



CNR: KAHC010566122022

NC: 2026:KHC:37549
RSA No. 1776 of 2022

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 20TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

REGULAR SECOND APPEAL NO. 1776 OF 2022 (PAR)

BETWEEN:

SMT. PUTTAYALLAMMA
DEAD BY LRS

1. KUMARA
W/O LAKSHMINARAISMHAIAH AND
LATE PUTTAYALLAMMA
AGED ABOUT 41 YEARS
HOSAPET CIRCLE,
MAGADI TOWN, MAGADI
RAMANAGARA DISTRICT - 562 120.
2. DEVARAJA
W/O LASKHMINARASIMHAIAH AND
LATE PUTTAYALLAMMA
AGED ABOUT 40 YEARS
SUBBAIAH LAYOUT,
HOSAPET CIRCLE,
MAGADI TOWN, MAGADI
RAMANAGARA DISTRICT - 562 120.
3. NARAYANA H.L
W/O LASKHMINARASIMHAIAH AND
LATE PUTTAYALLAMMA
AGED ABOUT 41 YEARS
HOSAPET CIRCLE

Digitally
signed by
MALATESH
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Location:
HIGH
COURT OF
KARNATAKA





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MAGADI TOWN, MAGADI
RAMANAGARA DISTRICT - 562 120.

4. PRAKASH
S/O LAKSHMINARAISMHAIAH AND
LATE PUTTAYALLAMMA,
AGED ABOUT 37 YEARS
HOSAPET CIRCLE
MAGADI TOWN, MAGADI
RAMANAGARA DISTRICT - 562 120.

5. KANTHARAJU H.L.
S/O LAKSHMINARASIMHAIAH AND
LATE PUTTAYALLAMMA
AGED ABOUT 36 YEARS
HOSAPET CIRCLE
MAGADI TOWN, MAGADI
RAMANAGARA DISTRICT - 562 120.

...APPELLANTS

(BY SRI. RAVISHANKAR SHASTRY G, ADVOCATE FOR
SRI. CHANDRASHEKARA K.A, ADVOCATE)

AND:

1. SMT MANGALAMMA
W/O SIDDLINGAPPA
D/O LATE CHIKKAYALLAMMA
AGED ABOUT 51 YEARS
R/AT BEHIND INDIAN PETROL BUNK
B.K. ROAD, MAGADI TOWN
RAMANAGARA DISTRICT.

2. SRI. RENUKAPPA
S/O LATE PUTTAREVAIAH
AGED ABOUT 50 YEARS



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R/AT NO. 79, KANNALLI
KODIGEHALI,
BENGALURU - 560 091.

3. SRI. RAVIKUMAR
S/O LATE PUTTAREVAIAH
AGED ABOUT 49 YEARS
R/AT NO. 79, KANNALLI
KODIGEHALI, BENGALURU - 560 091.
4. SRI. K.P. DEVARAJU
S/O LT PUTTAREVAIAH
AGED ABOUT 45 YEARS
R/AT NO. 79, KANNALLI
KODIGEHALI, BENGALURU - 560 091.
5. SMT. MANJULA
W/O SRINIVASA
D/O LATE CHIKKAYALLAMMA
AGED ABOUT 43 YEARS
R/AT NO. 8966, ANJANANAGARA
EAST HEROHALI, BENGALURU NORTH
VISHWANEEDAM POST
BENGALURU - 560 091.
6. SMT. KEMPAMMA
W/O DODDARANGAIAH
AGED ABOUT 64 YEARS
R/AT ATHIMIGERE
MADBAL HOBLI, MAGADI TALUK
RAMANAGARA DISTRICT - 562 120.
7. SMT. YALLAMMA
W/O CHIKKABORAIAH
AGED ABOUT 63 YEARS



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R/AT SHETTIGEHALLI
KASABA HOBLI, KUNIGAL TALUK
TUMAKURU DISTRICT - 562 130.

8. SRI. HONNAGANGAIAH
S/O LATE KEMPAIAH
AGED ABOUT 35 YEARS
R/AT ATHIMGERE, MADBAL HOBLI
MAGADI TALUK,
RAMANAGARA DISTRICT - 562 120.
9. SMT. SIDDAMMA
W/O NAGARAJU
D/O LATE KEMAPAIAH
AGED ABOUT 33 YEARS
R/AT ATHIMGERE
MADBAL HOBLI, MAGADI TALUK
RAMANAGARA DISTRICT - 562 120.
10. SRI. KUMARA
S/O LATE KEMPAIAH
AGED ABOUT 31 YEARS
R/AT ATHIMGERE
MADBAL HOBLI, MAGADI TALUK
RAMANAGARA DISTRICT - 562 120.
11. SMT. SARASWATHI
W/O VENKATESHA
D/O LATE KEMPAIAH
AGED ABOUT 29 YEARS
R/AT ATHIMGERE
MADBAL HOBLI, MAGADI TALUK
RAMANAGARA DISTRICT - 562 120.



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12. SRI. RAVI
S/O LATE KEMPAIAH
AGED ABOUT 27 YEARS
R/AT ATHIMGERE
MADBAL HOBOLI, MAGADI TALUK
RAMANAGARA DISTRICT - 562 120.

...RESPONDENTS

(BY SRI. MANUKUMAR B.T, ADVOCATE FOR
SRI. MADHUSUDHAN M.N, ADVOCATE FOR R1 TO R12)

THIS RSA IS FILED UNDER SECTION 100 OF CPC,
AGAINST THE JUDGMENT AND DECREE DATED 21.04.2022
PASSED IN RA.NO.189/2014 ON THE FILE OF THE PRINCIPAL
SENIOR CIVIL JUDGE AND JMFC, MAGADI. DISMISSING THE
APPEAL AND CONFIRMING THE JUDGMENT AND DECREE
DATED 27.11.2012 PASSED IN O.S.NO.186/1999 ON THE
FILE OF THE PRINCIPAL CIVIL JUDGE AND JMFC MAGADI.

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

CORAM: HON'BLE MR. JUSTICE V SRISHANANDA

ORAL JUDGMENT

1. Heard.
2. Legal representatives of defendant No.3 are the appellants in this second appeal challenging the decreeing of the suit filed by the original plaintiff in O.S.No186/1999 dated



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27.11.2012 whereby Trial Court granted decree by granting 1/5th share in all the suit properties negating the Will set up by defendant under two Wills dated 13.11.1988 which was confirmed by the First Appellate Court in RA No.189/2014.

3. Facts of the case are as under:

3.1. Common prepositus as per the plaint averments is Subbaiah who had wife by name Kamma. Subbaiah bequeathed the entire suit properties in favour of Kamma. Couple had five daughters namely Kempamma (defendant No.1), Puttayamma, (defendant No.3), Yamma (defendant No.2), Chikkayamma (plaintiff), Gangamma (defendant No.4).

3.2. All the daughters were married and plaintiff, defendant Nos.1, 2 and 4 joined their respective husbands and started to live with their respective husbands. Defendant No.3 even after marriage, continued to live with Kamma in the house belonging to Subbaiah and Kamma and was managing the properties as per the Will executed by Subbaiah which are the suit properties.



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3.3. Kamma said to have died and before her death, she had executed two registered Wills on the same day, i.e., on 13.11.1998 in respect of the suit properties.

3.4. Why the second Will came to be executed is that one of the properties was left out in the first Will and therefore, two Wills came to be executed.

3.5. After the death of Kamma, plaintiff filed a suit seeking $1/5^{\text{th}}$ share in the suit properties left behind by Kamma.

4. Suit was resisted by defendant No.3 by filing written statement stating that Kamma has executed the Will in respect of the major portions of the suit properties in her favour and remaining properties as per second registered Will executed by Kamma in favour of plaintiff and remaining defendants.

5. Based on the rival contentions of the parties, learned Trial Judge raised necessary issues and after recording the material evidence on record, noted that propounder of the Will namely defendant No.3 failed to establish the Will in



accordance with law though both the Wills were registered Wills, decreed the suit of the plaintiff by granting 1/5th share in the suit property.

6. Being aggrieved by the same, defendant No.3 filed an appeal before First Appellate Court in RA No.189/2014.

7. Learned Judge in the First Appellate Court after securing the records, heard the arguments of the parties in detail and on reappreciation of the material on record, dismissed the appeal of defendant No.3 and confirmed the judgment and decree passed by the Trial Court.

8. Being further aggrieved by the same, legal representatives of defendant No.3 are before this Court.

9. Learned counsel for the appellants reiterating the grounds urged in the appeal memorandum would contend that both the Courts have committed grave error in disbelieving the registered Will executed by Kamma in favour of defendant No.3 and thus sought for allowing the appeal.



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10. He would further emphasize that execution of two Wills on the same day is made much out of by the Trial Court instead of concentrating on the proof of the Will.

11. He would also point out that only on the ground that there is an admission by D.W.3 that the shop of scribe being demolished for road widening, could not have been a factor in disbelieving the Wills executed by Kamma in favour of defendant No.3 and therefore, sought for admitting the appeal on following substantial questions of law:

"(i) Whether the Courts below have erred in law in holding that the defendant No. 3 has failed to prove Ex D 11 and EX D 12 i.e., Wills executed by Smt. Kamma and whether such finding is opposed to admission of PW 1 and evidence of DW 1 and DW 3.

(ii) Whether the First Appellate Court has committed an error of law in dismissing IA No. 2 and 3 without considering IA No. 2 and 3 filed in the regular appeal?

(iii) Whether the Judgement and Decree under challenge are opposed to law and vitiated for not considering the fact that the plaintiff had failed to implead the necessary parties to the suit?



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(iv) Whether the Judgement and decree under challenge is opposed to oral and documentary evidence?"

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

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

14. On such perusal of the material on record, it is to be noted that there is no dispute that suit properties originally belonged to Subbaiah. During the lifetime of Subbaiah, he bequeathed entire suit properties in favour of Kamma. Admittedly, there is no dispute as to the relationship among the parties. Plaintiff is the sister of remaining parties.

15. Defendant No.3 even after marriage remained with the parents along with her husband. In fact the other sisters of defendant No.3 lived with their respective husbands. After death of Kamma, suit came to be filed seeking 1/5th share in the suit properties. Same was opposed by defendant No.3 based on two registered Wills said to have been executed by Kamma in her favour.



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16. In the first registered Will, major portions of the suit properties were bequeathed in favour of defendant No.3 and in the second Will executed on the very same day, in respect of land in Sy.No.90/2, properties were divided among the remaining four sisters. Same was denied by the plaintiff.

17. Therefore, being the propounder of the Will, defendant No.3 was required to prove both the Wills in accordance with law. In that regard, material evidence placed on record by defendant No.3 was analysed by the learned Trial Judge and noted that the Wills were not proved though they are registered. Therefore, non-believing the plea of bequeath, decreed the suit by granting 1/5th share in the suit properties after the death of Kamma.

18. The same was challenged before the First Appellate Court by defendant No.3.

19. Learned Judge in the First Appellate Court after reappreciation of the material evidence on record, noted that required proof under Section 63 of the Indian Succession Act and 68 of the Indian Evidence Act has not been placed by



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defendant No.3 in establishing the Wills. Therefore, dismissed the appeal.

20. In view of the same, this Court reconsidered the material on record.

21. When two Courts have factually recorded a finding that propounder of the Will failed to prove the Will in accordance with law, the scope of present appeal under Section 100 of Code of Civil Procedure is whether the appreciation of the evidence by both the Courts was incorrect.

22. Only on the ground that defendant No.3 looked after Kamma with love and affection, would not be a ground for excluding other sisters of defendant No.3 from bequeath is the finding recorded by both the Courts.

23. In fact P.W.1 and 2 have clearly and categorically admitted that Kamma was looked after defendant No.3 during her life time. It is to be noted that Kamma was leaving in the house left behind by Subbaiah and it is defendant No.3 even after marriage started living with Kamma with her husband and was managing the affairs of the family.



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24. The fruits of the agricultural lands are exclusively enjoyed by defendant No.3 and her husband. They had the accommodation in the ancestral house along with Kamma. Therefore, no additional expenses are met by defendant No.3 to look after her mother.

25. Moreover, it is the duty of the children to maintain their parents.

26. For the reasons best known, Kamma remained in her house and it is defendant No.3 who voluntarily started living with Kamma in the house left behind Subbaiah.

27. Therefore, the finding recorded by both the courts that Will is not proved and exclusion of kith and kin is surrounded by suspicious circumstances especially on the same day two Wills came to be executed and both were registered and in the second Will, the Will is only with respect to the land in Sy.No.90/2 of Thirumale village, Magadi Taluk.

28. Thus, this Court does not find any good reasons to admit the appeal on the aforesaid substantial questions of law raised in the appeal memorandum.



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29. Accordingly, following:

ORDER

- i. Admission is declined.
- ii. Appeal is ***dismissed***.

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

KAV
List No.: 1 Sl No.: 67