HC-KAR

NC: 2026:KHC:60648
CRP No. 41 of 2025

CNR: KAHC010028882025

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 30TH DAY OF OCTOBER, 2026**

**BEFORE**

**THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI**

**CIVIL REVISION PETITION NO. 41 OF 2025 (IO)**

**BETWEEN:**

1. SRI HANUMANTHAPPA
   S/O LATE SMT. LINGAMMA
   AGED ABOUT 55 YEARS
   R/O GANGA RATHNA, 11TH CROSS,
   ADJACENT MARTIN ENGLISH SCHOOL,
   JNANA JYOTHI NAGAR,
   ULLAHALLI MAIN ROAD,
   BENGALURU-560 056

2. SRI. M. KUMARA
   S/O LATE SMT. LINGAMMA
   AGED ABOUT 50 YEARS
   R/O GANGA RATHNA,
   11TH CROSS, ADJACENT MARTIN
   ENGLISH SCHOOL, JNANA JYOTHI
   NAGAR, ULLAHALLI MAIN RIAD,
   BENGALURU-560 056

Digitally signed by SUVARNA T
Location: HIGH COURT OF KARNATAKA

...PETITIONERS

(BY SRI. GANAPATHI S. SHASTRI, ADVOCATE)

**AND:**

1. SMT. ADILAKSHMAMMA @ AMMAYAMMA
   W/O MUNIRAJU
   D/O LATE GARAKE CHANNAIAH,
   AGED ABOUT 65 YEARS,
   R/O TALAGHATTAPURA VILLAGE,

   UTTARAHALLI HOBLI,
   KANAKAPURA ROAD,

BENGALURU SOUTH TALUK,
BENGALURU-560 062

REPRESENTED BY GPA HOLDER
M. RAVI,
S/O LATE MUNINANJAPPA,
AGED ABOUT 58 YEARS,
R/O MACHOHALLI VILLAGE,
DASANAPURA HOBLI,
BENGALURU NORTH TALUK,
BENGALURU-562 130

2. SMT. LAKSHMAMMA
W/O LATE VAJRAPPA
AGED ABOUT 70 YEARS,
R/O MACHOHALLI COLONY
BAPA GRAMA, DASANAPURA HOBLI.
BENGALURU NORTH TALUK
BENGALURU-562 130

3. SRI. MAYANNA
S/O LATE VAJRAPPA,
AGED 48 YEARS,
R/O MACHOHALLI COLONY
BAPA GRAMA, DASANAPURA HOBLI,
BENGALURU NORTH TALUK,
BENGALURU-562 130

4. SMT. CHANDRAMMA
D/O LATE VAJRAPPA,
AGED ABOUT 50 YEARS,
R/O MACHOHALLI COLONY,
BAPA GRAMA, DASANAPURA HOBLI,
BENGALURU NORTH TALUK,
BENGALURU-562 130

5. SMT. KAMALAMMA
W/O HANUMANTHAPPA,
AGED ABOUT 65 YEARS,
R/O DEV TOWER, 2ND CROSS,
1ST 'D' MAIN,

OPP. ADHICHUNCHAN SAMUDHAYA BHAVANA,
VIJAYANAGAR,
BENGALURU-560 040

6. SRI. RAMAKRISHNAPPA
S/O LATE M. MUNIYAPPA,
AGED ABOUT 75 YEARS,
BYADRAHALLI VILLAGE,
MAGADI MAIN ROAD,
VISHWANEEDAM POST,
BENGALURU-560 091

7. SRI. KISHORE KUMAR
S/O LATE CHIGAN RAJ,
AGED ABOUT 60 YEARS,
R/O NO.313, 2ND MAIN ROAD,
BASAVESHWARANAGAR,
BENGALURU-560 079

…RESPONDENTS

(BY SRI.VASANTHAPPA, ADVOCATE FOR R1
NOTICE TO R2 TO R7 ARE DISPENSED WITH V/O/D:15/04/2025)

THIS CRP FILED UNDER SEC.115 OF CPC., AGAINST THE ORDER DATED 28.11.2024. PASSED ON IA NO. IX IN OS NO. 610/2014 ON THE FILE II ADDITIONAL SENIOR CIVIL JUDGE, NELAMANGALA, DISMISSING THE IA NO.IX FILED UNDER ORDER VII RULE 11(a, b AND d) OF CPC FOR REJECTION OF PLAINT.

THIS PETITION HAVING BEEN HEARD AND RESERVED ON 01.10.2026, COMING ON FOR PRONOUNCEMENT OF ORDER THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

## CAV ORDER

The present Civil Revision Petition is filed aggrieved by the order dated 28.11.2024 passed on I.A.No.IX in O.S.No.610/2024 by the II Addl. Senior Civil Judge and JMFC, Nelamangala.

2. The respondents herein have filed a suit seeking the relief of partition and also to declare that the sale deed dated 08.08.1994 is not binding on the plaintiff's share. It is the specific case of the plaintiff that she is the daughter of Garake Channaiah and Smt. Mayamma. The plaintiff's parents died in the year 1990. Garake Channaiah and Smt. Mayamma left behind two daughters, namely, Kamalamma, defendant No.4, and Adilakshmamma, the plaintiff, and a son, Vajarappa. Vajarappa died on 07.03.1992, leaving behind his wife, Smt. Lakshmamma, and son, Mayanna, and daughter, Smt. Chandramma. The property bearing Sy.No.55/7 (old Sy.No.55/3), measuring 4 acres 11 guntas, situated at Machohalli Village, Dasanapura Hobli, Bangalore North Taluk, was acquired by the father of the plaintiff under the registered sale deed dated 24.05.1928. The property is a joint family

property of the plaintiff and defendant Nos.1 to 4, and are entitled to a share in the said property, and no partition has been effected between them. The plaintiff, being a member of the joint family, is entitled to a share in the suit schedule property. The plaintiff had produced the revenue records issued by the revenue authorities in respect of the suit schedule property before the Court, along with a series of revenue records pertaining to the suit schedule property. The plaintiff demanded her legitimate share in the schedule property from defendant Nos.1 to 3 in the month of June 2014. The defendants went on postponing the fulfilment of the demand made by the plaintiff. Further, the plaintiff convened a panchayat in the village on 15.08.2014. It is the case of the plaintiff that, during the panchayat held in the village, defendant Nos.1 to 3 disclosed that they had alienated the suit schedule property in favour of defendant No.5 and also produced a copy of the sale deed dated 08.08.1994. On 15.08.2014, she came to know about the illegal acts committed by defendant Nos.1 to 3, and the plaintiff was shocked by their acts. After coming to know about the same, she obtained the documents. Since her father had acquired the property under

the registered sale deed dated 24.05.1928, she succeeded to the estate left behind by her father. Further, the suit schedule property is a joint family property of the plaintiff and defendant Nos.1 to 4, and the plaintiff has a definite share in the suit property. The sale effected by the defendants is not binding on her.

3. The suit was filed in the year 2014. In the said suit, the petitioners herein filed an application seeking rejection of the plaint. It is stated that the plaint does not disclose any cause of action and that the cause of action shown in para No.16 of the plaint is a created one. The plaintiff was fully aware of the sale transactions that took place with respect to the suit schedule property, wherein defendant No.5 purchased the same on 08.08.1994 and thereafter sold the same to defendant No.6 on 08.12.1995. Further, having received a sum of Rs.90,000/-, the plaintiff executed a consent deed in favour of defendant No.6 on 30.11.2006, relinquishing all her title and interest in favour of defendant No.6 and also affirming that she would not create any problems of any nature. A legal notice was sent to the plaintiff's mother through her counsel on

31.07.2008, stating that she came to know of the sale deed dated 08.12.1995 on 03.01.2008. Hence, the suit was filed much beyond the period permitted under the law of limitation and is liable to be rejected. It is stated that the plaintiff is not entitled to any share in the suit schedule property in view of the proviso to sub-section (1) of Section 6 of the Hindu Succession (Amendment) Act, 2005. It provides that nothing contained in the Section shall affect or invalidate any disposition or alienation, including any partition or testamentary disposition of property, which had taken place before 20.12.2004. Admittedly, the defendant purchased the suit property by a registered deed dated 08.12.1995. Hence, on these grounds, an application is filed.

4. The Court, by the impugned order, had rejected the said application. While rejecting the application, the Court had observed that the plaint cannot be rejected on the basis of the allegations made by the defendants in their written statement or in the application filed for rejection of the plaint. The Court has to read the entire plaint as a whole to find out whether it discloses a cause of action and, if it does, then the plaint

cannot be rejected under Order VII Rule 11 of CPC. So far as the contention of defendant No.6 with regard to the undervaluation of the suit is concerned, it falls under Clause (b) of Rule 11 of Order VII. It is pertinent to note that, as per the said provision, where the relief claimed is undervalued and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so, only then can the plaint be rejected. In order to invoke this provision, there should be a Court order directing the plaintiff to correct the valuation within a time limit. In this case, so far, no such order has been passed. The Court observed that in paras 5, 6, 8 and 9 of the plaint, there are detailed averments regarding the cause of action for filing the suit. On going through the cause of action pleaded in support of the relief sought in the plaint, it is evident that the contention taken on behalf of defendant Nos.6(a) and 6(b) herein that there is no cause of action for the suit is totally without any basis, and in that view of the matter, the said contention is to be rejected. It is well settled that while adjudicating an application under Order VII Rule 11 of CPC, the Court must look at the plaint and nothing else. Hence, the Court dismissed the application.

5. The learned counsel appearing for the petitioner submits that the mother of the petitioners purchased the property through registered sale deed dated 08.12.1995 and since then she is in enjoyment of the same till her death and subsequently the petitioners continued to enjoy the same as absolute owners. Even today, the petitioners are in possession and enjoyment of the suit schedule property without any obstruction from anyone. In the year 2014, respondent No.1 has filed the suit seeking partition, declaration and injunction in respect of the suit schedule properties. But in view of Section (1) of Section 6 of the Hindu Succession (Amendment) Act, 2005, the registered partition or registered alienation of property cannot be questioned subsequent to 20.12.2004 by female member. Respondent No.1 has executed a consent letter in respect of the suit schedule property in favour of the petitioner's mother on 30.11.2006 after receiving Rs.90,000/- from her. In the said consent letter, clearly mentioned the sale transaction done in respect of the suit schedule property. The suit is filed in the year 2014, is hit by limitation. It is submitted that the plaintiff has issued a legal notice on 31.07.2008 through her counsel stating that in the third week of January

2008 she came to know about the registered sale deed dated 08.12.1995, but the suit is filed in the year 2014. Hence, it is barred by time. Though the suit is filed in the year 2014, till today respondent No.1 has not shown any interest to adduce evidence. It is submitted that the suit is barred limitation. It is submitted that the trial Court has failed to consider all these aspects.

6. Learned counsel for the petitioner relied on the judgment of the Apex Court in the case of ***Vineeta Sharma Vs. Rakesh Sharma and others[1],*** he relied on paragraph No.117, which reads as under:

> ***"117. The Cabinet note made on 29.7.2005 with respect to 'partition' is quoted hereunder:***
> ***"5.2 In this connection it may be noted that the amendments made in the Hindu Succession Act, 1956 by the States of Andhra Pradesh, Karnataka, Maharashtra and Tamil Nadu and the Kerala Joint Hindu Family System (Abolition) Act, 1975 will be superseded by any subsequent Central enactment containing provisions to the contrary as the Central legislation will prevail over the State enactments by virtue of operation of doctrine of repugnancy enunciated in article 254 of the Constitution. Innumerable settled transactions and partitions which have taken place hitherto will also become disturbed by the proposed course of action. Further, there could be heartburning from the majority of the Hindu population. In the circumstances, it is proposed that we may remove the distinction between***

[1] (2020) 9 SCC 1

***married and unmarried daughters and at the same time clearly lay down that alienation or disposition of property made at any time before the 20 th day of December, 2004, that is, the date on which the Hindu Succession (Amendment) Bill, 2004 was introduced in the Rajya Sabha will not be affected or invalidated. Consequential changes are also suggested in sub-section (5) of proposed section 6.”””***

Relying on this, it is submitted that the court has failed to consider the case of the defendant and it is submitted that order impugned needs to be set aside and the plaint has to be rejected.

7. Learned counsel appearing for the respondent submits that the court has rightly considered and passed order and no interference is called for. The plaint, as shown, makes out a cause of action, and the documents relied on by the defendant cannot be considered while considering an application under Order VII Rule 11 of the CPC.

8. Having heard the learned counsels on either side, perused the material on record. The scope of Order VII Rule 11 of the CPC is well settled. The Court is required to examine the plaint as a whole to determine whether it discloses a cause of action or whether the suit is barred by law. The defence raised

by the defendants cannot form the basis for rejection unless the bar is apparent from the plaint itself. Similarly, where the plaint discloses a clear statutory bar, the Court cannot permit the suit to proceed merely because the plaintiff has framed the relief as one for partition. The first question concerns the applicability of the Hindu Succession (Amendment) Act, 2005. The plaintiff's case is that her father purchased the property in 1928 and died in 1990. If the property was his separate property and he died intestate, the plaintiff would have inherited a share as a Class-I heir under Section 8 of the Hindu Succession Act, 1956. Such a right existed independently of the 2005 amendment.

9. In ***Vineeta Sharma Vs. Rakesh Sharma's case***, referred supra, the Supreme Court recognised the equal coparcenary rights conferred upon daughters under substituted Section 6, while also recognising the statutory protection afforded to transactions preceding 20.12.2004. However, the protection afforded to earlier alienations cannot be understood as extinguishing the rights which had already vested by succession before the amendment. In ***B. S. Lalitha and Ors.***

***Vs. Bhuvanesh and Ors.,*** the Supreme Court distinguished the rights conferred upon daughters by the 2005 Amendment from their pre-existing rights of inheritance under Section 8 of the Hindu Succession Act. It held that the saving provision under amended Section 6 does not extinguish a share which a daughter had already inherited upon her father's death.

10. In the present case, her father died in 1990, whereas a disputed sale deed was executed on 08.08.1994. If the plaintiff acquired a share in the share of her father, that subsequent alienation cannot be treated as binding on her share. Whether the property was her father's separate property, the extent of the share inherited, and whether the plaintiff subsequently conveyed or relinquished that interest are matters requiring adjudication. The defendant's contention that the plaintiff consented to the sale deed may constitute a substantial defence. However, when such consent is disputed, its existence and legal effect cannot be determined while considering an application under Order VII Rule 11 CPC. An allegation of suppression, founded on the same disputed

circumstances, cannot independently justify rejection of the plaint.

11. The next question concerns limitation. The sale deed was executed in 1994, and the suit was instituted in 2004. The considerable lapse of time undoubtedly requires examination. However, limitation cannot be determined merely by calculating the period between the execution of the sale deed and the institution of the suit without considering the nature of the plaintiff's right and the relief sought. The plaintiff claims an inherited share and seeks partition, together with a declaration that the alienation is not binding upon her. Whether Article 59, Article 110, or any other applicable provisions of the Limitation Act governs the claim depends on the nature of the transaction, the plaintiff's possession in relation to it, and the circumstances concerning exclusion from the property. The plaintiff pleads that the alienation came to her knowledge when she demanded partition. The defendant contends that she had knowledge of the transaction from its inception and had, in fact, consented to it. Whether and when the plaintiff became aware of the alienation, and whether she has been excluded

from the property within the period prescribed by law, are disputed questions that need to be determined.

12. In ***Smt. Uma Devi and Ors Vs. Anand Kumar and Ors***[2], the Supreme Court emphasized that a stale claim cannot be revived through a vague assertion of subsequent knowledge, where the earlier transaction and the circumstances demonstrating limitation are apparent from the plaint and the documents relied upon. Rejection under Order VII Rule 11 of CPC is permissible. However, that assertion does not mean that every partition instituted several years after a registered alienation is necessarily barred. In the present case, the plaintiff asserts the right arising after father's death in 1990. While the defendants rely upon her alleged knowledge and consent to the transaction of 1994, those assertions require examination of evidence. The mere existence of a registered sale deed does not, by itself, establish that the plaintiff's claim for partition is barred. Here, the question of limitation is a question of fact and law which can only be decided by the court after a full-fledged trial. The learned Judge was therefore justified in declining to reject the plaint. The contention

[2] 2025 INSC 434

regarding limitation, binding effect of the sale deed, and the plaintiff's entitlement to partition remain open for adjudication. This Court finds no jurisdictional error warranting interference under Article 227 of the Constitution of India. In that view of the matter, this Court is passing the following:

**ORDER**

i. Accordingly, the Civil Revision Petition is ***dismissed***.

ii. The learned trial Judge shall decide the suit independently without being influenced by any of the observations made by this Court.

iii. All I.As. in this petition shall stand closed.

**SD/-**
**(LALITHA KANNEGANTI)**
**JUDGE**

PKN
List No.: 1 Sl No.: 1
*AK