



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 7TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

REGULAR SECOND APPEAL NO. 1614 OF 2024 (PAR)

BETWEEN:

SRI. S. MUNIRAJU,
S/O LATE SONNAPPA
AGED ABOUT 57 YEARS
R/AT CHEEMASANDRA VILLAGE
NEAR MILK DIARY, VIRGONAGARA POST,
BIDARAHALLI HOBLI
BENGALURU EAST TALUK
BENGALURU - 560 049.

...APPELLANT

(BY SRI. M. .B CHANDRACHOODA, ADVOCATE)

AND:

1. SMT. MUNIYAMMA,
W/O VENKATAPPA
AGED 71 YEARS
2. SRI. MUNIRAJU
S/O N SEENAPPA
AGED 41 YEARS
3. SMT. BYRAMMA
W/O N. SCENAPPA
AGED 64 YEARS

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Location:
HIGH
COURT OF
KARNATAKA



RESPONDENTS 1 TO 3 ARE
R/AT SHAPUR VILLAGE
HUTHUR HOBLI
KOLAR TALUK AND DIST. - 563 103.

4. SMT. T.S. SWARUPA RAI
W/O D.N. RAMESH
AGED 51 YEARS
R/AT DINNAHALLI VILLAGE
MASTHI HOBLI, MALUR TALUK
KOLAR DISTRICT - 563 139.

...RESPONDENTS

(BY SRI. S.V. JAGANNATHA, ADVOCATE FOR
SRI. LAKSHMINARAYANA P, ADVOCATE FOR R1 TO R3;
VIDE ORDER DATED 18.06.2026, NOTICE TO R4 IS
DISPENSED WITH)

THIS RSA IS FILED UNDER SEC.100 OF CPC., AGAINST
THE JUDGMENT AND DECREE DATED 01.10.2024 PASSED IN
RA NO.34/2023 ON THE FILE OF THE I ADDITIONAL DISTRICT
JUDGE, KOLAR, PARTLY ALLOWING THE APPEAL AND
MODIFYING THE JUDGMENT AND DECREE DATED 31.01.2023
PASSED IN OS NO.183/2015 ON THE FILE OF THE SENIOR
CIVIL JUDGE AND JMFC, MALUR.

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 Sri.M.B.Chandrachooda, learned counsel for the appellant and Sri.S.V.Jagannatha, learned counsel appearing for Sri.Lakshminarayana P., learned counsel for the respondent Nos.1 to 3.

2. Defendant No.1 is the appellant challenging the decreeing of the suit in O.S.No.183/2015 dated 31.01.2023 granting 1/3rd share in item No.1 of the suit property which was confirmed by the First Appellate Court in RA No.34/2023 dated 01.10.2024.

3. Facts of the case are as under:

3.1. Plaintiffs filed a suit in O.S.No.183/2015 alleging that they are the children of Sonnappa and Muniyamma and defendant No.1 is their brother and defendant No.2 is the purchaser of item Nos.2 and 3 of the suit properties and they are also having right in the suit properties and sought for partition and separate possession.



3.2. Suit on contest came to be decreed in part granting 1/3rd share only in item No.1 of the suit property holding that all of the items of the suit property are the self acquired properties of Sonnappa. Sonnappa and Muniyamma had four children namely Muniyamma, Chowdamma, Byamma and Muniraju. Out of the four children, Chowdamma died issueless and was unmarried. Plaintiffs are Muniyamma, Byamma and her son Muniraju. Defendant No.1 is the brother of Muniyamma and Byamma.

3.3. There is no dispute as to the relationship among the parties. Plaint averments itself shows that all the properties are the self acquired properties of late Sonnappa. Therefore, he had every right to deal with the property and he having sold the property in favour of defendant No.2, in respect of item Nos.2 to 4, suit is rightly dismissed by the learned Trial Judge.

3.4. Insofar as item No.1 of the suit properties are concerned, taking note of the fact that Chowdamma died, Muniyamma, Byamma and Muniraju having been granted 1/3rd share and out of the share of Byamma, Muniraju, plaintiff No.2 is also entitled for the share.



4. Being aggrieved by the same, defendant No.1 filed an appeal before the First Appellate Court in RA No.34/2023.

5. Learned Judge in the First Appellate Court after securing the records, heard the arguments of the parties in detail and reappreciated the material evidence on record and disbelieved the defence taken by defendant No.1 that during the lifetime of Sannappa, he has purchased one more item of the suit property which has been settled in favour of the plaintiffs and therefore, plaintiffs are not entitled for the share in the suit properties and dismissed the appeal.

6. Being aggrieved by the same, defendant No.1 is before this Court, in this appeal.

7. Learned counsel for the appellant reiterating the grounds urged in the appeal memorandum would contend that both the Courts failed to appreciate that during the lifetime of Sonnappa, he has settled one more property in favour of the plaintiffs. Therefore, suit item No.1 being exclusively given to defendant No.1 resulted in miscarriage of justice and sought for admitting the appeal on following substantial questions of law:



1. *"Whether the Courts below were justified in ignoring Ex.P.10 the sale deed dated 30.03.1977 under which the property has been purchased in the name of plaintiff No.1, not included in the suit schedule property?*
2. *Whether the Courts below in ignoring the admission of P.W.1 with regard to the purchase of the property in the name of plaintiff No.1 by Late Sonnappa?*
3. *Whether the appreciation of the oral and documentary evidence by the Appellate Court is resulted in miscarriage of justice and hence, the finding recorded by the Appellate Court is not based on any legal and justifiable reason?"*

8. Learned counsel for the respondents supports the impugned judgments.

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

10. On such perusal of the material on record, to establish the defence of the appellant that there was one more property that was settled in favour of the plaintiffs, there is no cogent evidence placed on record.



11. Assuming that one more property has been settled by Sonnappa in favour of the plaintiffs, it is in the absolute competence of Sonnappa to settle the property to whomsoever as said property was self acquired property of Sonnappa.

12. Therefore, in respect of the property left behind by Sonnappa who died intestate, filing this partition suit by the plaintiffs against defendant No.1 and Trial Court granting the decree of $1/3^{\text{rd}}$ share to the plaintiffs in the suit property is just and proper which requires no further consideration in this second appeal having regard to the scope of Section 100 of Code of Civil Procedure.

13. Accordingly, following:

ORDER

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

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

KAV
List No.: 1 Sl No.: 56/CT: BHK