



CNR: KAHC010773752025

NC: 2026:KHC:45825
MSA No. 92 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MS. JUSTICE JYOTI M

MISCELLANEOUS SECOND APPEAL NO. 92 OF 2026 (RO)

BETWEEN:

SMT. VIDYACHANDRASHEKAR S.,
W/O. K.V.CHANDRASHEKAR,
AGED ABOUT 55 YEARS,
R/AT NO.7, 8TH CROSS, 3RD MAIN,
OPP.POORNIMA HOUSE, SS PURAM,
TUMAKURU- 572101.

...APPELLANT

(BY SRI. SHEKARAPPA, ADVOCATE)

AND:

1. SRI. NAGESHA
S/O. LATE R.SUBRAMANYA,
AGED ABOUT 58 YEARS,
R/AT NO. 82, MUNESHWARA LAYOUT,
BEHIND PARLE-G-FACTORY,
NAGASANDRA POST,
BENGALURU- 560073.

2. SMT. S.VEENA,
W/O. SURESH R.,
AGED ABOUT 54 YEARS,
R/AT NO. 839, FIRST FLOOR,
5TH CROSS, 5TH MAIN ROAD,
GOVINDRAJ NAGAR WARD,
M.C. LAYOUT, VIJAYANAGAR,
BENGALURU- 560040.

...RESPONDENTS

(BY SRI. SUMANTH L.BHARADWAJ, ADVOCATE)



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THIS MISCELLANEOUS SECOND APPEAL IS FILED UNDER ORDER 43 RULE 1(u) OF THE CODE OF CIVIL PROCEDURE, 1908.

THIS MISCELLANEOUS SECOND APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 17.08.2026, THIS DAY, AN JUDGMENT IS PRONOUNCED AS UNDER:

CAV JUDGMENT

Sri. Shekarappa, counsel for the appellant, and Sri. Sumanth L. Bharadwaj, counsel for the respondents, appeared in person.

2. For convenience, the parties are referred to as per their status and ranking before the Trial Court.

3. The facts are these:

The plaintiff filed a suit for partition, separate possession, and other reliefs. The Trial Court decreed the suit vide Judgment and Decree dated 04.01.2024 and held that the plaintiff and defendant Nos.2 and 3 are entitled to one-third share each in the suit scheduled property. The Trial Court initiated final decree proceedings in FDP No.17/2024 as per the preliminary decree. The final decree was disposed of on



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18.01.2025. The plaintiff filed an appeal before the Appellate Court challenging the order passed in FDP proceedings. The Appellate Court, vide Judgment and Decree dated 27.09.2025, disposed of the regular appeal and remitted the matter to the Trial Court. Under these circumstances, the plaintiff has filed the appeal on several grounds as outlined in the memorandum of appeal.

4. Counsel appearing for the respective parties presented several contentions. The Court heard and carefully perused the papers.

5. The question for consideration is whether the remand order is justified.

6. The facts are sufficiently noted and need no repetition. It is undisputed that the suit was decreed, granting one-third share to each. Accordingly, the FDP proceedings in No.17/2024 were initiated, the Commissioner was appointed, and he demarcated the scheduled property and prepared the sketch. However, the plaintiff objected to the Commissioner's report and the sketch. The plaintiff contended that she wished



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to retain the middle portion, as her sisters may sell their portions without her consent. The FDP Court did not accept this contention. The Court accepted the Commissioner's report and directed the registry to draw the final decree in terms of the report.

In this Court, she maintained the same argument. However, this cannot be accepted, as the reason is clear: simply not being assigned the middle portion does not mean the Commissioner's report is flawed. Moreover, the plaintiff challenged the FDP order before the Appellate Court, arguing that she was assigned the first portion but wanted to retain the middle portion. The Appellate Court unnecessarily discussed the Partition Act and ultimately erred in ordering the sale of the property. This is unsustainable in law. The Appellate Court should have evaluated whether the FDP Court's order is fair and appropriate. No remand order was necessary.

I have carefully perused the FDP order and the sketch. Taking note of the material on record, the Court rightly accepted the Commissioner's report and directed the registry to draw up the final decree in terms of the report. I find no



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grounds to set aside the FDP order. This Court confirms the order passed by the FDP Court. The appeal is devoid of merit and liable to be dismissed.

7. Resultantly, the appeal is ***dismissed***.

Because of dismissal of the appeal, interim order granted if any stands discharged and pending interlocutory applications if any are disposed of.

**Sd/-
(JYOTI M)
JUDGE**

MRP
List No.: 1 Sl No.: 1