



CNR: KAHC010630042023

NC: 2026:KHC:42352
RSA No. 2075 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 7TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

REGULAR SECOND APPEAL NO. 2075 OF 2023 (PAR)

BETWEEN:

1. SMT. SHAKUNTALA
D/O CHALUVEGOWDA @ CHIKKONU
AGED ABOUT 49 YEARS
2. SMT. NAGAMMA
D/O CHALUVEGOWDA @ CHIKKONU
AGED ABOUT 47 YEARS
3. SMT. KALPANA
D/O CHALUVEGOWDA @ CHIKKONU
AGED ABOUT 45 YEARS
4. SMT. ROOPA
D/O CHALUVEGOWDA @ CHIKKONU
AGED ABOUT 43 YEARS

ALL ARE R/AT BELAGOLA VILLAGE
AND HOBLI, SRIRANGAPATNA TALUK - 571 438.

...APPELLANTS

(BY SRI. VISHWANATH R. HEGDE, ADVOCATE)

AND:

1. SRI. CHALUVEGOWDA @ CHIKKONU
S/O DODDA CHALUVEGOWDA
AGED ABOUT 78 YEARS

Digitally signed
by
ANNAPURNA G
Location: High
Court of
Karnataka



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2. SMT. LAKSHMAMMA
W/O LATE KRISHNAMURTHY
AGED ABOUT 66 YEARS
3. SRI. RAMESH
S/O LATE KRISHNAMURTHY
AGED ABOUT 46 YEARS
4. SRI. NAGESH
S/O LATE KRISHNAMURTHY
AGED ABOUT 44 YEARS
5. SRI. BASAVARAJU
S/O LATE KRISHNAMURTHY
AGED ABOUT 42 YEARS

ALL ARE R/AT BELAGOLA VILLAGE
AND HOBLI, SRIRANGAPATNA TALUK - 571 438.

...RESPONDENTS

(BY SRI. S. RAJASHEKAR, ADVOCATE FOR R2 TO R5;
R1 - ABATED)

THIS RSA IS FILED UNDER SEC.100 OF CPC., AGAINST
THE JUDGEMENT AND DECREE DATED 26.06.2023 PASSED IN
RA NO.72/2022 ON THE FILE OF ADDITIONAL SENIOR CIVIL
JUDGE, SRIRANGAPATANA, DISMISSING THE APPEAL AND
CONFIRMING THE JUDGMENT AND DECREE DATED 28.10.2022
PASSED IN OS NO.414/2010 ON THE FILE OF PRINCIPAL CIVIL
JUDGE AND JMFC, SRIRANGAPATNA.

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

1. Heard.
2. Unsuccessful plaintiffs are the appellants before this Court in this appeal.
3. Facts of the case are as under:

A suit for partition and separate possession has been filed in O.S.No.414/2010 in respect of following properties (hereinafter referred to as suit properties):

- "1. The land bearing Sy.No.27/2, measuring 0-23 guntas, bounded on the East: land of Chaluvegowda, West: land of Singegowda, North: River and South: land of Dasegowda.*
- 2. The land bearing Sy.No.28/2 measuring 0-17 guntas, bounded by the East: land of Chaluvegowda, West: land of Singegowda, North: River and South: land of Dasegowda.*
- 3. Vacant site bearing No.129, measuring 47½ x 35 feet, bounded by the East: Road, West and South: Site of the joint family of plaintiffs and North: land of Chaluvegowda S/o Koppalu Chaluvegowda.*
- 4. House property bounded on East: Road, West: house of Singegowda, North: Site of Karigowda and South: Site of Singegowda."*



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4. Suit on contest, came to be dismissed holding that second suit for partition is not maintainable.

5. In fact plaintiffs had earlier filed suit in O.S.No.9/1998 on 20.01.1998. Said suit came to be dismissed on merits. Against which appeal was filed in RA.No.35/2007. Said appeal was dismissed on 28.10.2009. But subsequently, present suit in O.S.No.414/2010 came to be filed on 18.12.2010. In the earlier suit, only one of the items of the suit properties was sought to be partitioned and suit purportedly came to be dismissed as all the properties of the joint family were not included in the suit.

6. Admittedly, no leave was obtained for filing of the fresh suit in the appeal in RA No.35/2007 to include all the properties and file fresh suit.

7. At any rate, since second suit also ended in dismissal and an appeal came to be filed by the plaintiffs in RA No.72/2022.



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8. Learned Judge in the First Appellate Court noted that second suit was not maintainable and thus dismissed the appeal by considered judgment dated 26.06.2023.

9. Being further aggrieved by the same, present second appeal is admitted on the following substantial questions of law:

"a. Whether the Courts below erred in dismissing the suit holding that the plaintiffs and the first defendant are not the members of the Undivided Hindu Joint Family and that the suit schedule properties are not joint family properties?"

b. Whether the findings of the Courts below holding that item No.3 of the suit schedule property sold during the minority of the plaintiffs in favour of Sri.Krishna Shetty is for legal necessity is just and proper in the light of the failure on the part of the defendants 2 to 5 in placing cogent evidence?"

10. Learned counsel for the appellants pursuant to the substantial questions of law would contend that dismissal of the earlier suit did not take away the rights of the plaintiffs to file the second suit and same would not be hit by principles of *res judicata*.



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11. He also contended that earlier suit was dismissed on the ground that only one of the properties of the joint family was sought to be partitioned and there is no bar to file a separate suit including all the properties.

12. Per contra, learned counsel for the respondents would support the impugned judgments.

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

14. On such perusal of the material on record, there is no dispute that O.S.No.9/1998 was filed on 20.01.1998 which came to be dismissed and attained finality in RA No.35/2007.

15. Subsequent suit was filed on 18.12.2010. Both the Courts have dismissed the suit of the plaintiffs on the ground of *res judicata*.

16. Merely including some more properties and filing a second suit for partition is held to be not maintainable by recording the factual finding in respect of the rival contentions of the parties.



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17. Having regard to the scope of Section 100 of Code of Civil Procedure, this Court does not find any merit in any one of the substantial questions of law referred to supra.

18. Accordingly, the following:

ORDER

- i. Admission declined.
- ii. Appeal is ***dismissed***.
- iii. Pending interlocutory applications if any, are consigned to records.

Sd/-
(V SRISHANANDA)
JUDGE

KAV
List No.: 1 Sl No.: 70