



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 22ND DAY OF JUNE, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

REGULAR SECOND APPEAL NO.2050 OF 2023(PAR/DEC)

BETWEEN:

SRI. KAMAPPA
S/O LATE DODDAMUNIYAPPA
AGED ABOUT 63 YEARS,
R/AT KEMBATHAHALLI VILLAGE,
GOTTIGERE,
UTTARAHALLI HOBLI,
BENGALURU SOUTH TALUK,
BENGALURU - 560 083

...APPELLANT

(BY SRI. R.L.VAIDYA, ADVOCATE)

AND:

MUNIREDDY
SINCE DECEASED BY HIS LRS

- 1(A) CHENNAMMA
W/O LATE MUNIREDDY
AGED ABOUT 54 YEARS,
- 2(B) M.K. MUNIRAJ
S/O LATE MUNIREDDY
AGED ABOUT 46 YEARS,
- 3(C) YERAPPA
S/O LATE MUNIREDDY
AGED ABOUT 44 YEARS,

RESPONDENTS 1(A) TO (C) ARE
R/AT NO.156, MARAMESHWARA NILAYA
OPP. TO MILK DAIRY,
KEMBATAHALLI VILLAGE,
GOTTIGERE - 560 083

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Location:
HIGH
COURT OF
KARNATAKA



- 1(D) KANTHAMMA
W/O MADESAPPA
D/O LATE MUNIREDDY
AGED ABOUT 61 YEARS,
R/AT CHIKKAHOSAHALLI
OPP. TO MILK DIARY
THIMMANAYAKANAHALLI
BENGALURU - 562 106
- 1(E) LAVANYA
W/O MURALI,
D/O LATE MUNIREDDY,
AGED ABOUT 30 YEARS,
R/O GORUVAGERE,
BEDARAHALLI POST,
KOLAR - 563 123
2. MUNIYAPPA
SINCE DECEASED BY HIS LRS
- 2(a) CHOWDAMMA
W/O LATE PATEL G MUNIYAPPA
AGED ABOUT 87 YEARS,
- 2(b) LAKSHMAMMA
W/O LATE VENAKTESH
D/O LATE PATEL G MUNIYAPPA
AGED ABOUT 66 YEARS,
- RESPONDENTS 2(a) and 2(b) ARE
R/AT KEMBATHAHALLI VILLAGE,
GOTTIGERE, UTTARAHALLI HOBLI,
BENGALURU SOUTH TALUK,
BENGALURU - 560 083
- 2(c) SHARADAMMA
W/O KRISHNAPPA
D/O LATE PATEL G MUNIYAPPA,
AGED ABOUT 46 YEARS
R/AT NEAR YEDIYUR
GANESH TEMPLE
BENGALURU - 560 082



3. V RAJANNA
SINCE DECEASED BY LRS.

3(A) NEELAVATHI
W/O LATE RAJANNA
AGED ABOUT 42 YEARS

3(B) NIDHISHREE.R
W/O LATE RAJANNA
AGED ABOUT 27 YEARS

3(C) MISS.LEKHA.R
W/O LATE RAJANNA
AGED ABOUT 24 YEARS

RESPONDENT NO.3(A) TO 3(C) ARE
R/AT NO.204, KEMBATHAHALLI VILLAGE,
GOTTIGERE, UTTARAHALLI HOBLI,
BENGALURU SOUTH TALUK,
BENGALURU - 560 083

...RESPONDENTS

(BY SRI K.N.DAYALU AND SRI PRAKASH.K.R, ADVOCATES FOR
C/R3(A TO C)-ABSENT)

THIS RSA IS FILED UNDER SECTION 100 OF CIVIL
PROCEDURE CODE, AGAINST THE JUDGMENT AND DECREE DATED
28.08.2023 PASSED IN R.A.NO.97/2018 ON THE FILE OF VI
ADDITIONAL DISTRICT AND SESSIONS JUDGE, BENGALURU RURAL
DISTRICT, BENGALURU., DISMISSING THE APPEAL AND
CONFIRMING THE JUDGMENT AND DECREE DATED 7.07.2017
PASSED IN O.S NO.908/2003 ON THE FILE OF II ADDITIONAL
SENIOR CIVIL JUDGE, BENGALURU (R) DISTRICT, BENGALURU.

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

CORAM: HON'BLE MR. JUSTICE V SRISHANANDA



ORAL JUDGMENT

Heard Sri Ravi L. Vaidya, learned counsel for the appellant.

2. Unsuccessful plaintiff is the appellant challenging the dismissal of the suit in O.S.No.908/2003, confirmed in R.A.No.97/2018.

3. Facts of the case which are utmost necessary for disposal of the present second appeal are as under:

3.1. A suit for partition came to be filed by the plaintiff against the defendants contending that plaintiff and defendant No.1 are the brothers. Their parents Doddamuniyappa and Lakshmamma are no more. They left behind two sisters by name Munithayamma and Rajamma, who were married long back. During the lifetime of parents, the marriage of sisters have been performed and they were given their shares in the property, money and jewelry etc., at the time of marriage. Hence they are not made as parties to the suit.

3.2. It is further contented that father of plaintiff and first defendant inherited certain properties from his ancestors



and there was a suit filed in O.S.No.506/2001 for partition. The suit property which is now subject matter of the suit is the property which is left behind by their mother. Therefore a separate suit for partition is maintainable.

4. After the suit came to be filed, defendant No.3 was also impleaded who is the purchaser of the property involved in the suit.

5. First defendant in pursuant to the suit summons appeared and filed written statement denying the plaint averments, but admitted that suit property was granted to her mother.

6. Further, he also contended that there is already a partition and therefore fresh suit for partition is not maintainable.

7. Defendant No.2 and defendant No.3 filed separate written statement contending that suit is barred by limitation.

8. They also contended that sisters having not been made as parties to the suit, suit is bad for non-joinder of necessary parties.



9. Based on the rival contentions, learned Trial Judge raised necessary issues and after recording the evidence of the parties, dismissed the suit of the plaintiff.

10. Being aggrieved by the same, an appeal came to be filed in R.A.No.97/2018.

11. Learned judge in the First Appellate Court, after securing the records, heard the arguments of the parties and dismissed the appeal and confirmed the order of dismissal passed by the learned Trial Judge.

12. Being further aggrieved by the same, plaintiff is before this Court in this appeal.

13. Sri Ravi L. Vaidya, learned counsel for the appellant, reiterating the grounds urged in the appeal memorandum would contend that the reasons assigned by both the Courts in dismissing the suit is *per se* unacceptable inasmuch as the previous suit for partition was filed only with regard to the property left behind by the father of the plaintiff and defendant No.1, which had got nothing to do while maintaining the second suit for partition in respect of the property that was exclusively granted to the mother.



14. Therefore it became her individual property in terms of Section 14 of the Hindu Succession Act. When she died intestate, a second suit for partition in respect of the share of the mother which was devolved on plaintiff and defendant No.1 was perfectly maintainable and alienation that has taken place in respect of the share of the plaintiff when he was a minor is always protected because his share could not have been alienated though it was in the year 1969.

15. Therefore, sought for admitting the appeal on the following substantial questions of law:

- *In the light of the facts and circumstances of the case, and the pleadings and evidence available on record and the impugned judgments and decrees passed, the following substantial questions of law arise for consideration in the above appeal, viz.,*
- *Whether the learned trial court was correct in law in framing Issue No.1 & 2 when the material proposition of facts in that regard affirmed by the plaintiff is admitted by the 1st defendant? And whether the said issues are contrary to Order XIV Rule 1 of CPC?*
- *Whether a purchaser of a joint property from one co-owner be said to be in possession of*



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the said joint property particularly in view of section 44 of the Transfer of Property Act?

- *Whether the learned courts below are correct in law in holding that the 2nd and 3rd defendants are in possession of the suit schedule property when admittedly the same was jointly owned by the plaintiff and the 1st defendant and the sale deed is executed only by the 1st defendant?*
- *Whether a purchaser of a joint property from only one co-owner be said to be the absolute owner of such joint property as a whole or he becomes owner to the extent of the share of his vendor alone? Whether the learned trial court has decided issue No.3 in terms of the law in this regard?*
- *Whether Article 60 of the Limitation Act applies in case of a sale by a co-owner?*
- *Whether the learned courts below are correct in law while applying Article 60 of the Limitation Act to hold that the suit for declaration filed by the plaintiff that the sale deed executed by the 1st defendant is null and void and not binding on his share is barred by limitation when admittedly they are co-owners?*
- *Whether section 17 of the Limitation Act applies to the facts of the case when admittedly the plaintiff and the 1st defendant are the co-owners of the suit schedule*



property and the 1st defendant has sold the same by playing fraud on the plaintiff and misrepresenting that he is the absolute owner of the same?

- *Whether the courts below are correct in law while deciding issue No.5 on the question of limitation without reference to section 17 of the Limitation Act under the facts and circumstances of the case?"*

16. Sri K.N. Dayalu, counsel for respondent No.3 (a) to (c) is not present.

17. Having heard the arguments of counsel for the appellant, this Court perused the material on record meticulously.

18. On such perusal of the material on record, it is noticed that no doubt the suit property was granted to the mother of the plaintiff and first defendant namely, Lakshamma. Thus, it became the absolute property of Lakshamma in terms of Section 14 of the Hindu Succession Act. To that extent there is no dispute. Thus, the suit for partition filed by the plaintiff against the defendants in respect of the property left by Lakshamma cannot be faulted with and



the non-suiting the plaintiff on account of the earlier suit filed by the defendant No.1 in O.S.No.560/2001 is incorrect.

19. But, it is to be noted that when Lakshmamma died intestate, her property is to be divided as per Section 15 of the Hindu Succession Act. Therefore, the plaint averments to the effect that sisters are there but they have been married and therefore they are not entitled for the share cannot be countenanced in law and the responsibility discharged by the father in marrying the sisters etc would not be applicable in respect of the succession to the property left behind by the mother in terms of Section 15 of the Hindu Succession Act.

20. In fact, plaint averments would clearly depict that two more sisters are there for the plaintiff. As such, first defendant and sisters are also sharers in respect of the property left behind by Smt. Lakshmama as per Section 15 of the Hindu Succession Act as they are the class-I heirs. In the absence of all sharers the suit is not maintainable.

21. Moreover, the alienation has taken place in the year 1969 when the plaintiff was a minor. Plaintiff is aged 45 years as on the date of filing of the suit. A registered sale deed would automatically result in public notice.



22. Therefore, if any rights of the plaintiff was affected when he was a minor, he should have filed the suit within three years of his attaining the majority.

23. Thus, suit filed in the year 2003 by the plaintiff assuming that he continues to be in possession of the suit property *per se* barred by limitation which defence has been rightly taken by the defendants.

24. Thus, viewed from any angle, the suit filed by the plaintiff was not at all maintainable.

25. Instead of getting into the other disputed aspects of the matter, since all the parties are not made as parties to the suit in the year 2003, especially when the plaint averments itself would make it clear that two more sisters are there to the plaintiff and defendant No.1 and they have not been impleaded as parties to the suit and suit having been filed in the year 2003 by the plaintiff when he attained Majority long back, this Court does not find any merit in the substantial questions of law raised in the appeal so as to admit the appeal for further consideration.



26. Accordingly, the following :

ORDER

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

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

MR
List No.: 1 Sl No.: 58