

KABI010004382026



**IN THE COURT OF I-ADDITIONAL DISTRICT &
SESSIONS JUDGE AT BALLARI**

DATED THIS 02nd DAY OF JULY, 2026

: PRESENT :

SHRI H.A. MOHAN., B.A.L., LL.B.

I-Addl. District & Sessions Judge, Ballari.

REGULAR APPEAL No.45/2026

APPELLANTS :-

1. Sri.Keni Basappa S/o. Late Keni Virupanna, Aged about 58 years, R/o. Nehru Colony, Ballari.
2. Jade Siddabasappa S/o. Jadi Marisiddappa, Aged about 70 years, R/o. Door NO.142/2, Ward No.9, Car Street, Brucepet, Ballari.
3. M.Muppanna S/o. M.Veerappa, Aged about 65 years, R/o. Kappagal Road, Ballari.
4. A.Bheemanna gouda S/o. Malleshappa, Aged about 65 years, R/o. 1st Main Cross, Sanjay Gandhi Nagar, Ballari.

(By Sri. A.C.S., Advocate)

//Vs//

RESPONDENT/S :-

1. The state of Karnataka Represented by the Deputy Commissioner, Ballari.
2. The Ballari Urban Development Authority Rep.by its Commissioner, Ballari.
3. V.V.Sangh Represented by its Secretary Ghandhi Nagar, Ballari.
4. J.S.Ayyappa @ Ayyanna Gouda S/o. Late Siddalingappa, R/o. Janekunte Village, Ballari Taluk, Ballari District.
5. Sanganakal Niranjankumar S/o. Late S.Pompanna, Aged about 61 years, R/o. Merchant, R/o. Housing Board Colony, Sanganakal Road, Ballari.

(Respondent No.1 by Sri.D.G.P., Advocate, Respondent No.3 by Sri.K.S.S., Advocate, Respondent No.5 by Sri.P.S.N., Advocate and Respondent No.2 and 4 are placed Exparte.)

J U D G M E N T

This is an appeal U/Order XLI Rule 1 and 2 R/w Section 96(1) of C.P.C., filed by the plaintiffs in O.S.No.214/2023, on the file of learned 5th Addl.Civil Judge and JMFC, Ballari, challenging the order passed on

I.A.No.III filed by the defendant No.5, on the following grounds.

2. The parties are referred in the same rank as there were referred before the trial court.

3. As per the order dated:07.02.2026 of Hon'ble Prl.District Judge, this case has been assigned before this court.

4. The appellants/plaintiffs have stated that, the learned trial judge has failed to appreciate the facts involved in the case and erroneously came to a conclusion that, the suit is barred by limitation and other laws.

5. It is stated that, several facts and laws are involved in the case. But the learned trial judge has not properly appreciated the same. The learned trial judge ought to have considered the pleadings of the plaintiffs and there is no scope to give importance to the defence taken by the defendants, while considering the scope of application.

6. It is further stated that, the learned trial judge has erroneously given a findings to the effect that, it has no pecuniary jurisdiction to try the suit. The observations made by the learned trial judge for allowing the application, are erroneous and against to law. Therefore, the order under appeal cannot be sustained in law. Accordingly prayed to allow the appeal and to set-aside the order under appeal and to remand the matter to the trial court for adjudicating the issues involved in the case.

7. In the response to notice issued, the respondents No.1 has appeared through District Government Pleader. Respondent No.3 has appeared through his advocate. Respondent No.5 has appeared through his advocate. Respondent No.2 and 4 have not appeared inspite of service of notices. Hence, they have been placed exparte.

8. Heard the learned counsel for the appellants and the respondent No.5 who is the contesting respondent.

9. The learned counsel for the appellants and respondent No.5 have also filed written arguments. Perused the same.

10. The following points that arise for my consideration:

1. Whether the appellants have made out grounds that, the observations made by the learned trial judge for allowing the application for rejection of the plaint, are erroneous and against to basic principles of law. ?
2. Whether the appellants have made out grounds that, interference of this court is absolutely necessary. ?
3. What Order?

11. My answer to the above points are as under:

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| Point No.1 | : | In the Negative. |
| Point No.2 | : | In the Negative. |
| Point No.3 | : | As per final order, for the following : |

REASONS

12. **Point No.1 and 2** :- These two points are interrelated to each other, hence, they are taken up together for discussion, to avoid repetition of facts.

13. After having heard the learned counsel for the appellants and respondent No.5, I have perused the pleadings.

14. According to the plaintiffs, they are the life members of Veerasaiva Vidyavardaka Sangh registered under the provisions of Karnataka Societies Act. They are interested to protect the properties of the Sangh. But they found that the management committee of 3rd defendant has misappropriated and misused the properties of the Sangh for their whims and fancies and without following due procedure.

15. It is further stated that, there have misappropriated a sum of Rs.3,50,00,000/-. They have also noticed that, illegally properties have been sold. They have also noticed that, the 3rd defendant has always acted against to the interest of Sangh and members and thereby

misappropriated several crores and also disposed of several properties against to byelaws and other laws. Therefore, they are having every right question the illegal acts on the part of the 3rd defendant.

16. It is further stated that, even though the plaintiffs have requested the defendants No.1 and 2 not entertain the applications of defendant No.4 and 5 who sought conversion of the land, but the defendant Nos.1 and 2 have acted against to law and illegally supported defendant Nos.4 and 5. As per the byelaws, 3rd defendant has no jurisdiction to transfer any properties of the Sangh. But 3rd defendant has illegally transferred one property in favour of defendant No.4. There are several proceedings initiating against defendant Nos.3 to 5, but nothing has been done to protect the interest of members of the Sangh. Therefore, they were forced to file the suit for several reliefs.

17. The defendant No.5 in I.A.No.III, has taken up specific plea that, the court has no pecuniary jurisdiction and the valuation made by the plaintiffs for the purpose of

pecuniary jurisdiction was against to law, the plaintiffs have no locus-standing to file the suit, the suit is barred by time and suit is barred by the societies act.

18. The plaintiffs objected the said application by filing objection.

19. After having heard both sides, the learned trial judge has given a finding through the order dated:13.06.2023 and allowed the application No.III filed under order 7 rule 11 (a) (b) of CPC and consequently rejected the plaint.

20. I have gone through the entire records. The plaintiffs have mainly contended that, there has been mismanagement of Sangh affairs, with regard to management. It is the contention that it is a registered society and hence, Registrar is having jurisdiction to conduct an enquiry. Therefore, as per section 25 of the Societies Registration Act. the suit is barred. In that regard the learned trial judge has given findings by relying upon the relevant provision and the citations.

21. With regard to pecuniary jurisdiction of the court also the learned trial judge has given a categorically findings to the effect that. The properties were worth of Rs 1 crore 20 lakhs as on the date of filing of the suit, even as per the market value fixed by the government. The trial court was having jurisdiction only up to 5 lakhs. But the value exceeds the pecuniary jurisdiction.

22. Further, the plaintiffs wanted to challenge the sale deed of the year 2011. The suit was filed in the year 2022. The suit should have been filed within three years from the date of sale deed, as per section 58 and 59 of the Limitation Act. The learned trial judge has relied upon several judgments and came to a right conclusion.

23. In view of the above discussion, I hold that when there is a separate mechanism to resolve the grievance of the plaintiffs as per the provision of Karnataka Societies Act, the suit filed by the members of the Sangh before the civil court is not maintainable. This suit is also hopelessly barred by time. Several litigations have already taken place with regard to the alleged mismanagement of

the affairs of Sangh. These plaintiffs have no locus-standi to file a suit against the 3rd defendant before the civil court. Their remedy is else where.

24. As rightly pointed out by the learned counsel for respondent No.5, the reasons assigned by the learned trial judge for rejection of the plaint are in accordance with law. The appellants have not made out any grounds to show that, the observations made by the learned trial judge are against to law. The application has been disposed of based upon the pleading taken in the plaint and not on the basis for defence. Even as per the pleadings of the plaint, the suit is barred under the above said grounds. Therefore, it is not a curable defect. The court has no pecuniary jurisdiction and the claim of plaintiff is barred under statute and the law of limitation, the order passed by the learned trial judge cannot be termed as either erroneous or illegal. Therefore, the grounds urged in the appeal memo are not tenable in law. Hence, I am not inclined to accept the arguments of learned counsel for the appellants. Having accepted the arguments of learned counsel for the respondent No.5, I answer above points.

25. **Point No.3** :- For the discussion above made, I proceed to pass the following :

ORDER

The Regular Appeal filed by the Appellants/plaintiffs U/Order XLI Rule 1 and 2 R/w Section 96(1) of C.P.C. in O.S.No.214/2022 on the file of learned 5th Addl.Civil Judge and JMFC, Ballari is hereby dismissed.

Consequently, the order passed by I.A.No.III dated:13.06.2023 in O.S.No.214/2022 by the learned 5th Addl.Civil Judge and JMFC, Ballari is hereby confirmed.

Draw decree accordingly.

Send back the records of the trial Court along with copy of this Judgment, forthwith.

(Dictated to the Stenographer Grade-III, transcribed and computerized by him, corrected and then pronounced by me in the open Court on this 02nd day of July, 2026)

(H.A. MOHAN),
I-Additional District Judge,
Ballari.