

KABR210002232024



**IN THE COURT OF THE II ADDL. SENIOR CIVIL JUDGE
AND JMFC, AT ANEKAL**

Dated this 9th day of June, 2026

PRESENT : SRI. MANJUNATHA M. B.A.(L), LL.B.
II Addl. Senior Civil Judge & JMFC,
Anekal.

O.S.No.152/2024

PLAINTIFF/S:

Sri. Vishwanath
S/o late Srinivas,
aged about 36 years,
R/at Chikka Hosahalli village,
Kasaba Hobli, Anekal Taluk,
Bengaluru Urban District.

(Rep. By Sri. G.V., Advocate)

V/s

DEFENDANT/S:

1. Sri. Ramesh
S/o late Venkataramanappa,
aged about 52 years,

R/at Muniswamy Building
Near Vijaya Nursing Home,
Chandapura Road,
Anekal Town, Bengaluru – 562 106.

2. Sri. Krishna Murthy
S/o late Venkataramanappa,
aged about 46 years,
R/at Thimmarayaswamy
Temple Road,
Weavers Colony, Anekal Town,
Bengaluru – 562 106.
3. Smt. Vinodamma
W/o late Srinivas,
aged about 56 years,
R/at Chikka Hosahalli village,
Kasaba Hobli, Anekal Town,
Bengaluru Urban District.

**(Rep. By Sri. D.S., Adv. For D2,
D1 & D3 placed exparte)**

PARTIES ON IA.NO.II

**Applicant /
Defendant No.2**

Sri. Krishna Murthy

V/s

**Opponent /
Plaintiff**

Sri. Vishwanath

ORDERS ON I.A.NO.II

IA.No.II filed by defendant No.2, under Order VII Rule 11(d) of CPC, praying to reject the plaint, as it is barred under Sec.14 of Hindu Succession Act.

2. Application resisted by plaintiff, by filing written objection, by denying the averments of affidavit sworn in support of application and reiterating the averments of plaint.

3. Heard both side and perused materials placed before the court. **(Points urged by both counsels, will be discussed while discussing considerable points).**

4. Now the points that arise for consideration are ;

POINTS

1. Does defendant No.2 made out grounds to reject the plaint ?

2. What order ?

5. By considering the arguments of learned counsels and materials placed before the court, above points are answered as below ;

Point No.1 : In the Affirmative

Point No.2 : As per the final order
for the following ;

:- REASONS :-

6. **Point No.1:-** Learned counsel for plaintiff in his arguments submitted that, to consider application under Order VII Rule 11 of CPC, plaint alone shall be looked into. Any defense taken by the defendants is immaterial. Materials placed by the defendants cannot be considered at this stage. To consider application under Order VII Rule 11 of CPC, averments of plaint and documents produced along with plaint will play vital role, except plaint, no other materials are considerable.

7. Plaintiff in his plaint pleaded as below ;

Suit schedule properties are joint family properties of himself and defendants and they constituted Hindu undivided joint family. One Venkataramanappa is his grandfather, who died leaving behind defendant No.1 and 2. Defendant No.3 is daughter-in-law of said Venkataramanappa. His father left house and his whereabouts are not known, hence, he deemed to be dead. Suit schedule properties are ancestral and joint family properties of himself and defendants. During lifetime of his grandfather, he acquired revenue records. After death of his grandfather, suit schedule properties were mutated in the name of his grandmother Smt. Mangamma. During lifetime of Mangamma, herself, her children and his

mother entered into partition through partition deed dated 19.06.2009, same was registered before the Sub-Registrar. He was not made as party in the partition deed, even though he is the Class-I legal heir. On the basis of partition deed, revenue records were mutated in the name of shareholders, accordingly, share given to his grandmother was also mutated in the name of his grandmother. He was taking care of his grandmother, during her lifetime, in the partition, defendant No.2 got more share and partition was not equal. On 25.12.2023, he approached and requested the defendants to allot his share, but defendants declined to allot his share. On verification, he learnt about partition deed dated 18.06.2009, it was created by defendant No.1 and 2, by misleading his mother i.e., defendant No.2. The share given to his grandmother is also joint family property, after her death, defendant No.2 by colluding with Mangamma and by misusing the innocence of Mangamma, managed to get Sale Deed dated 29.01.2013. Defendants by taking undue advantage of revenue entries, trying to sell the property, hence, suit.

8. On the above pleadings, plaintiff prayed to allot 1/3rd share in the suit schedule properties and to declare partition deed dated 18.06.2009 and Sale Deed dated 29.01.2013 will

not bind on his share.

9. As per plaint averments, there was partition between defendant No.1 to 3 and grandmother of plaintiff. Defendant No.3 is mother of plaintiff. On behalf of father of plaintiff, share was allotted to defendant No.3. Partition deed dated 18.06.2009 is registered partition. At the time of partition, plaintiff was major. When document is registered as per provisions of Registration Act, it is constructive notice to all persons who are interested in the property.

10. Hon'ble Supreme Court in the case between ***Umadevi & Others V/s Anand Kumar & Others*** in Special Leave Petition in civil appeal No.2137/2025, held that, "Registered document provides a complete account of a transaction to any party interested in the property".

11. Hon'ble Supreme Court in the decision reported in ***2012(1) SCC 656 between Suraj Lamp & Industries Pvt. Ltd., v/s State Of Haryana & Another***, held as below ;

“ Registration of a document gives notice to the world that such a document has been executed. Registration provides safety and security to transactions relating to immovable property, even if the

document is lost or destroyed. It gives publicity and public exposure to documents thereby preventing forgeries and frauds in regard to transactions and execution of documents. Registration provides information to people who may deal with a property, as to the nature and extent of the rights which persons may have, affecting that property. In other words, it enables people to find out whether any particular property with which they are concerned, has been subjected to any legal obligation or liability and who is or are the persons presently having right, title, and interest in the property. It gives solemnity of form and perpetuate documents which are of legal importance or relevance by recording them, where people may see the record and enquire and ascertain what the particulars are and as far as land is concerned what obligations exist with regard to them. It ensures that every person dealing with immovable property can rely with confidence upon the statements contained in the registers (maintained under the said Act) as a full and complete account of all transactions by which the title to the property may be affected and secure extracts/copies duly certified."

In the the above referred decisions, Hon'ble Supreme Court held that registration of document provides notice to the persons who are interested in the property, that means, from the date of registration, limitation starts. To challenge the registered document, it is mandate on the plaintiff to file suit within 3 years. In the year 2009, partition was held, till 2024 plaintiff kept quite, that means, after lapse of 15 years, instant suit is filed. On plain reading of plaint, it discloses that suit of the plaintiff is hopelessly barred by limitation.

12. Hon'ble Supreme Court in the decision reported **2020(7) SCC 366 between Dahiben V/s Arvinbhai Kalyanji Bhanusali**, held as below ;

“ The underlying object of Order VII Rule 11 (a) is that, “If in a suit, no cause of action is disclosed, or the suit is barred by limitation under Rule 11 (d), the Court would not permit the plaintiff to unnecessarily protract the proceedings in the suit. In such a case, it would be necessary to put an end to the sham litigation, so that further judicial time is not wasted”.

In the above referred decision, Hon'ble Supreme Court held that, if claim of plaintiff is hopelessly barred by limitation, then it shall be rejected by invoking under Order VII Rule 11

of CPC. As stated above, claim of plaintiff is hopelessly barred by limitation. Plaintiff in the plaint pleaded that his grandmother executed Sale Deed in favour of defendant No.2 i.e., her son, his grandmother had no independent title to sell the property, only to knock off the property, Sale Deed was executed. Sale Deed was executed in the year 2013. As admitted by the plaintiff, his grandmother is no more. During lifetime of Mangamma, she never challenged Sale Deed on the basis of fraud or misrepresentation. Sale was made in the year 2013, instant suit filed in the year 2024 i.e., after 11 years, sale is challenged. Admittedly property, which sold by Mangamma was allotted to Mangamma in partition. Soonafter, allotment of share to Mangamma, she will become absolute owner of properties. Sec.14 of Hindu Succession Act, comes into play. When Hindu women owns property, then it becomes her absolute property. Nobody has right to challenge the right of women. In the year 2013 sale was made, after 11 years suit was instituted. As said above, when claim of plaintiff is barred by limitation, then it shall be rejected by invoking Order VII Rule 11 of CPC. On plain reading of plaint, it clearly shows that claim of plaintiff is hopelessly barred by limitation and barred under Sec.14 of Hindu Succession Act. There are grounds to reject the plaint, accordingly, this point is answered ***in the Affirmative.***

13. **Point No.2:-** For the reasons assigned to above point, resulted in following :-

ORDER

I.A.No.II filed by the Defendant No.2 under Order VII Rule 11(d) of CPC, is allowed.

Plaint rejected as it is barred by limitation and barred under Sec.14 of Hindu Succession Act.

No order as to the costs.

(Dictated to the Stenographer, transcribed by her, corrected and then pronounced by me in the open court, on this, **the 9th day of June, 2026**)

(MANJUNATHA M.)

II Addl. Senior Civil Judge & JMFC.,
Anekal.

