

KACM200004942022



**IN THE COURT OF SENIOR CIVIL JUDGE
AT: KADUR.**

DATED THIS THE 6th DAY OF JUNE, 2026.

Present :SRI.IRFAN

B.A., LL.B.

Senior Civil Judge & JMFC,

Kadur,

Chikkamagaluru District.

R.A.No.63/2022

APPELLANTS:

1. Smt, H.T. Gayathri,
W/o Late R Santhoshkumar,
Aged about 32 years.
Court Employee,
2. Kumari: Monisha,
D/o R Santhoshkumar,
Aged about 09 years,
Student, Minor,
Represented by her natural
guardian / mother
Smt, H.T. Gayathri,
W/o Late R Santhoshkumar,
Aged about 32 years.
Court Employee.
Both are R/o Kalluhole Road,
Kadur Town, Kadur Taluk.



(By: Sri S.N. Girish, Advocate)

V/s

RESPONDENTS :

1. Smt. Jayamma,
W/o late Ramanna,
Aged about 69 years,
House-wife,

2. Sri. R Harishkumar,
S/o Late Ramanna,
Aged about 48 years,
Business,

Both are R/o Kalluhole Road.
Kadur Town, Kadur Taluk.

3. Smt. R Hemalatha,
W/o Basavaraj,
D/o Late Ramanna,
Aged about 45 years,
House-wife,
R/o K.R. Mohalla. 1st Cross,
Hullina Beedhi, Door No.1777,
Mysore City.

(Respondents No.1 to 3 by: Sri. K.G. Annappa &
Sri. S.N. Anand, Advocate)

Date and nature of the decree or order appealed against:	Judgment and decree in O.S. No.254/2015, dated 21.06.2022 passed by the learned 2 nd Addl. Civil Judge and JMFC, Kadur.
Date of institution of the appeal	: 18.07.2022.



Date on which the judgment was pronounced	06.06.2026.		
Duration of the appeal:	Year/s	Month/s	Day/s
	03	10	19

Sd/-
[IRFAN]
Senior Civil judge,
Kadur.

/ J U D G M E N T /

The plaintiffs in OS No.254/2015 have filed this appeal under Order XLI Rule 1 of the Code of Civil Procedure challenging the judgment and decree passed by the learned 2nd Addl. Civil Judge and JMFC, Kadur, dated 21.06.2022 dismissing the suit filed by the plaintiffs for the relief of declaration and also for partition.

2. The respondents herein are the defendants No.1 to 3 before the trial Court. For the sake of convenience, parties to this appeal are



hereinafter referred as per their rankings mentioned before the trial court.

3. It is apt to verify the pleadings and the conclusion arrived at by the trial court in the original proceedings. The plaintiffs have instituted the original suit seeking for the relief of declaration to declare that registered gift deed dated 23.08.2013 executed by the 1st defendant in favour of 2nd defendant is not binding upon the plaintiffs and also for partition and separate possession of suit schedule property by metes and bounds. It is the specific contention of the plaintiffs that one Ramanna was the kartha of the family of plaintiffs and defendants. He had two sons namely Harish Kumar (2nd defendant) and late R. Santhoshkumar (husband of 1st plaintiff and father of 2nd plaintiff) and a daughter Smt. Hemalatha (3rd defendant). They are the members of Hindu undivided joint family. Said Ramanna



during his life time had purchased suit 'A' schedule property in the name of his wife Smt. Jayamma, the 1st defendant herein under two different sale deeds dated 20.03.1989 and 30.04.1998 and the entire sale consideration amount has been paid by said Ramanna. Thus, the said suit 'A' schedule property becomes the joint family properties of plaintiffs and defendants. Said Ramanna during his life time was working in the Judicial Department and he died leaving behind the plaintiffs and defendants. After the demise of said Ramanna out of his death benefits and also by utilizing the investments of late Santhoshkumar and 2nd defendant, a residential house has been constructed in the suit 'A' schedule property, wherein, the plaintiffs and defendants and late Santhoshkumar have resided. The 1st plaintiff got married with Santhoshkumar, who died on 08.07.2012 as a member of joint



family leaving behind the plaintiffs as his legal heirs. After the demise of Santhoshkumar although the defendants have initially taken due care, but have subsequently started neglecting and abusing the plaintiffs and thrown them out of suit 'A' schedule house. Due to cruelty cause by the defendants, the plaintiffs does not wish to continue as a member of joint family and therefore they have demanded for allotment of their legitimate 1/4th share in the suit schedule properties, but the defendants have refused to comply their just demand. The defendants in collusion with each other and without the knowledge or consent of the plaintiffs, the 1st defendant without there being any exclusive right over the suit 'A' schedule property has got executed a registered gift deed dated 23.08.2013 in favour of 2nd defendant and the same does not



bind upon the plaintiffs legitimate share. Hence, the original suit.

4. In response to the suit summons, the defendants No.1 to 3 appeared before the trial court. The 1st defendant filed written-statement and same was adopted by the defendants No.2 and 3.

5. The case of the defendants No.1 to 3 is as follows:-

The defendants admits the relationship, but however specifically denies the contentions of the plaintiffs that suit schedule properties are their joint family properties. It is their specific case that late Ramanna although was working in the Judicial Department, but was addict of bad-vices and due to the same there was no savings whatsoever. Therefore, out of special care, love and affection towards the 1st defendant, the



maternal uncles and brother of 1st defendant have accumulated funds to purchase the suit 'A' schedule property in the name of 1st defendant as 'Stridhana' in the interest of family of the 1st defendant and accordingly, the suit 'A' schedule property which was vacant site initially was purchased under two different sale deeds dated 20.03.1983 and 30.04.1998. Therefore, the said property is the self-acquired and absolute property of 1st defendant and none of the family members have got any right over the same. Late Ramanna had no property either through his ancestors or through his self-acquisition. His salary was not sufficient to maintain the family. Said Ramanna in order to meet his bad-vices had lot of outstanding loans which were repaid by the 1st defendant out of the death benefits of said Ramanna and the remaining amount was spent towards the marriage of 3rd defendant and also to perform the



last rights and death ceremony of Ramanna. The 2nd defendant has got a job in July-1997 and the said Ramanna died in the year 2000. The RCC house in the suit 'A' schedule was constructed by investing the salary of 2nd defendant and also with the help of funds paid by Smt. Gangamma, the grand-mother of 1st defendant and Sri. K.G. Manjanna, Sri. K.G. Shivakumar, Sri. K.G. Srinivasa, the maternal uncles and also by her brother Sri. K.G. Manjunath. During the time of construction, Santhoshkumar was unemployed and he had no sought of any earnings at the relevant point of time. After the death of R. Ramanna, the 2nd defendant though was eligible to get a job on compassionate job, but since he was working in a private company and as per the decision of family members had consented to get the job placement for Santhoshkumar on compassionate grounds. Said Santhoshkumar



who was then minor had obtained the job on compassionate grounds after attaining the majority. Said Santhoshkumar also died while on service and the defendants have co-operated with the 1st plaintiff to receive all the death benefits and job. After achieving all the above, the 1st plaintiff has filed this false suit in order to harass the defendants. As the suit schedule properties are not the Hindu undivided family properties, there is no question of granting any share in favour of plaintiffs, as prayed. Accordingly, sought to dismiss the suit.

6. Based on these rival pleadings, the trial court had framed the following issues and Additional issue.

- (1) Whether the plaintiffs prove that the plaintiffs and defendants constituted joint family?



- (2) Whether the plaintiffs prove that the suit property is the ancestral property of plaintiff and defendants family and the same is purchased by deceased Ramanna by using the joint family funds?
- (3) Whether the plaintiffs prove that her husband Santhoshkumar and defendant No.2 have contributed the amount for the construction of the suit house property?
- (4) Whether the plaintiffs are entitled for the relief sought?
- (5) What Order or Decree?

ADDL. ISSUE

- (1) Whether the plaintiff proves that, 1st defendant without any exclusive right or interest has bequeathed the suit A schedule property in favour of 2nd defendant through Registered gift deed dtd: 23.08.2013?



7. To prove the aforesaid issues before the trial Court, the 1st plaintiff got herself examined as PW-1 and got marked 07 documents as Ex.P-1 to 7 and closed her side. On the contrary, the 2nd defendant got himself examined as DW-1 and got marked 24 documents as Ex.D-1 to 24 and closed their side.

8. After hearing the arguments of the learned counsel on both side, on the basis of the materials available before it, the trial court has passed the judgment and decree on 21.06.2022 dismissing the suit of plaintiffs.

9. Aggrieved by the said judgment and decree passed by the trial Court, the appellants / plaintiffs have preferred this appeal on the following grounds;

The impugned judgment and decree of the trial court is opposed to law, principles of natural justice, facts and probabilities of



the case. The learned trial judge erred in appreciating the oral and documentary evidence. The trial Court has come to conclusion that the suit schedule properties are the private and self-acquired properties of the 1st respondent. The trial Court has dismissed the suit only on technical points without considering the materials / documents available on record and not properly appreciated the evidence, hence the impugned judgment is liable to be set aside. The trial Court has failed miserably in having discussed the facts that, the sale deeds of the suit 'A' schedule property are executed in the name of 1st respondent and katha stands in her name and she has got right to gift the suit 'A' schedule property in favour of 2nd respondent. The trial Court simply dismissed the suit without considering the probabilities of oral evidence and



documents produced by both parties. The observations made by trial Court in its judgment are not in accordance with law. The trial Court itself is in confusion while passing the judgment. Even otherwise, the judgment of the trial Court is based on surmises, conjectures and not properly appreciated the facts and legal issues and as such is not sustainable.

Hence, prayed to set aside the impugned judgment and decree of the trial court by allowing the appeal.

10. After registration of appeal, the notices were issued to the respondents / defendants, they appeared before this court.

11. The trial Court records are secured.

12. Sri. BMP, Advocate addressed arguments on behalf of the appellants / plaintiffs based on the grounds urged in the memorandum



of appeal and whereas, Sri. KGA, Advocate for respondents / defendants No.1 to 3 argued in support of the findings of the trial court.

13. With the backdrop of arguments canvassed and after reference to the pleadings, oral and documentary evidence, the following points arise for determination.

1. Whether the impugned judgment and decree of the trial Court needs the interference of this Court?

2. What order?

14. Answers to the above points are as follows;

Point No.1 : In the Negative;

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



REASONS

15. **Point No.1:** On going through the rival contentions, it is noticed that there is no dispute regarding the relationship between the parties as narrated in the plaint. According to the plaintiffs, one Ramanna was the propositus of the joint family consisting of themselves and defendants and it is contended that suit 'A' and 'B' schedule properties are their joint family properties, upon which, the plaintiffs claim their 1/4th share. It is specifically contended that the suit 'A' schedule property was initially a vacant site in two bits was purchased by said Ramanna, who was working in the Judicial Department under two different sale deeds dated 20.03.1983 and 30.04.1998 through its vendors in the name of his wife Smt. Jayamma, the 1st defendant and the entire sale consideration amount was paid by said Ramanna only. Said Ramanna died while on service leaving behind the



plaintiffs and defendants and thereafter by utilizing the death benefits as well as earnings of 1st plaintiff and 2nd defendant, a dwelling house was constructed in the suit 'A' schedule property. Therefore, it is contended that the suit 'A' schedule property being the joint family property is liable to be divided amongst the plaintiffs and defendants. On the other hand, the defendants contends that there was no existence of joint family and as said Ramanna was addicted to bad-vices, he had neglected his family and therefore, the brothers and maternal uncles of 1st defendant out of love and affection have contributed funds and the suit 'A' schedule property was being purchased by the 1st defendant as 'Stridhana' fund. Thus, they claim that suit 'A' schedule property is the absolute property of 1st defendant and the plaintiffs have got no right to claim any share in the said property.



16. On going through the rival contentions, it is an admitted fact that one Ramanna had three children namely Harsih Kumar (D-2), Smt. Hemalatha (D-3) and late Santhoshkumar and the 1st defendant is the wife of said Ramanna. The plaintiffs are the wife and daughter of late Santhoshkumar. It is further not in dispute that Ramanna was working under the Judicial Department and after his demise, on compassionate grounds his son Santhoshkumar was given the job in the Judicial Department. It is also not in dispute that said Santhoshkumar also demised while on duty and the 1st plaintiff being the widow had secured the job on the grounds of compassionate grounds. Now, the limited point, which is required to be adjudicated upon is that whether suit 'A' schedule property is to be considered as joint family property of plaintiffs and defendants or it is the absolute property of 1st



defendant. It is not in dispute that suit 'A' schedule property, which was initially a vacant site into two bits was purchased in the name of 1st defendant under two different sale deeds dated 20.03.1983 and 30.04.1998. The plaintiffs as well as defendants have produced the said sale deeds under Ex.P-3, 4 and Ex.D-1 to 3. On reference to the said documents also affirms the fact that the said properties were purchased in the name of 1st defendant. According to the specific contention of the plaintiffs, the sale consideration amount has been paid by the Ramanna himself and the said properties were in-fact purchased by Ramanna in the name of 1st defendant. In order to substantiate the said contentions, the plaintiff herself got examined as PW-1 and during her evidence she has clearly admitted that there are no documentary evidence available with her to demonstrate that in-fact said Ramanna out of his



earnings had paid the sale consideration amount. Viz-viz during the evidence of DW-1 to 3 as well, it has been elicited that nether there is any averment in the said sale deed that the said property was purchased by the 1st defendant out of 'Stridhana' funds given by her brothers and maternal uncles. If the recitals under the aforesaid sale deeds are given consideration, it is no doubt to hold that the vacant sites have been purchased by the 1st defendant and there is a clear mention that the entire sale consideration amount has been paid by the 1st defendant only. The defendants have got examined DW-2, who is the brother of 1st defendant's mother to prove that the 1st defendant was given monitory benefit from her maternal side by way of 'Stridhana' and had purchased the aforesaid sites out of the same. Irrespective of the said facts, it is found just and essential to refer



Sec.14 of the Hindu Succession Amendment Act, 1956, which reads as follows:-

“14.Property of a female Hindu to be her absolute property.— (1)Any property possessed by a female Hindu, whether acquired before or after the commencement of this Act, shall be held by her as full owner thereof and not as a limited owner.

Explanation.—In this sub-section, “property” includes both movable and immovable property acquired by a female Hindu by inheritance or devise, or at a partition, or in lieu of maintenance or arrears of maintenance, or by gift from any person, whether a relative or not, before, at or after her marriage, or by her own skill or exertion, or by purchase or by prescription, or in any other manner whatsoever, and also any such property held by her as stridhana immediately before the commencement of this Act.

(2) Nothing contained in sub-section (1) shall apply to any property acquired by way of gift or under a will or any other instrument or under a decree or order of a civil court or under



an award where the terms of the gift, will or other instrument or the decree, order or award prescribe a restricted estate in such property.”

Section 14(1) has very wide and very extensive application and has to be read in a comprehensive manner. This Act over rides the old law on the subject of Stridhana in respect of all property possessed by a female whether acquired by her before or after the commencement of the Act and it declares that all such property shall be held by her as full owner. This Act confers full heritable capacity on the female heir and dispenses with the traditional limitations on the power of a female Hindu to hold and transmit property. Sec.14(2) of the Act is in the form of an exception which limits the power granted U/S 14(1) of the Act and states that nothing contained in Sub-Section 1 shall be applied to any property acquired by way of gift or under a will or any other instruments or under a decree or order of



the Civil Court or under an award, where the terms of gift will or other instrument or the decree order or award prescribed a restricted estate in such property.

17. Under the light of the aforesaid provisions of law and in view of the admitted facts that the sale deeds dated 20.03.1983 and 30.04.1998 are existing in the name of 1st defendant, who is a Hindu female, the provisions of Sec.14(1) of the Hindu Succession Act, 1956 shall come into play and in view of registered instrument, the 1st defendant would become absolute owner of the properties purchased under the aforesaid sale deeds. The recitals are clear enough to hold that it does not fall under any of exceptions provided under Sec.14(2) of the said Act. Thus, by operation of law, the 1st defendant has become the absolute owner of the properties purchased under the sale deeds referred above. By



holding so, the 1st defendant being the absolute owner of the said properties has got every independent right to dispose of the same as per her wishes.

18. It is indeed an admitted fact that the 1st defendant had executed registered gift deed on 23.08.2013 under Ex.P-5 in favour of 2nd defendant and by holding that the 1st defendant being the absolute owner has got independent rights to deal with the said property, the plaintiffs cannot question the validity of the same. By holding so, it is totally needless to consider who has constructed the dwelling house in the suit A schedule property. As far as, suit 'B' schedule movable properties are concerned, the 1st plaintiff in the evidence itself, has clearly admitted that there are no documentary evidence available to establish the said movable properties belongs to their joint family.



19. On going through the findings recorded by the trial court, it is crystal clear that the trial court rightly appreciated the facts in the lights of the Sec.14 of Hindu Succession Act, 1956 and rightly dismissed the suit, which does not warrant for interference on any of the grounds urged under the appeal memorandum. Thus, the appeal fails. Accordingly, **the point No.1 under consideration is answered in the Negative.**

20. **POINT No.2** : In view of the discussions in foregoing points, the following;

ORDER

Appeal is dismissed.

The judgment and decree of
2nd Addl. Civil Judge and JMFC,
Kadur in O.S.No.254/2015, dated
21.06.2022 is confirmed.

Draw decree accordingly.



Send back the TCR to the
trial Court along with a copy of
this judgment forthwith for
information.

(Dictated to the Stenographer directly on computer, typed by him,
printout taken, correct and then pronounced by me in the open court
today this the 6th day of June - 2026).

Sd/-
[IRFAN]
Senior Civil judge,
Kadur.

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