

KABR210014682022



**IN THE COURT OF Prl. SENIOR CIVIL JUDGE &
JMFC, ANEKAL.**

DATED THIS THE 17th DAY OF MARCH 2026

PRESENT

Sri. Krishna Raj K., B.A., LL.B.,
Prl. Senior Civil Judge & JMFC.,
Anekal.

O.S No.1069 / 2022

Plaintiff/s:

1. Sri. Shankarappa
Aged about 55 years,
S/o Late Sadappa,
R/at – Bandapura Village,
Kasaba Hobli, Anekal Taluk,
Bengaluru Urban District.
2. Sri. Venkataramana
Aged about 44 years,
S/o Papanna,
R/at – Bandapura Village,
Kasaba Hobli, Anekal Taluk,
Bengaluru Urban District.

(By Sri. P.B., Adv)

V/s

- Defendant/s:
1. Sri. Muniyappa
Aged about 58 years,
S/o Late Papanna,
 2. Sri. Mankalappa
Aged about 42 years,
S/o Papanna,
 3. Sri. Muni Reddy
Aged about 50 years,
S/o Late T. Venkataswamy Reddy,
 4. Sri. Narayana Reddy
Aged about 52 years,
S/o Late Venkataswamy Reddy,
 5. Sri. Jayaram Reddy
Aged about 55 years,
S/o Late Sidda Reddy,
 6. Sri. Thimma Reddy
Aged about 53 years,
S/o Late Venkataswamy Reddy,

All are R/at – Bandapura Village,
Kasaba Hobli, Anekal Taluk,
Bengaluru Urban District.
And others.

(D-1 & 2 by Sri. M.K., Adv)
(D-3 & 4 by Sri. M.C.R., Adv)
(D-5 by Sri. B.V.K., Adv)

PARTIES ON IA.No.3

**Applicant /
defendant No.5** : Sri. Jayarama Reddy
Vs.

**Opponent /
Plaintiff** : Sri. Shankarappa & others

ORDER ON IA.No.3

IA.No.3 is filed by the defendant No.5 U/o 7 Rule 11(a) & (d) of CPC for rejection of plaint on the ground that the plaint does not disclose cause of action and the suit is barred by law.

2. In the accompanying affidavit, the defendant No.5 has reiterated the averments of his written statement and contended that the order passed by the Assistant Commissioner and Deputy Commissioner has been set aside by the Hon'ble High Court of Karnataka in WP No.34038/2018 and same was confirmed in WA No.1054/2021. Since there is no restoration of the suit schedule property to the family of the plaintiffs and defendant Nos.1 & 2 by setting aside the sale deed of defendant Nos.3 to 6, question of seeking partition does not arise. The plaintiffs have suppressed the material facts, hence the plaint is liable to be rejected.

3. The above application is resisted by the plaintiffs by

filing their objections. In the objections, the plaintiffs have denied the averments of the above application and annexed affidavit and reiterated the averments of the plaint. It is contended that while considering the application U/o 7 Rule 11 of CPC, the averments of the plaint alone to be taken into consideration. The defence of the defendants cannot be looked into.

4. Heard the arguments of learned counsel for plaintiffs and defendant No.5. Perused the written arguments submitted by the learned counsel for plaintiffs.

5. The points that would arise for consideration of this court are;

POINTS

1. Whether the defendant No.5 has made out sufficient grounds to reject the plaint U/o 7 Rule 11 of CPC ?

2. What order or decree ?

6. My findings on the above points are as under;

Point No.1 : In the Affirmative,

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

R E A S O N S

7. **Point No.1**:- It is the specific case of the plaintiffs that the original prepositor Sadappa had wife Smt. Kenchamma and he died leaving behind their two children namely Channappa and Papanna. Sadappa married one Ramakka as a second marriage. Out of the said wedlock, he had one son namely Shankarappa. The plaintiffs and defendant Nos.1 & 2 are members of Hindu joint family. The defendant Nos.3 to 8 are strangers to the joint family of the plaintiffs. The suit schedule property bearing Sy.No.217 measuring 3 acres situated at Madivala Village, Kasaba Hobli, Anekal Taluk was granted by the Tahasildar in favour of Sadappa under proceedings No.LND.SR.128/1959-60 dated 18.06.1959 with condition of non-alienation clause for period of 15 years. The revenue records got mutated in the name of Sadappa. The defendant No.2 got created the sale deed in the name of Muniswamy Reddy by playing fraud and misrepresentation on 08.09.1960. The defendant No.2 on behalf of the plaintiff and other family members challenged the said sale deed before the Assistant Commissioner in K.SC.ST.No.56/2012-13 and K.SC.ST(A).105/2006-07. The said petition came to be allowed and the sale deeds were set aside and suit schedule property was

restored to the benefit of the entire joint family. Being aggrieved, the purchasers have preferred appeal before the Deputy Commissioner in SC.ST.A.97/2013-14. The said appeal also came to be dismissed. The suit schedule property is ancestral joint family property. There was no division by metes and bounds. Hence the plaintiffs are constrained to file the above suit for partition and separate possession claiming 1/3rd share and consequential relief of declaration to declare that the sale deed dated 08.09.1960 is not binding on the share of the plaintiffs.

8. The defendant No.5 in his written statement denied the averments of the plaint and contended that the property bearing Sy.No.217 measuring 8 acres situated at Madiwala Village was government land out of it, 2 acre of land was granted in favour of Sadappa under proceedings No.LND.SR.128/1959-60 dated 18.06.1959. For the family legal necessities, the said Sadappa alienated 1 acre of land under registered sale deed dated 08.09.1960 in favour of father of defendant No.5 namely Siddareddy. Another extent of 19 guntas was also sold in favour of Siddareddy. Remaining 14 guntas were sold out in favour of father of defendant Nos.3, 4 & 6 namely Venkataswamy under registered sale deed dated 31.12.1962. Subsequently there was partition between the family members of Siddareddy by way of

panchayath partition deed dated 27.05.1991. In the said partition deed, the property purchased under two registered sale deeds dated 08.09.1960 and 31.12.1962 was allotted towards the share of defendant No.5. The defendant No.5 has challenged the order passed by the Assistant Commissioner and Deputy Commissioner before the Hon'ble High Court of Karnataka in WP No.34038/2018. The writ petition was allowed on 09.08.2021. during the pendency of the writ petition, the plaintiffs and other legal heirs of Sadappa have jointly executed release deed dated 16.08.2018 in favour of the defendant No.2. The defendant Nos.1 & 2 have challenged the order passed in the said writ petition by filing writ appeal in WP No.1054/2021. The said writ appeal also came to be dismissed on 02.03.2022. Under such circumstances, the said sale deeds dated 08.09.1960 and 31.12.1962 has been upheld by the Hon'ble High Court of Karnataka. Suppressing the said material facts, the plaintiffs have filed the false suit. The suit schedule property is no more joint family property. The suit schedule property was already alienated in favour of father of defendant Nos.3 to 6. Hence the suit itself is not maintainable.

9. In support of the case of the plaintiffs, the plaintiffs have produced copy of the family tree, tax paid receipts, RTC extracts, mutation extract, encumbrance certificate, copy of the

sale deed, settlement akarband, copy of order passed by the Assistant Commissioner and Deputy Commissioner. On the other hand, the defendant No.5 has produced copy of the sale deeds, copy of partition deed, order passed by the Assistant Commissioner and Deputy Commissioner, copy of orders in WP No.34038/2018 and WA.No.1054/2021, RTC extracts and copy of release deed.

10. The learned counsel for defendant No.5 argued that as per the averments of the plaint, the sale deeds executed by the defendants got set aside by the Assistant Commissioner and same was confirmed by the Deputy Commissioner. Therefore the suit schedule property got restored to the family of the plaintiffs and defendant Nos.1 & 2. Therefore the suit schedule property is available for partition. However the plaintiffs have suppressed about the orders passed by the Hon'ble High Court of Karnataka in writ petition and writ appeal. Since order passed by the Assistant Commissioner and Deputy Commissioner was set aside, there is no restoration of the suit schedule property to the family of Late Sadappa. The sale deed of the purchasers has been confirmed by the Hon'ble High Court of Karnataka. Hence partition suit filed by the plaintiffs is not maintainable. The plaintiffs have suppressed about the passing of orders by the

Hon'ble High Court of Karnataka in writ petition and writ appeal. Hence the plaint does not disclose cause of action and the suit is barred by law. In support of the above arguments, the learned counsel for defendant No.5 has relied on the decisions of Hon'ble Apex Court in T. Arivandandam Vs. T.V. Satyapal and another reported in AIR 1977 SC 2421, Dahiben Vs. Arvindbhai Kalyanji Bhanusali (Gajra) (D) Thr Lrs & others reported in 2020 SAR(Civ) 793, M/s. Shakti Bhog Food Industries Ltd., Vs. The Central Bank of India & another reported in 2020 SAR (Civ) 924, Rajendra Bajoria and others Vs. Hemant Kumar Jalan and others reported in 2021 SAR (Civ) 1053, decision of Hon'ble High Court of Karnataka in Civil Revision Petition No.4/2024 between Smt. Ameeta Ganesh Vs. Smt. Anjanadevi and others and Civil Revision Petition No.100136/2022 between Murlidhar and others Vs. Shwetha and others. On the other hand, the learned counsel for plaintiffs argued that the plaintiffs are not parties to the said sale deeds and they are not parties to the writ petition and writ appeal. The sale deeds executed in favour of father of defendant Nos.3 to 6 are not binding on the plaintiffs. The plaintiffs are entitled to legitimate share by partition and separate possession. The averments of the plaint alone to be taken into consideration. The defence of the defendants cannot be looked into at this stage.

Hence the above application is liable to be rejected.

11. In the light of the arguments advanced by both side, I have perused the entire material on record. Admittedly the suit schedule property was granted by the Tahasildar in favour of Sadappa in the year 1959. There was non-alienation clause stating that the grantee shall not alienate the granted property for period of 15 years. In violation of the said non-alienation clause, the grantee has executed the sale deed dated 08.09.1960 and also executed another sale deed dated 31.12.1962 in favour of father of defendant Nos.3 to 6. Subsequently the said sale deeds were challenged before the Assistant Commissioner under KPTCL Act in proceedings No.K.SC.ST.56/2012-13 and K.SC.ST.(A).105/2006-07. The Assistant Commissioner allowed the petition and property was restored to the family of Late Sadappa. The said order was challenged before the Deputy Commissioner in SC.ST.(A).No.97/2013-14. The Deputy Commissioner dismissed the appeal by confirming the order passed by the Assistant Commissioner. The plaintiffs are claiming partition and separate possession on the ground that the restoration of the suit schedule property was for the benefit of the entire joint family. The plaintiffs have suppressed about the orders by the Hon'ble High Court of Karnataka in writ petition WP.No.34038/2018 and writ

appeal WA.No.1054/2021. The plaintiffs have suppressed the material facts and approached the Court with unclean hand. Suppression of material facts will amount to incomplete cause of action.

12. The defendant No.5 has produced copy of the order in writ petition WP.No.34038/2018, wherein the Hon'ble High Court of Karnataka set aside the order passed by the Assistant Commissioner and Deputy Commissioner and consequently confirmed the sale deeds dated 08.09.1960 and 31.12.1962. The said order also confirmed in writ appeal WA.No.1054/2021. In view of the above facts, as on today, the suit schedule property was not restored to the family of Late Sadappa. The Hon'ble High Court of Karnataka in the above proceedings upheld the sale deeds dated 08.09.1960 and 31.12.1962. Under such circumstances, there is no order by the revenue court restoring the suit schedule property to the family of Late Sadappa. Unless there is restoration of property, there is no question of existence of the joint family and seeking partition and separate possession with respect to the said properties. Therefore there is no cause of action to the plaintiffs to file the above suit for partition and separate possession.

13. The plaintiffs are challenging the sale deed dated

08.09.1960 by filing the present suit in the year 2022 i.e., after lapse of 62 years, hence the suit is hopelessly barred by limitation. There is one more sale deed dated 31.12.1962 which is subject matter of the proceedings before the Assistant Commissioner. However the plaintiffs deliberately did not sought for any relief with respect to the said sale deed. In the absence of specific relief with respect to the sale deed dated 31.12.1962, the suit of the plaintiffs is not maintainable. The plaint does not discloses cause of action and the suit is barred by law. The ratio laid down by the Hon'ble Apex Court in T. Arivandandam's case as well as Dahiben's case referred supra are applicable to the case on hand.

14. The learned counsel for defendant No.5 also relied on the decision of Hon'ble High Court of Karnataka in Civil Revision Petition No.4/2024 and Civil Revision Petition No.100136/2022 to contend that the partial rejection of plaint is permissible. According to the defendant No.5, 1 are of land was alienated in favour of Sidda Reddy under registered sale deed dated 08.09.1960. 14 guntas of land was alienated in favour of Venkataswamy under registered sale deed dated 31.12.1962 and remaining 19 guntas was alienated in favour of Sidda Reddy. In total, 1 acre 33 guntas of land were alienated under registered sale

deeds dated 08.09.1960 and 31.12.1962. The present suit is filed by the plaintiffs to the extent of 3 acres of land in Sy.No.217 of Madiwala Village, Kasaba Hobli, Anekal Taluk. Since there cannot be bifurcation of 1 acre 33 guntas, which was alienated in favour of the defendants and remaining properties out of said 3 acre of land, question of partial rejection of plaint does not arise. The plaintiffs have suppressed the material facts and filed the above suit for partition and separate possession. The plaintiffs ought to have filed the suit only with respect to the properties retained by the family of Sadappa after aforesaid alienation. However the plaintiffs have filed the suit with respect to entire 3 acres of property including alienated property. The said alienated property measuring 1 acre 33 guntas and retained properties were not bifurcated in the plaint schedule. In the plaint schedule, the entire 3 acre of land is shown. Under such circumstances, the entire plaint is liable to be rejected. The plaint cannot be rejected in part with respect to alienated property out of 3 acre of land shown in the plaint schedule. Therefore the defendant No.5 has made out sufficient grounds to reject the plaint U/o 7 Rule 11(a) & (d) of CPC. Accordingly point No.1 is answered in the ***affirmative***.

15. **Point No.2** :- In view of my findings on the above point, I proceed to pass the following order;

ORDER

**IA.No.3 filed by the defendant No.5 U/o 7
Rule 11(a) & (d) of CPC is hereby allowed.**

**The plaint presented by the plaintiffs U/o 7
Rule 1 & 2 R/w. Sec.26 of CPC is hereby
rejected.**

Draw decree accordingly.

(Dictated to the stenographer, transcribed by her corrected and the pronounced by me in open court, on this the *17th day of March 2026*).

**(Krishna Raj K.,)
Prl. Senior Civil Judge & JMFC.,
Anekal.**