NC: 2025:KHC:52185
RSA No. 688 of 2024

HC-KAR

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF DECEMBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE H.P.SANDESH

REGULAR SECOND APPEAL NO.688 OF 2024 (PAR)

BETWEEN:

1. SRI. LINGADEVARU K.S.,
S/O LATE K.S. SIDDAPPA,
AGED ABOUT 55 YEARS,
R/AT KAMBALU VILLAGE,
NELAMANGALA TALUK,
BENGALURU RURAL DISTRICT,
BENGALURU-562123.

...APPELLANT

(BY SRI. VEDA MURTHY M.V., ADVOCATE)

AND:

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Location: HIGH COURT OF KARNATAKA

1. SMT. VISHALAMMA,
W/O SHIVAGANGAPPA,
AGED ABOUT 52 YEARS,
KARIMANNE, GOVINDAPURA,
HEGGUNDA, NELAMANGALA,
BENGALURU RURAL DISTRICT,
BENGALURU-562123.

2. SMT. SIDDARAJAMMA,
W/O SHVIANNA,
AGED ABOUT 54 YEARS,
R/AT NO.98, KAMBALU,
NELAMANGALA,
BENGALURU RURAL DISTRICT,
BENGALURU-562123.

3. SMT. SHIVARAJAMMA,
W/O RAJANNA,
AGED ABOUT 51 YEARS,
R/AT NO.18,
KODIYAL KARENAHALLI,
BIDADI HOBLI,
RAMANAGARA DISTRICT-562159.

4. SMT. ANNAPURNAMMA,
W/O YATHISHWARAIAH,
AGED ABOUT 49 YEARS,
R/AT NO.15, RANGENAHALLI,
KASABA HOBLI,
MAGADI TALUK-562109,
BENGALURU RURAL DISTRICT.

5. SRI. K.S. PUTTANNA (SHADAKSHARI),
S/O LATE K.C. SIDDAPPA,
AGED ABOUT 52 YEARS,
R/AT SRI MARULA SIDESHWARA NILAYA,
60 FEET ROAD, NEAR BEVINA MARA,
MANJUNATHA NAGARA,
GOKULA BADAVANE,
TUMAKURU-562129.

…RESPONDENTS

(BY SMT. SHRUTHI S.P., ADVOCATE FOR R1 TO R4)

THIS RSA IS FILED UNDER SECTION 100 READ WITH ORDER XLII RULE 1 OF CPC, AGAINST THE JUDGMENT AND DECREE DATED 18.08.2023 PASSED IN R.A.NO.85/2022 ON THE FILE OF THE I ADDITIONAL DISTRICT AND SESSIONS JUDGE, C/C II ADDITINAL DISTRICT AND SESSIONS JUDGE, BENGALURU RURAL DISTRICT, BENGALURU, DISMISSING THE APPEAL AND CONFIRMING THE JUDGEMENT AND DECREE DATED 02.06.2022 PASSED IN O.S.NO.670/2013 ON THE FILE OF THE II ADDITINAL SENIOR CIVIL JUDGE, NELAMANGALA.

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

CORAM: HON'BLE MR. JUSTICE H.P.SANDESH

ORAL JUDGMENT

This matter is listed for admission. Heard the learned counsel for the appellant and the learned counsel for respondent Nos.1 to 4.

2. This second appeal is filed against the concurrent finding.

3. The suit is filed for the relief of partition and separate possession by the sisters against the brothers claiming that the suit schedule properties are ancestral and joint family properties of themselves and the defendants. The defendant No.1 took the specific contention that item Nos.1 and 2 properties are granted lands. The Trial Court considering the material available on record, particularly taken note of admission on the part of D.W.1 that, item No.3 property is ancestral in nature and item Nos.1 and 2 are granted in favour of the father and item Nos.4 to 6 are the self-acquired properties of their father Siddappa and the same is discussed in paragraph Nos.15, 16, 17, 18 and 19. The learned counsel would contend that there was an earlier division between the

brothers in the year 2001 in respect of item Nos.1 and 2. The learned counsel would contend that the sisters are not entitled for any share, since there was a partition in the year 2001 itself. The learned counsel would contend that there was a subsequent partition in the year 2007 and fairly submits that the same not binds the plaintiffs, since they are not the parties. The Trial Court having considered the admission on the part of D.W.1, granted the relief of 1/6th share each in respect of the suit schedule properties and in respect of item No.3, there was no any prior division earlier to 2005 Amendment.

4. The First Appellate Court having re-assessed both oral and documentary evidence available on record and keeping in view the grounds urged in the appeal, formulated the points for consideration and answered point Nos.2 and 3 in the negative considering the admission on the part of D.W.1 in the cross-examination, particularly in paragraph Nos.20, 21 and 22. In paragraph No.22, the First Appellate Court taken note of that D.W.1 in his cross-examination admitted that item Nos.1 and 2 properties are inam land and said item Nos.1 and 2 are cultivating since from their great grandfather Shanthaiah and

the said item Nos.1 and 2 are granted in favour of the father of the plaintiffs and the defendants. Further, it is clear from the evidence on record that there was no partition between the plaintiffs and the defendants in respect of the suit schedule properties. The defendant No.1 specifically admitted in his cross-examination that the suit schedule item Nos.1 and 2 are inam lands and item No.3 is ancestral property and item Nos.4 to 6 are self-acquired property of their father and all the suit schedule properties are joint family properties and are available for partition and hence, comes to the conclusion that the Trial Court has not committed any error and confirmed the judgment of the Trial Court.

5. Being aggrieved by the concurrent finding, the present second appeal is filed before this Court.

6. The main contention of the learned counsel for the appellant indicating the substantial question of law is whether the mutation entries effected in the name of defendant Nos.1 and 2 pursuant to the oral partition taken place between defendant No.1, which is duly effected and acted upon is not amounting to division. Whether a married daughter can be

treated as a coparcener or a joint family member when the land is granted by the Land Tribunal, since the married daughters are excluded from the definition of joint family under the Karnataka Land Reforms Act. Hence, this Court has to frame the substantial question of law.

7. Per contra, the learned counsel for respondent Nos.1 to 4 would contend that the Trial Court as well as the First Appellate Court taken note of that there was a grant in favour of the father in the year 1955 and the same is admitted by D.W.1. The father had not left any testamentary document and also any division in respect of item Nos.1 and 2 as contended by the learned counsel for the appellant and the same not binds the plaintiffs. The learned counsel contend that Section 8 of the Hindu Succession Act attracts and not Section 6 in respect of item Nos.1 and 2 is concerned. Hence, no ground is made out.

8. Having heard the learned counsel for the appellant and the learned counsel for respondent Nos.1 to 4 and also considering the pleadings of the parties, though it is pleaded in the plaint that the suit schedule properties are the ancestral

and joint family properties, during the course of evidence, it is emerged that item Nos.1 and 2 properties are granted in favour of the father, item No.3 is the only ancestral property and item Nos.4 to 6 are the self-acquired properties of the father. Admittedly, the father has not left any testamentary document when he passed away. The plaintiffs are the sisters of defendant Nos.1 and 2 and even though there was a partition between defendant Nos.1 and 2 in the year 2001, the same not binds the plaintiffs, since the plaintiffs are not parties to the said partition. Apart from that, item Nos.1 and 2, in respect of which the learned counsel for the appellant contend that there was a division, the same is the property of the father and Section 8 of the Hindu Succession Act attracts and not Section 6. There is no any partition in respect of item No.3 ancestral property and the same is also admitted that there was no any partition prior to the amendment. When such being the case, I do not find any perversity in the finding of the Trial Court and the First Appellate Court in granting the share in favour of the plaintiffs and the defendants equally and hence, not made out any ground to admit the second appeal and frame any substantial question of law. Both question of fact and question

of law are considered by both the Courts and there is no any perversity and hence, not a case to invoke Section 100 of CPC.

9. In view of the discussions made above, I pass the following:

ORDER

The second appeal is dismissed.

Sd/-
(H.P.SANDESH)
JUDGE

MD
List No.: 1 Sl No.: 38