

KABR010047542024



**IN THE COURT OF THE PRINCIPAL DISTRICT AND
SESSIONS JUDGE, BENGALURU RURAL DISTRICT,
BENGALURU.**

Present:

Smt. B.S.REKHA B.A(LAW)., LL.M.,
Prl. District & Sessions Judge,
Bengaluru Rural District,
Bengaluru.

Dated this the 06th day of April, 2026

R.A.No.140/2024

- Appellant/s:-**
1. Sri Narayanaswamy,
S/o Late Thirumalaiah,
Aged about 55 years,
 2. Smt. Anusuyamma,
W/o Narayanaswamy,
Aged about 47 years,

Both are residing at
Giddenahalli Village,
Dasanapura Hobli,
Bengaluru North Taluk,
Bengaluru Urban District.

(By Sri K.M-Advocate)

-VERSUS-

Respondent:- Smt. Nanjamma,
W/o Late Thirumalaiah,

Aged about 76 years,
R/at Giddenahalli Village,
Dasanapura Hobli,
Bengaluru North Taluk,
Bengaluru Urban District.

(Respondent by Sri L.S.G-Advocate)

Date and nature of the decree or order appealed against.	Judgment and decree dated 09.08.2024 passed in O.S.No.119/2017 on the file of II Addl. Senior Civil Judge & JMFC, Nelamangala, Bengaluru Rural District, Bengaluru for Declaration and injunction and other reliefs against defendants.		
Date of institution of the Appeal.	06.11.2024		
Duration of Appeal.	Year/s	Month/s	Day/s
	01	05	00

J U D G M E N T

Appellants/defendants have filed this appeal Under Order XLI Rule 1 r/w section 96 of CPC and prayed to allow the appeal by setting aside the judgment and decree passed in O.S.No.119/2017, dated 09.08.2024 on the file of II Addl. Senior Civil Judge &

JMFC, Nelamangala, Bengaluru Rural District, Bengaluru and for other reliefs.

2. Parties would be referred with their ranks, as they were before trial Court for sake of convenience and clarity.

3. The plaintiff/respondent filed the suit before trial Court for declaration and for permanent injunction.

4.1. The case of the plaintiff before trial Court is that the Propositor of the plaintiff and defendants-Muniyappa passed away leaving behind his wife-Smt. Narasamma and children Smt. Venkatamma, Tirumalaiah, Thimmaiah, and Munishamaiah @ Muniswamappa. Muniyappa, during his lifetime, inherited ancestral properties in Giddenahalli village, Dasanahapura Hobli, Bangalore North Taluk and after his death, his sons partitioned the inherited properties

under a registered Partition Deed dated 29.05.1974. As per the partition, several properties were allocated to the plaintiffs husband, the father of defendant No.1 and father-in-law of defendant No. 2. The husband of plaintiff, to meet family needs and pay off debts, sold all the properties allocated to him under a conditional sale deed dated 18.08.1967 to Anjanappa, who was a resident of Hesaraghatta village and the husband of the plaintiff elder sister. Since her husband did not repay the sale amount, he executed an absolute sale deed in favor of Anjanappa on 10.12.1971. Subsequently, all the revenue records were updated in Anjanappa's name, and he became the absolute owner of the properties.

4.2. Thereafter, the said Anjanappa, out of love and affection towards the plaintiff, gifted the properties to her through a registered Gift Deed dated 20.06.1974 and subsequently, the revenue records were transferred in the name of plaintiff and since then, she has been in

possession and enjoyment of the properties and therefore the properties are considered as the self-acquired properties of the plaintiff.

4.3. Her husband-Thirumalaiah did not acquire any other land in Giddenahalli village, during his lifetime and neither did the defendants. The plaintiff, being illiterate and lacking worldly knowledge was deceived by the defendants, who are educated and have connections with Government officials. They convinced her to sign blank papers under the pretext that they need to survey the suit schedule properties and fabricated fraudulent revenue documents and are now attempting to alienate the properties to a third party. When she asked about it to the defendants, they refused to cancel the fraudulent revenue entries in their names and persisted their efforts to sell the properties. She issued a legal notice on 19.08.2016, demanding that the defendants cancel the revenue

entries within seven days, but on receiving the notice, the defendants neither complied nor responded. Hence, she filed this suit.

5. Per contra, the defendants appeared through their counsel and filed their written statement and denied the averments of the plaint and further they admitted the plaintiff's relationship and the acquisition of the properties by Muniyappa, as well as the registered 'Partition Deed' executed between his sons. They denied the execution of the conditional sale deed to Anjanappa and the receipt of any sale consideration. It is contended that Anjanappa is the plaintiff's brother-in-law and that she and Anjanappa colluded to fabricate the conditional sale deed dated 18.08.1967 and the sale deed dated 10.12.1971. According to them, these sale deeds are fraudulent documents created to deprive them of their legitimate rights over the properties. It is stated that Anjanappa had no absolute

right or title to the properties and could not have independently dealt with them. According to them, as the documents are void, the corresponding revenue entries, such as mutations and RTC records are invalid under the law. They claim that mere entries in revenue records do not establish valid title to the properties and that these records were manipulated by the plaintiff and Anjinappa to wrongfully take control of their valuable properties. Hence they prayed to dismiss the suit with costs.

6. Based on the above pleadings, the learned trial Judge has framed the following issues:

- 1) Whether the plaintiff proves that she is the absolute owner in possession of the suit schedule properties?
- 2) Whether she further proves alleged interference of the defendants over the same?

- 3) Whether the plaintiff is entitled to relief of declaration and Injunction?
- 4) What Order or Decree?

7. On behalf of plaintiff, SPA holder of plaintiff examined as P.W.1 and got marked documents at Ex.P.1 to 13. The defendant No.1 examined as D.W.1 and got marked Ex.D.1 & Ex.D.2.

8. After recording evidence and hearing arguments of plaintiff and defendants, the learned trial Judge held that plaintiff is the absolute owner and in actual possession and enjoyment over suit item No.3 & 4 of the schedule properties and decreed the suit in part. Further, with respect to item No.1 & 2 of the suit schedule properties, the suit was dismissed. Based on the above, permanent injunction was granted in favour of the plaintiff by restraining the defendants from interfering with the plaintiff's peaceful possession and

enjoyment over item No.3 & 4 of the suit schedule properties.

9.1. Aggrieved by the said judgment and decree, the defendants/appellants have preferred the present appeal on the ground that the judgment and decree of the trial Court is opposed to law and facts of the case and liable to be set aside. The impugned judgment and decree is unsustainable in law for its arbitrariness and lack of proper and convincing reasons.

9.2. The trial Court has misread the averments in the plaint para No.3 and 6 with regard to the partition deed and the alleged sale deeds referred therein and erred in passing the judgment. It erred in holding that the khatha of suit properties are standing the name of Anjinappa, wherein the name of said person is not found in the revenue documents produced by PW1 and marked as Ex.P.5 to Ex.P.7. It erred in holding that

the D.W.1 has not challenged the validity of the sale deed in favour of Anjinappa. When genuineness of the document is raised by the defendants, the burden lies on the person who relies on that document to prove the same to succeed in the case. It has committed miscarriage of justice in considering the validity of Gift deed. That the trial court erred in not appreciating the evidence and documents properly. Hence, among other grounds the appellants pray to allow their appeal.

10. Heard arguments.

11. From the above facts, the points that arise for consideration are:

1. *Whether the appellants/defendants prove that the judgment of the trial Court is not proper and erroneous?*
2. *Whether the interference of this Court on the above said judgment and decree is required?*
3. *What order or decree?*

12. Finding of this Court on the above points are as under:-

Point No.1 & 2 : In ***Negative***;

Point No.3 : As per final order for the following:-

REASONS

13. **Point No.1 & 2**:- In order to prove the case of plaintiff, the SPA holder of the plaintiff by name Parvathamma deposed before the Court as P.W.1 and reiterated the plaint averments and relied upon Ex.P.1 to Ex.P.13 documents.

14.1. In the cross-examination, she has stated that the plaintiff is her mother and alive, but she is not in a position to give evidence. The 1st defendant is her elder brother and the 2nd defendant is her sister-in-law. This suit is filed for partition by metes and bounds between Parvathamma, Nanjamma, and Narayananswamy. She is her mother's G.P.A. (General Power of Attorney) holder and requested for share, but

she is not a party. The suit properties belong to her mother. Her father i.e., the plaintiff's husband had sold the suit properties to the plaintiff's maternal uncle and he in turn gifted the properties to the plaintiff towards 'Arishina Kumkuma' (a traditional gift to a woman). The suit has been filed regarding a total of four properties i.e., Sy No. 26/1 measuring 30 Guntas; Survey No. 20/1 measuring 1 Acre 5 Guntas; Survey No.1/2 A measuring 37 Guntas; and Survey No.100/6 measuring 10 Guntas. She denied about execution of release deed on 23.02.2015 by taking 10 guntas of land in Survey No.100/6. No document is executed by the plaintiff to 1st defendant.

14.2. She denied that in the partition between the plaintiff and 1st defendant, the property fallen to the share of 1st defendant. Her father sold the suit lands to the plaintiff's maternal uncle in the year 1971. Prior to that, there was no transaction between them earlier.

The properties came to her father from her grandfather. Her grandfather-Muniyappa had three sons and three daughters i.e., Thirumalayya, Thimmayya, Munishamappa and the daughters' names are Narasamma, Venkatamma and Lakshamma. In the year 1974, a partition took place among Muniyappa's children. She has seen the sale deed executed in the name of Anjanappa. Her father sold the suit lands for ₹.4,500/- to ₹.5,000/-. She is not aware in whose name the RTC (Pahani) records of the suit properties stood at the time the gift deed and she has not seen them. At the time of executing such a gift deed, the suit properties were not in the name of Anjanappa.

14.3. The suit was filed with respect to four properties, but in the chief-examination affidavit, five properties have been mentioned. She has denied that she filed a false affidavit by adding one extra property. She had stated in the affidavit that on 18.08.1967, a

'conditional sale' was made to their father Anjinappa. She denied that her father had no authority to execute the conditional sale deed on the aforementioned date. She admits that on that date, all properties were in the name of her grandfather-Muniyappa and at that time, all documents were in his name.

14.4. On 29.05.1974, a partition took place among the children of Muniyappa through a registered partition deed. The gift deed made in favor of her mother has been registered and she has produced it before the court. She denied that her maternal uncle had no authority to execute a gift deed in favor of her mother. She denied that her mother and her maternal uncle colluded to create these documents. She denied that her mother and herself created the 1971 sale deed with the intention of defrauding the 1st defendant.

14.5. She admits that her aunt Mruthurajamma, W/o Munishamappa has filed another suit against the 1st defendant and others. She admits that she being the GPA holder had given evidence in O.S.No.118/2017.

15.1. Against to this, in the evidence of defendants side, the defendant No.1 deposed before the Court as D.W.1 on par with written statement and relied upon Ex.D.1 & Ex.D.2.

15.2. In the cross-examination, he has stated that he studied up to the 10th standard. He is doing agriculture. The plaintiff is his mother. His grandfather's name is Muniyappa and he had five children namely Narasamma, Venkatamma, Thirumalayya, Thimmaiah, and Muniswamappa. None of Muniyappa's children are alive.

15.3. He is not aware as to how many properties belonging to his grandfather-Muniyappa and where they

are located. All the properties shown in the plaint belongs to his grandfather. A partition took place among Muniyappa's children in the year 1974. All the "schedule properties" belonged to Muniyappa. The suit schedule properties came to his father through that partition. He is not aware as to up to which year the revenue records for the suit property were in his father's name. Anjinappa is the husband of his mother's elder sister. Nanjamma had filed against him. He is not aware of the contents of the document submitted by the plaintiff. He denied that his father sold the properties received through partition. Anjinappa has created these documents. His father passed away in 2006. He admits that the 'khata' related to the suit property was changed to Anjinappa's name, based on a sale deed executed by his father. They have not filed any suit against Anjinappa, during the life time of his father, upto 2006. Suit in O.S.No.

262/2016 is noway concerned with this property. He admits that from 2006 until now, he has not filed any case making allegation against Anjinappa.

15.4. He had not filed any suit questioning the sale transaction dated 18.08.1967. he has stated that Gift Deed is concocted. He or his father not questioned the Gift Deed. He had not questioned the revenue records. He disputed the Gift Deed and the contention that the suit properties are his self-acquired properties of his father. He admits that it is not the self-acquired property of himself or his mother. He admits that his mother is uneducated. He is taking care of the affairs of the family. His mother is receiving old age pension and other benefits from Government. He is not aware that why she is not residing with him. There is no partition between him, his sister and his mother, after the death of his father. According to him, there was partition, but it was not registered. He denied that he

has obtained his mother's signatures on several documents by telling her that he would get her various benefits from the Government.

15.5. He admits that Anasuya is his wife. He executed a registered Gift Deed in her name on 03.04.2014 in relation to Survey No. 1/2A and Survey No. 3/3 properties that came to his father through a registered partition deed between his father and his paternal uncle in the year 1974. He has not mentioned this fact in the Gift Deed executed for his wife. The property he transferred through the Gift Deed is not his self-acquired property, instead, it is an ancestral property (*pithrarjitha*) that he inherited.

15.6. The property mentioned in the Gift Deed originally belonged to his grandfather, and since he is the only son, the said property came to him. He is not aware that his sister has signed the partition deed.

His mother is still alive. He is not aware of his mother signing the said partition deed. He has not mentioned the partition between Thirumalayya's wife and children in his statement of objection (written statement) or in his chief examination affidavit. At the time of creating documents M.R.No.7/2011-12 and 13/2011-12, he did not obtain the signatures of his mother and sisters. According to him, the property gifted by him came to the share of his father. His mother and sisters have not signed the gift deed made in the name of his wife. He was 2 years old at the time his father sold the property to Anjinappa. When Anjinappa executed gift deed, he was aged 5-6 years.

16.1. In the judgment of the trial Court, it is observed that the contention of the plaintiff is that one Muniyappa, the ancestor of the plaintiff and defendants, passed away leaving behind his wife-Smt. Narasamma and children. During his lifetime, he

inherited ancestral properties in Giddenahalli village, which were later partitioned among his sons under a registered Partition Deed dated 29.05.1974 with properties allocated to Tirumalaiah-the plaintiffs husband. To meet family needs, Tirumalaiah sold these properties to Anjanappa-the plaintiff's brother-in-law under a conditional sale deed dated 18.08.1967, followed by an absolute sale deed on 10.12.1971, after failing to repay the sale amount. Thereafter, out of affection, Anjanappa gifted the properties to the plaintiff through registered Gift Deed on 20.06.1974. thereafter, the revenue records were updated in her name. However, the plaintiff, being illiterate, was deceived by the educated defendants, who taking advantage of her trust, fabricated fraudulent revenue documents are attempting to sell the properties to a third party.

16.2. However, case of the defendants that the relationship is undisputed. But, they denied the claim of the plaintiffs and execution of the conditional sale deed to Anjanappa and also gift deed in favour of the plaintiff and thus, the sale deed are fraudulent and void. They contend that mere entries in revenue records do not establish a valid title and these records were manipulated by the plaintiff and Anjanappa to wrongfully seize the defendants' properties. The defendants claim that items No.1 & 2 of the suit properties were sold long ago by Tirumalaiah and the plaintiff.

16.3 The documents relied upon by the plaintiff are Ex.P1-Special Power of Attorney (SPA) executed by the plaintiff in favor of one Parvathamma; Ex.P2-Genealogical Tree, which establishes the relationship of the parties and it is undisputed. Ex.P3-Sale Deed executed on 10.12.1971 by Thirumalaiah, son of

Muniyappa, in favor of Anjanappa pertains to the suit properties and Thirumalaiah transferred the ownership of the properties to Anjanappa in exchange for a sale consideration amount of ₹.5,000/- which shows that the possession was handed over and it is a primary document of title. Ex.P4 is a Gift Deed dated 20.06.1974, executed by Anjanappa in favor of the plaintiff by transferring the suit schedule properties out of love and affection. Ex.P5 and Ex.P6 are computerized RTC extracts. Ex.P.7 is also RTC extract. Ex.P8 and Ex.P9 are legal notices dated 19.08.2016. Ex.P.10 to 13 are the postal receipts.

17. The trial Court has discussed about the cross-examination of P.W.1 that because of her ill health, it is P.W.1 has examined and she narrated about the case. The defence taken is that false documents are fabricated and D.W.1 had deposed in that regard that the document alleged to have been executed by

Anjinappa in favour of plaintiff is fraudulent document. The trial Court has discussed about the arguments addressed by both the parties. The trial Court has observed that the admission given by D.W.1 in his evidence could weaken his defence, especially if he is challenging the validity of the sale deed, gift deed or any other transactions involving the suit schedule properties. His acknowledgment of these documents and failure to take any timely legal action against them may be seen as acquittance or acceptance of the transfers.

18. The said admissions would strengthen the plaintiff's case. Further the fact that no fraud or forgery claims were made during the lifetime of plaintiff's husband coupled with non-purchase of the properties could support the plaintiff's claim of rightful ownership or entitlement. The lack of action taken by D.W.1 and his father against the alleged fraudulent

activities or gift deed could raise questions about the credibility of any current allegations.

19. The main disputed document is Ex.P.4 which is a gift deed executed by Anjinappa to the plaintiff in respect of the suit properties. The RTCs show that item No.4 of the suit schedule properties standing in the name of SPA holder of the plaintiff. This shows that the plaintiff, through her SPA Holder, has control over this property. The item No.3 is gifted to her making them her self-acquired properties. This distinction is important, as the concept of self-acquired property limits the rights of others, including family members from interfering with the ownership and disposition of the property, unless legally authorized.

20. The plaintiff claims that suit schedule properties including item No.3 were gifted to her through Ex.P.4-Gift Deed executed by Anjinappa on

20.06.1974. Since the property was transferred through gift deed, it becomes her self-acquired property over which she has exclusive ownership rights and the plaintiff enjoys full ownership rights over the property. This means that she alone has the right to transfer, alienate or gift to any party of her choice. Others have no legal right to dispose of or transfer any part of the property unless expressly authorized by the plaintiff. But, the 1st defendant had executed gift deed in favour of 2nd defendant concerning item No.3 of the suit schedule properties.

21. Ex.P.7 is the katha of item No.3 stands in the name of defendant No.2 by virtue of gift deed. However, if the property is self-acquired property of the plaintiff, the defendant No.1 has no legal authority to execute such gift deed. The plaintiff alone holds the right to transfer or gift the property. Thus the gift deed of

defendant No.1 is legally void or invalid. A person who has no better title cannot pass any title.

22. The plaintiff's failure to produce relevant documents to prove her possession of item No.1 & 2 leaves her claim to these properties on unstable grounds. Although she may have introduced some sale deed and RTC extracts for item No.2, but they does not confirm her actual possession over the properties. Possession can be established by a combination of legal title. In the absence of any counter documents to challenge the ownership or possession of the defendants weakens the case of the plaintiff. The RTC extracts and the involvement of her SPA holder demonstrates her legal control over item No.3 & 4 properties only. The failure to produce sufficient documents for item No.1 & 2 leaves her claim to those properties unsupported. Hence, the trial Court has partly decreed the suit.

23. As the plaintiff became the absolute owner based on the gift deed, those properties will be her self-acquired properties and she is having right to dispose off that properties and no other can alienate those properties. The act of the 1st defendant in executing gift deed in favour of 3rd defendant in relation to that property is not proper. Hence, in my opinion, there is no need to interfere with the judgment and decree of the trial Court. Accordingly, the point No.1 & 2 are answered in ***Negative***.

24. **Point No.3:-** In view of findings on point No.1 & 2, this Court proceeds to pass the following:-

ORDER

Appeal filed by the appellants Under Order XLI Rule 1 read with Section 96 of CPC is dismissed by confirming the judgment and decree passed in O.S.No.119/2017 dated 09.08.2024 by the II Addl. Senior Civil Judge & JMFC,

Nelamangala, Bengaluru Rural District,
Bengaluru.

Under facts and circumstances of the
case, parties to bear their own costs.

Draw decree accordingly.

Send back the records of the Trial
Court with copy of this judgment.

*(Dictated to the Stenographer Grade-1. Transcribed and computerized by him.
Script corrected, signed and pronounced by me in the open Court on this the 06th day
of April, 2026)*

(B.S.Rekha)

Prl. District & Sessions Judge,
Bengaluru Rural District,
Bengaluru.