HC-KAR

NC: 2026:KHC:16696-DB
RFA No. 2520 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF MARCH, 2026

PRESENT

THE HON'BLE MRS. JUSTICE ANU SIVARAMAN

AND

THE HON'BLE MS. JUSTICE TARA VITASTA GANJU

REGULAR FIRST APPEAL NO. 2520 OF 2024 (PAR)

BETWEEN:

SMT SONI PRABHU,
W/O LATE PRABHU,
AGED ABOUT 31 YEARS,
R/AT NO. 403, SRIVEN TOWERS,
4TH CROSS, LASKI LAYOUT,
BENGALURU NORTH- 560 097

...APPELLANT

(BY SRI. BALU P., ADVOCATE)

AND:

Digitally signed by
SUMATHY KANNAN
Location: HIGH
COURT OF
KARNATAKA
BENGALURU

1. SMT LAKSHMI,
W/O MADHU,
D/O LATE MUNISWAMY,
AGED ABOUT 68 YEARS,
R/AT NO. 35, 1ST MAIN ROAD,
CHIKKANNA LAYOUT,
MAHESHWARI NAGAR,
MAHADEVAPURA,
BENGALURU- 560048

2. SMT RANI M,
W/O LATE VASU,
D/O LATE MUNISWAMY,

AGED ABOUT 47 YEARS,
R/AT NO. 18, 2ND CROSS,
M.GANDHI NAGAR, MUNNEKOLALA,
MARATHAHALLI POST,
BENGALURU NORTH- 560 097.

3. SMT.RAJAMMA,
D/O LATE MUNISWAMY,
AGED ABOUT 65 YEARS,
R/AT NO.18, 2ND CROSS,
M.GANDHI NAGAR, MUNNEKOLAL,
MARATHAHALLI POST,
BENGALURU NORTH- 560 097.

4. SMT.RUKMINI.M,
D/O LATE MUNISWAMY,
W/O MURUGESH.M,
AGED ABOUT 44 YEARS,
R/AT NO. 26, 2ND CROSS,
M.GANDHI NAGAR, MUNNEKOLAL,
MARATHAHALLI POST,
BENGALURU NORTH- 560 097.

5. SMT.MONISHA M,
D/O MURUGESH M,
AGED ABOUT 27 YEARS,
R/AT NO. 26, 2ND CROSS,
M.GANDHI NAGAR, MUNNEKOLAL,
MARATHAHALLI POST,
BENGALURU NORTH- 560 097.

6. SRI.MANOJ.M,
S/O MURUGESH.M,
AGED ABOUT 22 YEARS
R/AT NO. 26, 2ND CROSS,

M.GANDHI NAGAR, MUNNEKOLAL,
MARATHAHALLI POST,
BENGALURU NORTH- 560 097.

7. SMT.ANIL NAGALINGA REDDY,
S/O VINAYAKA,
AGED ABOUT 40 YEARS,
R/AT NO. 21, 4TH CROSS,
VEERAPPA REDDY LAYOUT,
MUNNEKOLAL, MARATHAHALLI POST,
BENGALURU NORTH- 560097.

8. SRI M.L.SANTOSH,
S/O H.S.LINGARAJ,
AGED ABOUT 35 YEARS,
R/AT NO. 21, 1ST CROSS,
VEERAPPA REDDY LAYOUT,
MUNNEKOLAL, MARATHAHALLI POST,
BENGALURU NORTH- 560 097.

…RESPONDENTS

(BY SRI. BINU M., ADVOCATE FOR R1 AND R2)

THIS RFA IS FILED UNDER SEC.96 OF CPC., AGAINST THE JUDGEMENT AND DECREE DATED 09.08.2024 PASSED IN OS NO.1482/2022 ON THE FILE OF THE II ADDITIONAL SENIOR CIVIL JUDGE, BENGALURU RURAL DISTRICT, BENGALURU, DECREEING THE SUIT FOR PARTITION, POSSESSION, DECLARATION AND PERMANENT INJUNCTION., AND ETC.

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

CORAM: HON'BLE MRS. JUSTICE ANU SIVARAMAN
and
HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORAL JUDGMENT

(PER: HON'BLE MRS. JUSTICE ANU SIVARAMAN)

This appeal is preferred by defendant No.5 in a partition suit against the judgment and decree dated 09.08.2024 in OS No.1482/2022 before the II Additional Senior Civil Judge, Bengaluru Rural District.

2. We have heard the learned counsel for the appellant as well as the learned counsel appearing for respondents No.1 and 2.

3. Notice to respondents No.3 to 8 is dispensed with accepting the submissions made by the learned counsel appearing on either side.

4. The learned counsel for the appellant submits that the appellant is the widow of Prabhu N., who was the son of Sri.Muniswamy. It is submitted that the suit was filed by respondents No.1 and 2 herein seeking 1/4th share in the suit schedule properties. It is contended in the suit that the

plaintiffs and defendants No.1 to 4 constituted a Hindu undivided joint family. It is contended that the plaintiff's father, Muniswamy was the Karta of the family. Muniswamy had two wives viz., Thanja and Rajamma and two children that is, Lakshmi M. and Rani the plaintiffs herein by Thanja and 3 children by Rajamma. It is submitted that the appellant herein is the widow of one son of Muniswamy named N.Prabhu. It is contended that the suit was filed by the children of the first wife seeking partition of the property. The appellant herein, as the defendant No.5, had filed a written statement admitting the relationship between the parties and stating that the appellant was also entitled to the share of late N.Prabhu, son of Muniswamy who died intestate. It is submitted that the trial Court had recorded this fact. However, while framing the issues, the issues framed were only with regard to the share of the plaintiffs. Consequently, there is no finding or decree with regard to the share of the appellant.

5. The learned counsel for the appellants submits that the specific claim raised by the appellant herein as the legal

heir of Prabhu to 1/4th share in the property has not been considered.

6. The learned counsel for the plaintiffs submits that the plaintiffs had claimed only their share in the property and had no contention with regard to share claimed by the appellant herein. It is submitted that Final Decree Proceedings are now pending.

6. Having considered the contentions advanced, we are of the opinion that in view of the fact that the defendant No.5 / the appellant herein had specifically raised a claim for her share in the property, the said issue ought to have been considered by the trial Court, failing which the appellant will be put to prejudice in the Final Decree Proceedings.

7. The learned counsel appearing for respondents No.1 and 2 does not seriously contest the matter.

8. In the above view of the matter, we are of the opinion that the question of entitlement of the appellant herein to a share is liable to be considered by the trial Court.

9. In the result:

(i) The appeal is ***allowed in part***.

(ii) The suit is remitted to the II Additional Senior Civil Judge, Bengaluru Rural District for consideration of the claim raised by the appellant herein for her share in the property, being the legal heir of late Prabhu, who is admittedly the son of late Muniswamy and his second wife Rajamma.

(iii) The parties shall mark appearance before the trial Court on 15.04.2026.

(iv) The trial Court shall continue with the suit from the stage of framing of issues by framing additional issues with regard to the share of appellant and shall dispose of the appeal without undue delay.

In view of the disposal of the appeal, all pending applications stand disposed of.

No order as to costs.

Sd/-
(ANU SIVARAMAN)
JUDGE

Sd/-
(TARA VITASTA GANJU)
JUDGE

SS
List No.: 1 Sl No.: 5