



CNR: KAHC010609232024

NC: 2026:KHC:54115
CRP No. 713 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

CIVIL REVISION PETITION NO. 713 OF 2024 (IO)

BETWEEN:

1. K.G.KODANDA RAM
S/O LATE GIDDANNA REDDY,
AGED ABOUT 51 YEARS,
R/AT NO. 126, III MAIN ROAD,
I BLOCK, KORAMANGALA,
BENGALURU – 560 094
2. K.M.ANANDA
S/O MUNI REDDY,
AGED ABOUT 50 YEARS,
KAIKONDARAHALLI, VARTHUR HOBLI,
BENGALURU SOUTH TALUK,
BENGALURU – 560 070

PETITIONERS ARE REPRESENTED
BY ARUN ADVANI,
POWER OF ATTORNEY HOLDER
S/O LATE ATU ADVANI,
AGED ABOUT 50 YEARS,
RESIDING AT NO.412 AND 413
BARTON CENTRE, 4TH FLOOR,
NO.84, MG ROAD
BANGALORE

...PETITIONERS

(BY SRI.G.L.VISHWANATH, SENIOR COUNSEL FOR
SMT.MANASA M.B., ADVOCATE AND
SRI.V.C.RAJU, ADVOCATE)

AND:

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by SUVARNA T
Location:
HIGH COURT
OF
KARNATAKA



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1. N.MUNIRAJU
S/O LATE NARAYANAPPA,
AGED ABOUT 41 YEARS,
R/AT NO. 180,
PATTANDUR AGRAHARA, ECC ROAD,
ITPL BACK, WHITEFIELD POST,
BENGALURU – 560 066
2. SMT.LAKSHMI A
W/O LATE ASHWATHAPPA,
AGED ABOUT 68 YEARS,
3. P.A.MADHUSUDAN
S/O LATE ASHWATHAPPA,
AGED ABOUT 45 YEARS
4. SMT P.A.BINDU KUMARI
D/O LATE ASHWATHAPPA,
W/O MUNIYAPPA K.M.,
AGED ABOUT 43 YEARS
5. P.A.MAHENDRA KUMAR
S/O LATE ASHWATHAPPA,
AGED ABOUT 41 YEARS,

RESPONDENT NOS.2 TO 5 ARE
R/AT NO. 174, 2ND CROSS,
GANESHA TEMPLE ROAD, PATTANDUR,
AGRAHARA, K R PURAM HOBLI,
BENGALURU EAST TALUK,
BENGALURU – 560 066

...RESPONDENTS

(BY SMT.SARITHA A.L., ADVOCATE FOR R1
SRI.HARSHA D JASHI, ADVOCATE FOR R2, R3 AND R5
SRI.E.VENKATARAMI REDDY, ADVOCATE FOR R4)



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THIS CRP FILED UNDER SEC.115 OF CPC., AGAINST THE ORDER DATED 20.09.2024 PASSED ON IA NO.IV IN OS NO.1884/2023 ON THE FILE OF PRL. SENIOR CIVIL JUDGE, BENGALURU RURAL DISTRICT, BENGALURU, REJECTING THE IA NO.IV FILED UNDER ORDER VII RULE 11(a) AND (d) OF CPC., FOR REJECTION OF PLAINT.

THIS PETITION, COMING ON FOR ADMISSION, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

ORAL ORDER

Aggrieved by the order dated 20.09.2024 in I.A.No.4 in O.S.No.1884/2023 by the Principal Senior Civil Judge, Bangalore (Rural), Bangalore, the petitioners/defendant Nos.8 and 9 are before this Court.

2. The respondents herein, who are the plaintiffs, filed O.S.No.1884/2023 seeking to allot ¼th share, to declare that the Agreement of Sale dated 28.10.1999, registered on 02.06.2001, executed in favor of defendant No.8, and another



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Agreement of Sale dated 28.10.1999, registered on 02.06.2001, executed in favor of defendant No.9, are not binding on the plaintiffs, and also sought a perpetual injunction. In the said suit, the petitioners/defendant Nos.8 and 9 filed I.A.No.IV under Order VII Rule 11(a) and (d) of the CPC to reject the plaint. The grounds raised by the defendants are that the Agreement of Sale dated 28.10.1999, the Sale Deed executed in the year 2003, and the re-purchase of the plots by the developer in 2012 and 2013 are all registered instruments, and that they are within the deemed knowledge of the plaintiffs as per Section 3(1) of the Transfer of Property Act (hereinafter referred to as 'TP Act'). The plaintiffs have not pleaded joint possession, nor can they claim to be in joint possession, since several registered transactions have taken place with respect to the schedule lands in 1999, 2003, 2012, and 2013. Since the plaintiffs are not in possession of the property, they should have sought the relief of possession. It is stated that the suit is barred by limitation, as it is filed beyond the period of limitation as per Article 59 of the Limitation Act. The trial Court, by the impugned order, dismissed the application.



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3. While dismissing the application, the trial court observed that the cause of action for filing the present suit is the Agreement of Sale dated 28.10.1999. It appears that, in respect of limitation, Article 59 of the Limitation Act is applicable, which provides that, for the cancellation or setting aside of an instrument or decree, or for the rescission of a contract, the limitation period is three years, and the limitation begins to run from the time when the facts entitling the plaintiff to have the instrument or the contract rescinded first become known to the plaintiff. It is to be noted that, in the plaint, it is averred that, in the month of May 2020, the plaintiffs demanded the defendant Nos.1 and 2 for the partition of the suit properties, but the defendant Nos.1 and 2 gave an evasive reply, and, on enquiry by obtaining the certified copies of the documents, in the first week of May 2023, the plaintiffs came to know about the execution of the agreements in favor of defendant Nos.8 and 9. When that is the case of the plaintiffs, the issue of limitation raised by defendant Nos.8 and 9 is a mixed question of fact and law, which requires to be decided after going through the full-fledged trial.



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4. The trial Court observed that the counsel for the defendant Nos. 8 and 9 argued that the plaintiffs are not in possession of the property. Therefore, the plaintiffs' suit is barred under Article 110 of the Limitation Act. It is to be noted that in the plaint, the plaintiffs have stated that they have continued to be in possession of the properties after the death of their ancestors. Therefore, this aspect of the fact requires evidence. Therefore, the said ground is not available. Hence, at this stage, the Court cannot look into all these aspects, and the trial Court had rejected the application.

5. Learned Senior Counsel, representing the learned counsel for the petitioners, submits that the trial Court failed to consider the several grounds raised by the defendants in support of the application filed under Order VII Rule 11 of the CPC. It is submitted that the trial Court proceeded on the assumption that the question of limitation cannot be decided under Order VII Rule 11 of the CPC. Learned Senior counsel submits that, in this specific case, the registered documents are from the years 2002 and 2003, and, by virtue of that, the defendants are in possession of the property. The petitioner,



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without even seeking recovery of possession, cannot maintain a suit of this nature. These aspects were not considered by the trial Court. It is submitted that the suit is barred by limitation. The order impugned needs to be set aside, and the plaint has to be rejected.

6. Learned counsel appearing for the respondents submits that the trial Court considered all aspects and rightly held that it is a question of fact and law that cannot be decided in an application filed under Order VII Rule 11 of the CPC. Further, it is submitted that the documents were created fraudulently, and the learned counsel has made certain submissions with regard to the GPA, the Agreement of Sale, and other aspects. This Court is not going into those aspects or into the merits of the matter. This Court is not inclined to take those submissions on record.

7. Having heard the learned Senior Counsel for the petitioners and the counsel for the respondents, perused the material on record. The suit is filed for partition and for declaration that the Agreement of Sale is null and void. Admittedly, the suit was filed in 2023. All the documents are of



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the year 1999, 2003, 2012, and 2013. According to the defendants, the plaintiffs did not seek for recovery of possession. In fact, they formed a layout. Without seeking recovery of possession, they cannot maintain the suit. Further, the registered documents is a constructive notice to the party under Section 3(1) of the TP Act. These aspects were not considered by the trial Court. As rightly argued by the Senior Counsel, trial Court considered the application superficially and dismissed it. In that view of the matter, this Court deems it appropriate to set aside the impugned order and remand the matter to the trial Court. Hence, this Court is passing the following order:

ORDER

- i. The order dated 20.09.2024 in I.A.No.4 in O.S.No.1884/2023 by the Principal Senior Civil Judge, Bangalore (Rural), Bangalore, is **set aside** and the matter is **remanded back** to the trial Court.
- ii. Accordingly, the Civil Revision Petition is **allowed**.



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- iii. It is made clear that this Court has not expressed anything on the merits of the matter.
- iv. All I.As. in this petition shall stand closed.

**SD/-
(LALITHA KANNEGANTI)
JUDGE**

MEG
List No.: 1 Sl No.: 67
*MR