is also contended that on 24.01.1981, first defendant executed a registered sale deed in respect of the suit property in favour of the second defendant and said sale deed did not convey any right, title or interest, as first defendant had got only limited right of life interest in the suit property. As such, sale deed dated 24.01.1981 is *ab initio void* and sought for declaration that plaintiff is the owner of the suit property and possession thereof.

5. Pursuant to the suit summons, defendant No.2 entered appearance and filed written statement denying the plaint averments.

6. He further contended that first defendant and her mother namely Smt.Veeramma had the right of maintenance in respect of suit property and other properties settled by grandfather of the plaintiff. The said settlement was in recognition of pre-existing right. Therefore, when the property has been settled in *lieu* of maintenance, it becomes the absolute property of the defendant No.1 as per Section 14(2) of the Hindu Succession



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Act. Therefore, defendant No.1 had every right to sell the property.

7. Second defendant also contended that the judgment passed in O.S No.74/2000 did not bind the second defendant, as second defendant was not a party to the said suit. Therefore, present suit is barred under Order II Rule 2 of the Code of Civil Procedure and sought for dismissal of the suit.

8. Learned Trial Judge after raising necessary issues recorded the evidence of the parties and on hearing the arguments, dismissed the suit of the plaintiff.

9. Being aggrieved by the same, plaintiff filed an appeal before the First Appellate Court in R.A No.10012/2018 on the file of the V Additional District and Sessions Judge, Shivamogga, sitting at Sagar.

10. Learned Judge in the First Appellate Court after securing the records, heard the arguments of the parties and has considered the interplay of Section 14(1)(2) of the Hindu Succession Act and settled property which is given in *lieu* of



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maintenance will become the absolute property of that woman under Section 14 of the Hindu Succession Act and thus, the judgment in O.S No.74/2000 confirmed in RFA No.438/2008 did not bind the second defendant nor the competency of defendant No.1 in selling the property in favour of defendant No.2 cannot be questioned and upheld the judgment of the Trial Court and dismissed the Appeal.

11. Being further aggrieved by the same, it is the plaintiff who has filed the present Second Appeal on following grounds and substantial questions of law:

- *The Court below has failed to properly appreciate the contention and grounds urged in support of the Appeal and mechanically affirmed the findings of the Trial Court without legal justification and examination of the material on record.*
- *The Courts have failed to consider the intention of the settler Late Sri.Rachappagowda as spelt out in exhibit-P1 - the settlement deed dated 17.08.1953. It is recited as under:*

"ನನ್ನ ಹೆಂಡ್ತಿ ವೀರಮ್ಮ ಮತ್ತು ನನ್ನ ಮಗಳು ನೇತ್ರಾವತಿ ಹೊಟ್ಟೆಯಲ್ಲಿ ಹುಟ್ಟಿತಕ್ಕ
ಗಂಡು ಮಕ್ಕಳಿಗೆ ಮಾತ್ರ ಸಲ್ಲತಕ್ಕದ್ದು ಅದುವರೆಗೂ ಈ ಜಮೀನುಗಳನ್ನು ಅಂದ್ರೆ
ಸ್ವತ್ತುಗಳನ್ನು ಕ್ರಯಕ್ಕೆ ಕೊಡುವುದಕ್ಕಾಗಲಿ, ಅಥವಾ ಯಾವುದೇ ವಿಧವಾದ ಪರಾಧೀನ



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*ಮಾಡಲಿಕ್ಕಾಗಲಿ ನನ್ನ ಹೆಂಡ್ತಿ ವೀರಮ್ಮ ಮತ್ತು ಮಗಳು ನೇತ್ರವತಮ್ಮ ಇವರಿಗೆ ಹಕ್ಕಿಲ್ಲ,
ಕೇವಲ ಅನುಭವಿಸುವ ಹಕ್ಕು ಮಾತ್ರ ಇವರದ್ದಾಗಿರುತ್ತದೆ".*

- *This clearly showed that the settler gave them a limited right of enjoyment without right to transfer and vesting the property in her male children.*
- *By virtue of birth the sons got property rights in the properties and when male children were born and living at the time of sale, Nethravathamma did not possess any exclusive right or possession to transfer the property by executing exhibit -P2 the sale deed dated 24.01.1981. Defendant No.2 has admitted in his evidence that the plaintiff and other brothers have not executed the sale deed alongwith defendant No.1. The Courts below failed to appreciate this position and erred in passing the impugned Judgment.*
- *The Courts below have failed to consider that the sale deed executed by the 1st defendant in favour of 2nd defendant was void as rightful owners are not the sellers of the property and therefore the purchaser did not get any valid title.*
- *The Courts ought to have considered and applied the decision of the Hon'ble High Court in RFA No.438/2008 in which findings on the extent of right conferred on 1st defendant under settlement deed dated 17.08.1953 is given. When it is held that 1st defendant was not having right to transfer, the*



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Courts below could not have overlooked the order which was binding of them. Hence, the Courts below have committed serious error of law by not following the judgment in RFA 438/2008.

- *The findings of the Court below that the suit is barred by the provisions of 0.2 R.2 of CPC is unsustainable. To apply this principle the suit must be filed by same parties based on same cause of action the relief and property must also be the same in the suits. In the absence of this, the Courts below were not justified in rejecting the suit on such ground.*
- *The findings as to limitation is also not sustainable. The cause of action shown in the OS arose on disposal of RFA and the dates shown about cause of action was not disputed. Further, defendant No.1 had not seriously urged the point of limitation with reference to any dates.*
- *Findings on adverse possession is also not sustainable in law. A purchaser of a property claiming ownership on the basis of a sale deed cannot setup plea of adverse possession. Moreover, adverse possession is to be proved in accordance with law and the party claiming such rights i.e. Defendant No.2 has failed to prove it in accordance with law.*



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- *The reasoning of the first Appellate Court to answer the points formulated in the appeal are unsustainable legally as well as factually. The order of the Appellate Court is vitiated, illegal and liable to be set aside.*
- *It is submitted for above and such other grounds to be urged finding on Issue Nos.1 to 6 are erroneous and unsustainable. Similarly findings on issue Nos. 7 to 10 are also unsustainable."*

SUBSTANTIAL QUESTIONS OF LAW

1. *"Whether findings recorded by the Hon'ble High Court in RFA 438/2008 on interpreting the settlement deed executed by late Sri. Rachappa Gowda on 17.08.1953 by holding that section 14(1) of the Hindu Succession Act has no application and that the said settlement deed conferred only limited right in favour of Smt.Nethravathamma defendant No.1 under whom V Ganapathi defendant No. 2 claimed is not binding on him?*
2. *Whether the findings of the Hon'ble High Court that the settlement deed executed by late Sri.Rachappa Gowda in favour of Smt. Nethravathamma did not confer any absolute rights on her to transfer the property as it was a case falling under section 14(2) of the Hindu Seccession Act, 1956, is not binding on the*



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purchaser -defendant No. 2 only because he was not a party in OS No. 74/2000?

- 3. When the decision/judgment in RFA 438/2008 that the settlement deed dt. 17.08.1953 was not executed in lieu of any pre-existing right of Nethravathamma applies to all properties included in the settlement deed dt. 17.08.1953? Were the Courts below legally justified in not applying the decision in RFA 438/2008 to the case on hand ?*
- 4. Whether the judgment and decree under appeal are sustainable in law for not following binding decision of the High Court in RFA 438/208, for reasons stated therein?*
- 5. Were the Courts below justified in holdings that suit was barred by time, without considering that the cause of action had arisen after disposal of RFA 438/2008 on 17.08.2014?*
- 6. Were the Courts below justified in holding that Defendant No.2 had perfected his title by adverse possession ignoring that he was claiming as purchaser ?”*

12. Sri P.V.Chandrashekar, learned counsel for the appellant/ plaintiff reiterating the grounds urged in the appeal memorandum would contend that, when there is a specific



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avermment in the settlement deed made by the grandfather of the plaintiff to the effect that the first defendant and her mother would only get the life interest in respect of the suit property, the said right did not become the absolute right as is contemplated under Section 14 of the Hindu Succession Act and thus, sought for admitting the appeal on the aforesaid substantial questions of law.

13. *Per contra*, learned counsel for the respondents supports the impugned judgment.

14. Having heard the arguments of both sides, it is just and necessary for this Court to cull out Section 14 of the Hindu Succession Act, which reads as under:

"14. Property of a female Hindu to be her absolute property.—

(1)Any property possessed by a female Hindu, whether acquired before or after the commencement of this Act, shall be held by her as full owner thereof and not as a limited owner.

Explanation.—In this sub-section, "property" includes both movable and immovable property acquired by a female Hindu by inheritance or devise, or at a partition, or in lieu of maintenance or arrears of maintenance, or by gift from any person, whether a relative or not, before, at or after



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her marriage, or by her own skill or exertion, or by purchase or by prescription, or in any other manner whatsoever, and also any such property held by her as stridhana immediately before the commencement of this Act.

(2)Nothing contained in sub-section (1) shall apply to any property acquired by way of gift or under a will or any other instrument or under a decree or order of a civil court or under an award where the terms of the gift, will or other instrument or the decree, order or award prescribe a restricted estate in such property."

15. On careful reading of the above provisions of law, it is crystal clear that whenever a property is given in *lieu* of maintenance, that property will become the absolute property of the Hindu woman and therefore first defendant had the competence to sell the same in favour of the second defendant.

16. Further, judgment that has been placed on record on behalf of the appellant/plaintiff and relied upon would not be binding on the second defendant is the finding recorded by the Trial Judge as well as the learned Judge in the First Appellate Court.



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17. This Court does not find any ground whatsoever muchless good grounds to interfere with those findings, as admittedly, second defendant is not a party to the said proceedings.

18. Taking note of the above factual aspects of the matter, the contention of the appellant/plaintiff that the sale deed executed by first defendant in favour of defendant No.2 on the basis of the limited right of life interest, did not fructify into absolute right and thus the sale deed executed by defendant No.1 in favour of defendant No.2 is *ab initio void* is rightly negated by the learned Trial Judge confirmed by the learned Judge in the First Appellate Court.

19. Hence, this Court is of the considered opinion that there is no merit in any one of the substantial questions of law to admit the appeal for further consideration.

20. Accordingly, the following:

ORDER

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



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(iii) In view of dismissal of the appeal,
pending applications, if any, are consigned
to record.

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

kcm
List No.: 1 Sl No.: 35