HC-KAR
NC: 2026:KHC:61116
CRP No. 839 of 2026
CNR: KAHC010651222026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 3RD DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

CIVIL REVISION PETITION NO. 839 OF 2026

BETWEEN:

SRI.JAYARAM
S/O ANDHANAPPA,
AGED ABOUT 66 YEARS,
R/A. NO. 1, BYRAVA NILAYA,
JAYARAM BUILDING, NEAR VISHAL
ENGLISH SCHOOL, SRIKANTAPURA,
BENGALURU 560 073.

...PETITIONER

(BY SRI.Y.R.SADASHIVAREDDY, SENIOR COUNSEL FOR
SRI.RAHUL S. REDDY, ADVOCATE)

AND:

1. SMT.GANGAHANUMAKKA
W/O LATE NARASAIAH,
AGED ABOUT 61 YEARS

2. SMT. LAKSHMI,
D/O LATE NARASAIAH,
AGED ABOUT 36 YEARS

3. SRI. CHANDRASHEKAR,
S/O LATE NARASAIAH,
AGED ABOUT 30 YEARS,

RESPONDENTS NO.1 TO 3 ARE
RESIDING AT
BOMMANAHALLI VILLAGE,
KASABA HOBLI, NELAMANGALA TALUK,

Digitally signed by SUVARNA T
Location: HIGH COURT OF KARNATAKA

BENGALURU RURAL DISTRICT - 562 123

4. SMT. JAYAMMA,
W/O LATE CHOWDAIAH,
AGED ABOUT 48 YEARS,

5. SMT. RADHA,
D/O LATE CHOWDAIAH,
AGED ABOUT 32 YEARS

6. SRI. MUNIRAJU,
S/O LATE CHOWDAIAH,
AGED ABOUT 28 YEARS,

7. SMT. PADMA,
D/O LATE CHOWDAIAH,
AGED ABOUT 26 YEARS,

RESPONDENTS NO.4 TO 7 ARE
RESIDING AT BOMMANAHALLI VILLAGE,
KASABA HOBLI, NELAMANGALA TALUK,
BENGALURU RURAL DISTRICT - 562 123

8. SRI. NAGARAJU,
S/O NAGAIAH,
AGED ABOUT 45 YEARS,
R/A BOMMANAHALLI VILLAGE,
KASABA HOBLI, NELAMANGALA TALUK,
BENGALURU - 562 123

…RESPONDENTS

(BY SRI.R.KUMAR, ADVOCATE FOR C/R1 TO R3)

THIS CRP FILED UNDER SEC.115 OF CPC., AGAINST THE ORDER DATED 01.08.2026 PASSED ON IA NO.IV IN OS NO.423/2026 ON THE FILE OF I ADDITIONAL SENIOR CIVIL JUDGE AND JMFC, NELAMANGALA, DISMISSING THE IA NO.IV FILED UNDER ORDER VII RULE 11(a), (b), (c) AND (d) R/W SEC.151 OF CPC. FOR REJECTION OF PLAINT.

CNR: KAHC010651222026

THIS PETITION HAVING BEEN HEARD AND RESERVED ON 29.09.2026, 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 01.08.2026 passed on I.A.No.IV in O.S.No.423/2026 by the I Additional Senior Civil Judge and JMFC, Nelamangala.

2. The facts of the case are that the respondents herein have filed a suit seeking a declaration that the plaintiffs are the absolute owners of the suit schedule property; that the registered sale deed dated 05.08.2019, executed by defendant Nos.1 to 4 in favor of defendant No.6 in respect of 25 guntas of land out of the suit schedule property, is illegal, void, and not binding on the plaintiffs; that the registered Gift Deed dated 05.08.2019, executed by defendant Nos.1 to 4 in favour of defendant No.5 in respect of 1 gunta of land in the suit schedule property, is illegal, void, and not binding on the plaintiffs; and that the defendants be directed to deliver vacant

possession of the suit schedule property to the plaintiffs by removing themselves or anybody claiming under them.

3. It is the specific case of the plaintiffs that the land bearing Old Sy.No.13, New Sy.No.71, measuring an extent of 2 acres, situated in Bommanahalli Village, Kasaba Hobli, Nelamangala Taluk, Bangalore Rural District, was purchased in a public auction by Sri. Late Narasaiah, the husband of the first plaintiff and father of the second and third plaintiffs. Late Narasaiah purchased the said land in a public auction conducted by the revenue authorities, and thereafter, a grant certificate in Form No.1 under the Mysore Land Revenue Rules, 1888, dated 30.07.1980, was issued in his favour. The said document clearly establishes that the property was purchased by late Narasaiah for valuable consideration. The said purchase was made by Narasaiah out of his own earnings and resources, and the property is his self-acquired property. He was in possession of the property during his lifetime. After his death, the plaintiffs succeeded to the property. Defendant No.1 is the widow of deceased Chowdaiah, who was the brother of late Narasaiah, and defendant Nos.2 to 4 are the legal heirs of late

Chowdaiah. The defendants have no right or title to the property. During his lifetime, Narasaiah sold 1 acre of land out of the total extent of 2 acres. After such alienation, the remaining extent of 1 acre came to be phoded and assigned as per the revenue records. After the death of Narasaiah and Chowdaiah, Jayamma, W/o late Chowdaiah and defendant No.1, without having any manner of right, title or interest over the property, falsely set up a claim that there was a family partition between late Narasaiah and late Chowdaiah and that the suit schedule property had fallen to the share of Chowdaiah and managed to obtain illegal revenue entries and mutation in their favour. Taking advantage of the said revenue entries, defendant No.1 started representing herself as the owner of the suit schedule property. Without any lawful title or authority, defendant Nos.1 to 4 executed a registered sale deed in favour of Jayaram, i.e., defendant No.6, in respect of an extent of 25 guntas out of the 1 acre of the suit schedule property. Besides this, the defendants have illegally gifted 1 gunta of land to Nagaraju, defendant No.5, by way of a registered Gift Deed, and these transactions are without any right or title.

Thereafter, the revenue records were mutated in the names of defendant Nos.5 and 6. The plaintiffs had earlier approached the competent authority under the Karnataka Scheduled Castes and Scheduled Tribes (Prohibition of Transfer of Certain Lands) Act, 1978, seeking restoration. The matter ultimately reached the High Court of Karnataka in W.P. No.20602/2021 and, by order dated 20.06.2023, the Court held that the land was purchased in a public auction, that the PTCL Act was not applicable, and observed that the dispute between the parties had to be resolved before the competent Civil Court. Aggrieved by the same, the plaintiffs preferred Writ Appeal No.920/2023, which was dismissed on 24.11.2025, upholding the order passed in W.P. No.20602/2021. The review petition was also dismissed on 18.12.2026. Hence, they have filed the present suit. In the said suit, the defendants have filed an application under Order VII Rule 11 of the CPC seeking rejection of the plaint. It is the case of the defendants that the plaint fails to disclose a valid cause of action against them, that the plaintiffs have undervalued the suit and have not paid the requisite court fee, that the suit is hopelessly barred by limitation, and that it

is barred by the provisions of law, including Order II Rule 2 of the Code of Civil Procedure. The Trial Court, by the order impugned, dismissed the application.

4. The Trial Court, while dismissing the application, has observed that whether there was, in fact, a partition, whether the property was self-acquired or ancestral, whether the mutation entries were legally made, whether defendant Nos.1 to 4 had any transferable interest, whether the sale deed dated 05.08.2019 and the Gift Deed dated 05.08.2019 are valid and binding, and whether defendant No.6 is a bona fide purchaser are all disputed questions of fact which require appreciation of oral and documentary evidence. Such disputed questions cannot be decided in summary proceedings under Order VII Rule 11 of the CPC. The contention of defendant No.6 that the suit is barred by limitation also cannot be accepted at this stage. The plaintiffs have specifically pleaded that the cause of action arose when illegal mutation entries were created, when the impugned sale deed and Gift Deed came to be executed, and when the High Court, while disposing of the PTCL proceedings, observed that the parties should approach the

competent Civil Court for adjudication of title. The plaint further states that the cause of action is continuous in nature and that the suit has been instituted within the prescribed period of limitation. Whether the plaintiffs had knowledge of the impugned transactions on an earlier date and whether the plea of fraud postpones the commencement of limitation are mixed questions of law and fact. Such issues cannot be adjudicated without recording evidence. It is a settled proposition of law that unless the suit appears, from the statements contained in the plaint itself, to be barred by limitation, rejection under Order VII Rule 11(d) of the CPC is impermissible. The plaint, by itself, does not show that the suit is hopelessly barred by limitation. Equally untenable is the contention regarding the bar under Order II Rule 2 of the CPC. The plaint itself refers to the earlier proceedings initiated under the PTCL Act and the subsequent writ proceedings before the High Court. Whether the earlier suit and the present suit arise out of the same cause of action, whether leave of the Court was necessary, whether the withdrawal of the earlier suit attracts the provisions of Order II Rule 2 or Order XXIII Rule 1 of the CPC, and whether

the reliefs claimed in the present suit were available in the earlier proceedings are all matters which require examination of the pleadings and records of the previous litigation. Such issues cannot be decided merely on the basis of the averments made in the application filed by defendant No.6. Therefore, the plea under Order II Rule 2 also does not furnish a ground for rejection of the plaint. The objection relating to valuation of the suit and payment of court fee is also without merit at this stage. The plaintiffs have valued the suit under the provisions of the Karnataka Court Fees and Suit Valuation Act by asserting that the suit schedule property continues to be agricultural land. Whether the valuation adopted is correct, whether the market value has to be adopted, and whether additional court fee is payable are matters which require adjudication in accordance with the provisions of the Karnataka Court Fees and Suit Valuation Act. Even assuming that there is any defect in valuation or insufficiency of court fee, Order VII Rule 11(b) and (c) contemplates granting an opportunity to the plaintiff to correct the valuation or make good the deficit court fee before rejection of the plaint. In the present case, no such exercise

has yet become necessary, and the defendant has failed to demonstrate that the plaint deserves outright rejection on this ground. Defendant No.6 has heavily relied upon several revenue records, mutation entries, partition documents, sale deeds, Gift Deeds and orders passed in earlier proceedings to contend that the plaintiffs have no subsisting right over the property. However, this Court cannot take into consideration the defendants' documents while exercising jurisdiction under Order VII Rule 11 of the CPC. The genuineness, legality and evidentiary value of those documents can be examined only during the course of trial after both parties adduce their evidence. If the Court undertakes such an exercise at this preliminary stage, it would amount to conducting a mini-trial, which is impermissible. Accordingly, the Trial Court dismissed the application. Aggrieved thereby, the petitioner/defendant is before this Court.

5. The learned Senior Counsel, representing the learned counsel for the petitioner, submits that the plaint does not disclose any cause of action against the defendant. Respondent Nos.1 to 3 have pleaded that the suit schedule property is the

self-acquired property of late Narasaiah, purchased in a public auction. However, the very same respondent Nos.1 to 3 filed W.P.No.20602/2021 before the High Court of Karnataka, contending that the suit schedule property is ancestral property and seeking relief under the PTCL Act. The said writ petition was dismissed, holding that the PTCL Act is not applicable. The writ appeal and review petition were also dismissed. The High Court has given a clear finding that respondent Nos.1 to 3 have no right over the property. Respondent Nos.1 to 3 are now taking a contradictory and inconsistent stand in the present suit, which is not permissible. The plaintiffs have pleaded that the cause of action arose when respondent No.4 created illegal mutation entries by M.R. No.15/2008-09 dated 03.07.2009 and the said sale deed was executed in favour of the petitioner. Respondent Nos.1 to 3 had full knowledge of the said mutation entries and the alleged partition between late Narasaiah and late Chowdaiah as early as 1992 itself. Further, respondent Nos.1 to 3 had also filed O.S.No.516/2019 in the year 2019 itself, seeking the very same relief of declaration in respect of the subject matter, which suit was dismissed on 06.02.2021.

Hence, the present suit, filed in the year 2026, is hopelessly barred by limitation under Article 65 of the Limitation Act.

6. It is an admitted fact that respondent Nos.1 to 3 had filed OS No.516/2019 on the file of the Senior Civil Judge at Nelamangala for the relief of declaration of title and other reliefs in the year 2019, which was dismissed. Hence, the plaint does not disclose any subsisting cause of action. The trial court also failed to see the law laid down under Order VII Rule 11 of CPC. It is submitted that the respondent Nos.1 to 3 have pleaded in the plaint that the suit schedule property is the self-acquired property of late Narasaiah purchased in a public auction. However, the very same respondents had earlier pleaded before the Revenue Authority and the Hon'ble High Court in W.P.No.20602/2021 that the suit schedule property is an ancestral property and sought relief under the PTCL Act. It is submitted that the petitioner is a bona fide purchaser and further the Court had not granted any liberty to the petitioner to avail the appropriate remedy. The trial court has failed to appreciate all these aspects and rejected the application. It is submitted that the order impugned needs to be set aside.

7. The learned counsel appearing for the respondents submits that, while dismissing the application, the trial court held that all these disputes have to be decided by a competent Civil Court, and that in the writ appeal the Court affirmed the order of the learned single judge. In those circumstances, the contention that liberty is required cannot be accepted. It is further submitted that, in the writ petition, the reference to the earlier suit and other proceedings is a question of whether the issue, i.e., in the present suit, is covered by the earlier suit, whether there are any findings in the writ appeal, or whether it has to be considered. It is a question of *res judicata*, and cannot be decided under Order VII Rule 11 of the CPC.

8. Learned counsel appearing for the respondents relied on a judgment of the Division Bench of this Court in the case of ***Smt. Kalyani and Another Vs. M/s. Kanyakumari Builders Private Limited and others***[1]***,*** and relied on another judgment in the case of ***Keshav Sood Vs. Kirti Pradeep Sood & Ors***[2]

[1] RFA No.1595/2021 D.D.
[2] Civil Appeal No.5841/2023 dated 12.09.2023

Relying on this, it is submitted that the trial Court has rightly rejected the plaint and no interference is called for the order passed by the trial Court.

9. Having heard the learned Senior Counsel representing the learned counsel for the petitioners and learned counsel for the respondents, perused the material on record. Once the writ petition, Writ Appeal, and review petition were dismissed, it cannot be said that every dispute relating to the property stood finally adjudicated. The correctness of the dismissal of the earlier suit must be examined in light of the nature of the earlier proceedings, and the questions decided therein. The earlier writ proceedings arose in the context of the applicability of the PTCL Act. The High Court held that the property was purchased at a public auction and the proviso of the Act will not apply. That finding is pertaining to a relief under a particular statute. It does not, by itself, establish that every competing claim of title between the parties was finally adjudicated. The distinction is material. A determination that the PTCL Act does not apply to a transaction is different from an adjudication declaring which of the contesting parties has

title to the property. The former concerns the statutory basis of the proceedings, whereas the latter ordinarily requires an examination of the documents through which the parties claim, the nature of the rights acquired, and the legal effect of subsequent transactions. In this context, the observation in the writ petition regarding adjudication by a competent civil court assumes significance. Having determined the question arising under the PTCL Act, the Court recognized that the remaining dispute concerning civil rights was a matter for adjudication by the civil court.

10. The learned Senior Counsel placed considerable emphasis on the fact that the Division Bench, while dismissing the Writ Appeal, did not expressly grant liberty to institute a civil suit. This submission overlooks the distinction between the right to institute a suit and permission granted by a court to pursue a remedy. The jurisdiction of a competent Civil Court to adjudicate a title dispute does not arise from liberty granted by a court; rather, it flows from Section 9 of the CPC, subject to any express or implied statutory bar. A party asserting a civil right is not ordinarily required to obtain permission from the

High Court before approaching the Civil Court. The observation in the order passed in the writ petition that the parties should approach a competent Civil Court was, therefore, not the source of their right to sue. It merely recognized the appropriate forum for adjudication of disputes that were not finally determined in the writ proceedings. Consequently, the absence of a fresh or express grant of liberty in the Writ Appeal cannot, by itself, render the subsequent civil suit incompetent. What matters is whether the Division Bench finally adjudicated the very issue the plaintiff now seeks to raise. The Division Bench's findings while dismissing the appeal do not automatically mean the entire controversy concerning title was concluded. The legal effect of those findings depends on the questions before the Division Bench, the issues necessarily decided to dispose of the appeal, and the scope of the judgment read as a whole. The dismissal of the review petition does not alter this position. It brings finality to the order sought to be reviewed. However, it does not enlarge the scope of the questions decided in the Writ Appeal, nor does it convert findings concerning the applicability of the PTCL Act into a

decree terminating a civil suit. The defendants are undoubtedly entitled to rely upon findings that have attained finality. The plaintiffs cannot reopen a question conclusively decided against them merely by changing the form of proceedings. Equally, the finality attached to an earlier judgment must be confined to matters actually and necessarily adjudicated. It cannot be extended to matters which the earlier court left for determination by a competent forum.

11. The petitioner further contends that the suit is barred by the principles of *res judicata*. This objection requires consideration of Section 11 of the CPC and the limited jurisdiction exercised by a Court under Order VII Rule 11 of the CPC. For the plea of *res judicata* to succeed, it must be established that the matter directly and substantially in issue in the subsequent proceedings was also directly and substantially in issue between the same parties, or parties claiming under them, in the earlier proceedings, and that such matter was heard and finally decided by a competent Court. Merely because the property and the parties are substantially the same, the subsequent suit does not automatically become

barred. The Court must ascertain what was the issue in the earlier proceedings and what was finally decided therein. This assumes particular significance where the earlier proceedings arose under a special statute and the subsequent suit seeks a declaration of civil rights.

12. In ***Srihari Hanumandas Totala v. Hemant Vithal Kamat & Ors***[3] the Supreme Court considered whether a plaint could be rejected under Order VII Rule 11(d) of the CPC on the ground of *res judicata*. The Supreme Court held that the determination of such a plea requires an examination of the pleadings, issues, and earlier proceedings, which cannot be undertaken on the basis of the plaint alone. Such an exercise falls outside the scope of Order VII Rule 11 of the CPC. The same principle was reiterated by the Supreme Court in ***Keshav Sood's case,*** referred to supra. In the present case, accepting the petitioner's contention would require the Court to examine the relief sought in the writ petition, the scope of the controversy considered by the learned Single Judge, the grounds urged in the Writ Appeal, the findings recorded by the

[3] AIR 2021 SC 3802

Division Bench, the effect of the declaratory relief, and the earlier suit. Such an exercise cannot be undertaken merely because the defendant asserts that the earlier judgments operate as *res judicata.* The learned Trial Judge considered the scope of Order II Rule 2 of CPC and the deficit in court fees and was justified in declining to reject the plaint on the ground of *res judicata.* The order does not deprive the defendants of their right to raise an objection in the suit. It clearly recognises that the application cannot be decided within the limited scope of enquiry contemplated under Order VII Rule 11 of the CPC. Hence, this Court is of the considered opinion that there are no grounds to interfere with the well-considered order passed by the Trial Court. In that view of the matter, this Court passes the following:

ORDER

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

ii. However, it is made clear that this Court has not made any observations on the merits of the matter and the

trial court shall consider the case in accordance with law.

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

SD/-
(LALITHA KANNEGANTI)
JUDGE

PKN
List No.: 1 Sl No.: 6
*AK