



NC: 2026:KHC:52423
RSA No. 580 of 2020

CNR: KAHC010562692019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

REGULAR SECOND APPEAL NO.580 OF 2020 (DEC/INJ)

BETWEEN:

1. SRI DEVARAJEGOWDA
S/O LATE A N ARASEGOWDA
AGED ABOUT 62 YEARS,
2. SRI NAGARAJA GOWDA
S/O LATE A N ARASEGOWDA
AGED ABOUT 60 YEARS,

BOTH ARE RESIDING AT
CHIKKAMARADI VILAGE,
HOSUDI POST NIDIGE HOBLI
SHIVAMOGGA TALUK - 577 222.

...APPELLANTS

(BY SRI. VISHNU HEGDE, ADVOCATE)

AND:

1. SRI RAMESH GOWDA
S/O LATE A N ARASEGOWDA
AGED ABOUT 58 YEARS,
CHIKKAMARADI VILLAGE,
HOSUDI POST NIDIGE HOBLI
SHIVAMOGGA TALUK - 577 222.
2. SMT SUMITHRA
W/O LATE KITTEGOWDA
AGED ABOUT 56 YEARS,
RAJAMANI CHAL NO.12
AZAD NAGAR
DARGA CROSS ROAD,
BHADUP SPLAPUR WEST
MAHARASHTRA 400 078.

Digitally
signed by
VANDANA S
Location:
High Court
of Karnataka



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3. SRI KUMARA GOWDA
S/O LATE A N ARASEGOWDA
AGED ABOUT 53 YEARS,
5TH CROSS H H ROAD,
SIDDESHWARA NAGARA
SHIVAMOGGA-577 222.
4. SMT SHASHIKALA
W/O MOHAN KUMAR
AGED ABOUT 54 YEARS,
GURUNAHALLI
CHANNARAYAPATNA TALUK
HASSAN DISTRICT – 573 116.

...RESPONDENTS

(BY SRI. KIRAN C V., ADVOCATE FOR R-1 & R-3;
R-4 – SERVED
VIDE ORDER DATED 25.10.2025
NOTICE TO R-2 IS H/S)

THIS RSA IS FILED UNDER ORDER 42 RULE (1) R/W SEC.100 OF CPC., AGAINST THE JUDGMENT AND DECREE DATED 24.09.2019 PASSED IN RA No.28/2016 ON THE FILE OF THE III ADDL. DISTRICT JUDGE AT SHIVAMOGGA DISMISSING THE APPEAL FILED AGAINST THE JUDGMENT AND DECREE DATED 27.07.2016 PASSED IN OS No.134/2012 ON THE FILE OF THE 1ST ADDL. SENIOR CIVIL JUDGE AND CJM, AT SHIVAMOGGA.

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

CORAM: HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

ORAL JUDGMENT

This appeal by the plaintiffs in O.S.No.134/2012 on the file of the I Addl. Senior Civil Judge & CJM, Shivamogga, is directed against the impugned judgment and decree dated 27.07.2016 whereby the said suit filed by the appellants-plaintiffs for partition,



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separate possession and other reliefs in relation to the suit schedule immovable properties was dismissed by the Trial Court and confirmed by the First Appellate Court, which dismissed the appeal in R.A.No.28/2016 filed by the appellants-plaintiffs vide order dated 24.09.2019.

2. A perusal of the material on record will indicate that the appellants-plaintiffs instituted the aforesaid suit for partition and separate possession in relation to the suit schedule immovable properties against the respondents-defendants, who contested the suit, in pursuance of which, the Trial Court framed the following issues:

(i) *Whether the plaintiffs prove that the suit schedule properties are properties of Hindu Undivided Joint Family, consisting of plaintiffs and defendants?*

(ii) *Whether the plaintiffs prove that they have got 1/7th share in suit schedule properties?*

(iii) *Whether the defendant Nos.1, 2 and 4 prove that the alleged Will executed by Arasegowda and gave his properties to plaintiffs and defendants, as alleged in written statement?*

(iv) *Whether the defendant Nos.1, 2 and 4 prove that Arasegowda gifted suit schedule 'B' properties in favour of defendant No.4?*



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(v) Whether the plaintiffs prove that they are entitled for the reliefs sought?

(vi) What Order or Decree?

3. Plaintiff No.1 examined himself as PW1, defendant No.4 examined himself as DW1 and three other witnesses were examined as DW2 to DW4 and documentary evidence at Exhibits P1 to P8 and D1 to D25 were marked on behalf of the plaintiffs and respondents, respectively. By the impugned judgment and decree dated 27.07.2016, the Trial Court dismissed the suit, aggrieved by which the appellants-plaintiffs preferred an appeal before the First Appellate Court in R.A.No.28/2016, which also dismissed the appeal on the ground of pecuniary jurisdiction vide order dated 24.09.2019, aggrieved by which the appellants – plaintiffs are before this Court by way of the present appeal.

4. A perusal of the impugned judgment and decree dated 24.09.2019 passed by the First Appellate Court will indicate that the only point formulated / framed by the First Appellate Court for the purpose of disposing of the appeal is as to whether the First Appellate Court had pecuniary jurisdiction to entertain the appeal



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as can be seen from the impugned judgment and decree, which reads as under:

"7. The following points arise for my determination;

- 1) Whether this court has no pecuniary jurisdiction to entertain this appeal?*
- 2) What order?*

8. My findings on the above points are as follows:

Point No.1: In the affirmative

Point No.2: As per final order

REASONS

*9. **POINT NO.1:** Admittedly, the defendant No.1 is the mother of plaintiff No.1 and 2 and defendants No.2 to 5. The plaintiffs have filed suit for partition, claiming 1/7th share each in the suit 'A', 'B' and 'C' schedule properties. I have gone through the lower court records. In the lower court, the plaintiffs have filed valuation slip which reads as follows:*

VALUATION SLIP

The suit is one for -

(a) for partition by metes and bounds and delivery of separate possession of the 1/7th share of the plaintiffs in the plaint schedule properties:

(b) for permanent injunction restraining the defendant No.4, his men and henchmen, his agents and assigns, his servants and labourers, persons claiming rights and interests from him or through him not to sale the plaint schedule property;



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(c) for the costs of the present litigation throughout; and

(d) for such and all other reliefs as the Hon'ble Court deems fit and proper to provide in the circumstances of the case and in the ends of Justice, Equity and Good Conscience.

As the plaintiffs have filed the suit for partition and permanent injunction.

1. According to Section 35(2) of the Act of 1958 fee shall be paid at the following rates:

Rs.200/- if the value of the Plaintiff's share is Rs.10,000/- and above.

2. Since the value of the Plaintiffs share is more than 10,000/- the plaintiffs will have to pay Rs.400/- as Court fee on the first suit-relief.

3. The plaintiffs have valued the first relief under Section 26(c) of the Karnataka Court Fees and Suits Valuation Act of 1958 (referred to hereinafter as "the Act of 1958").

4. According to the Section 26(c) of the Act of 1958, whether the subject-matter of the suit has a market value or not, fee shall be computed on the amount at which the relief sought is valued in the plaint or on Rs.1,000/- whichever is higher. According to the plaintiffs not only the relief sought but also the subject-matter cannot be valued in terms of money. So he puts the value of the said relief at Rs.1,000/-.



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The plaintiffs are required to pay Rs.25/- on the said second relief as Court fee.

5.The other reliefs do not require the plaintiff to pay anything as Court fee.

6.Therefore, the plaintiff has paid Rs.425/- on the plaint. It is adequate.

Shivamogga,

Dated: 12.10.2012

Advocate for the plaintiff

10. The plaintiffs have valued the suit property under Sec.35(2) of Karnataka Court Fees and Suit Valuation Act, 1958. Nowhere in the valuation slip, the plaintiffs have shown the actual market value of the suit 'A', 'B' and 'C' schedule properties. The plaintiffs have not valued the suit properties for the purpose of jurisdiction. They have stated in the valuation slip that since the value of the plaintiffs' share is more than Rs.10,000/-, the plaintiffs will have to pay Rs.400/- as court fee. As per Sec.35(2) of the Court Fees and Suit Valuation Act, the Court Fee is fixed at Rs.200 if the value is Rs.10,000 and above. Plaintiffs No.1 and 2 gave Rs.200/- each in respect of their separate 1/7th share in the suit 'A', 'B' and 'C' schedule properties. It means, the plaintiffs should have valued the suit properties as per the market value for the purpose of jurisdiction. Since the defendants have raised objection regarding pecuniary jurisdiction of this court, the plaintiffs have submitted the valuation slip on 19.07.2019, which reads as follows;



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VALUATION SLIP

The plaintiffs have filed the above suit against the defendants for seeking the judgment and decree for declaration that the gift deed dated 04.07.2008 and a Will dated 09.05.2007 are illegal and not binding on the plaintiffs.

The plaintiffs valued the suit for relief of declaration relating to the gift and the property involved in the gift is at Rs.4,000,000/- u/s 24(A) of Karnataka Court Fee and Suit Valuation Act and hence plaintiffs valued their shares at Rs.58,000/- each. And they paid the court fee of Rs.10,000/-.

The plaintiffs also sought for the relief of declaration relating to the gift and said declaration is not capable for valuation. Hence the plaintiff valued the said declaration at Rs.1000/- only u/s 24(D) of Karnataka Court Fee and Suit Valuation Act and hence the plaintiffs paid Rs.25/- each on the plaint with respect to their shares.

The plaintiffs sought for the relief of partition and separate possession in all the suit 'A' and 'B' schedule properties and they valued the schedule properties as stated below:

- 1) Item No.1 of 'A' schedule at Rs.7,00,000/-.*
- 2) Item No.1 of 'C' Schedule at Rs.5,00,000/-.*
- 3) Item No.2 of 'C' Schedule at Rs.4,00,000/-.*
- 4) Item No.3 of 'C' schedule at Rs.4,00,000/-.*
- 5) Item No.4 of 'C' schedule at Rs.30,00,000/-.*



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Total value of the properties: Rs.50,00,000/- and hence the value of the 1/7th share of each plaintiff is at Rs.7,14,500/-, which is more than Rs.10,000/-, hence the plaintiff valued their right of partition u/s 35(2) of Karnataka Court Fee and Suit Valuation Act. Hence the plaintiff each paid fixed court fee of Rs.200/- i.e., Rs.400/- on the plaint.

The plaintiffs have paid the Total Court Fee of Rs.10,450/-. Hence, this Hon'ble Court has jurisdiction to try the suit.

*Place: Shivamogga
Date: 19.07.2019*

Advocate for Plaintiff

11. So, as per this valuation slip, the plaintiffs' valued the suit properties as Rs.50 lakhs and shown the plaintiffs' share at Rs.7,14,500/- and paid court fees Rs.200/- each. Since the total value of the property shown as Rs.50,00,000/-, the value of the 1/7th share each of plaintiff comes to Rs.7,14,286/-. So, the total suit valuation comes to Rs.14,28,572/-. Now, whether this court has got jurisdiction to try this appeal is to be looked into.

Sec.19 of the Karnataka Civil Courts Act, 1964 reads as follows;

19. Appeals from (Senior Civil Judge): Appeals from the decree and orders passed by a (Senior Civil Judge) in original suits and proceedings of a civil nature, shall when such appeals are allowed by law, lie-



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(1) to the District Court, when the amount or value of the subject matter of the original suit or proceedings (does not exceed ten lakh rupees):

(2) to the High Court, in other cases.

As per Sec.19 of the Karnataka Civil Courts Act, 1964, appeals from the decrees and orders passed by a Senior Civil Judge in original suits and proceedings of a civil nature, shall when such appeals are allowed by law, lie to this court, when the amount or value of the subject matter of the original suit or proceeding does not exceed 10 lakh rupees and to the High Court, in other cases. Since the plaintiffs' share comes to Rs.14,28,572/-, which is more than Rs.10 lakhs and this court has no pecuniary jurisdiction to entertain this appeal. Therefore, this court has no other option but to dismiss the appeal as not maintainable. Accordingly, I answer point No.1 in the affirmative.

*12. **POINT No.2:** In view of my findings on the above point, I proceed to pass the following:*

ORDER

Appeal filed by the appellants / plaintiffs is hereby dismissed as not maintainable as this court has no pecuniary jurisdiction to entertain the appeal.

Send back the records to the lower court along with copy of this order.”



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5. As can be seen from the aforesaid judgment and decree passed by the First Appellate Court, the First Appellate Court dismissed the appeal on the sole ground that it lacked pecuniary jurisdiction to entertain and adjudicate upon the appeal. So, under these circumstances, the appeal is admitted to consider the following substantial questions of question of law, which reads as under:

“(i) Whether the impugned judgment and decree dated 24.09.2019 passed in R.A.No.28/2016 can be sustained in view of the amendment to the Karnataka High Court (Amendment) Act, 2023 and The Karnataka Civil Courts (Amendment) Act, 2023, which was confirmed by the Hon'ble Division Bench in the case of Smt.Narayanamma Vs. State of Karnataka – W.P.No.17588/2024 dated 08.07.2026 and upheld by the Apex Court in Spl. Leave Petition (Civil) Diary No.41602/206 dated 05.08.2026 ?”

6. Heard learned counsel for the appellants and learned counsel for the respondents and perused the material on record.

7. As stated supra, the sole / solitary ground for the First Appellate Court to dismiss the appeal is by coming to the conclusion that it lacks pecuniary jurisdiction to entertain and adjudicate upon the appeal. However, in the light of the



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amendment to Karnataka High Court (Amendment) Act, 2023 and The Karnataka Civil Courts (Amendment) Act, 2023, which was confirmed by the Hon'ble Division Bench in the case of ***Smt.Narayanamma Vs. State of Karnataka – W.P.No.17588/2024 dated 08.07.2026*** and upheld by the Apex Court in ***Spl. Leave Petition (Civil) Diary No.41602/206 dated 05.08.2026***, I am of the considered opinion that since the First Appellate Court did not record any findings nor dispose of the appeal on merits, the impugned judgment and decree passed by the First Appellate Court, which presently has unlimited pecuniary jurisdiction to entertain and adjudicate upon appeals irrespective of the pecuniary value deserves to be set aside and the matter be remitted back to the First Appellate Court for reconsideration afresh, on merits and in accordance with law.

8. In the result, I pass the following:

ORDER

(i) The appeal is hereby ***allowed***.



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(ii) The impugned judgment and decree dated 24.09.2019 passed in R.A.No.28/2016 by the III Addl. District Judge, Shivamogga, is hereby set aside.

(iii) Matter is remitted back to the First Appellate Court for reconsideration afresh on merits and in accordance with law.

(iv) All rival contentions on all aspects of the matter are kept open and no opinion is expressed on the merits / demerits of the rival contentions.

Sd/-
(S.R.KRISHNA KUMAR)
JUDGE