

KAHS600010022024



**IN THE COURT OF SENIOR CIVIL JUDGE
& J.M.F.C., CHANNARAYAPATNA**

PRESENT: ARUNA KUMARI A

B.A. (Law), L.L.B., L.L.M.,

**SENIOR CIVIL JUDGE
CHANNARAYAPATNA**

DATED ON THIS 24th DAY OF JANUARY 2026

O.S.No.200/2024

Plaintiff : Smt.Jayalakshmi
V/s

Defendants : Sri.Rangegowda and others

Parties to IA

Applicant/
Defendant No.7 : Sri.Bhaskarachari

V/s

Opponent/
Plaintiff : Smt.Jayalakshmi

ORDER

The applicant/defendant No.7 has filed instant application under Order 6 Rule 16 of CPC., for seeking to make an order to strike out in the plaint.

2) In the affidavit, it is stated that, plaintiff has filed suit for partition against defendants. The defendant No.1, 3 and 4 have executed registered sale deed dated 06.11.2003 in favour of defendant No.7 regarding suit item No.2. hence, Khatha of suit item No.2 was mutated in the name of defendant No.7. From 06.11.2003 till date defendant No.7 is absolute owner and in possession of suit item No.2 and he is paying tax to the concerned authority. After a lapse of 21 years the plaintiff has filed the instant suit. Hence, he is submitted that as per reportable judgment of Hon'ble Apex Court in AIR 2020 SC 3717 that daughter is not having equal right as a son in the alienation of property had taken place before 20.12.2004. As per Sec.6(1)(c) of Succession Act, the applicant has constrained to file the present application as plaintiff is not having any right, title over suit item No.2. Hence, filed instant application.

3) On the contrary objection is filed by plaintiff stating that defendant No.7 has got fraudulent sale deed by misusing the illiteracy of defendant No.1. Hence, prayed to dismiss the application.

4) Heard the arguments of counsel for both sides.

5) The points that arise for my consideration are :

1. Whether is it just and necessary to strike out in the plaint as sought in the application ?

2. What order?

6) My findings on the above points are as under:

Point No.1: In Affirmative

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

:-REASONS:-

7) **Point No.1:** The plaintiff has filed suit seeking partition with respect to suit schedule properties. Now the defendant No.7 come up with instant application. Admittedly in the instant case evidence is not yet commenced. At this juncture the contention of plaintiff is that, the sale deed which is executed in favour of defendant No.7 is not binding on the right and share of the plaintiff. But the contention of defendant No.7 is that, as per Sec.6(1)(c) of the Hindu Succession Act, 1956, as amended by the 2005 Act, establishes that daughters become coparceners by birth with the same rights and liabilities as sons in Mitakshara joint family property, essentially making them equal in property rights, though saving past transactions before December 20, 2004, to prevent litigation over pre-amendment partitions.

Key Aspects of Section 6(1)(c) (Post-2005 Amendment):

- **Daughters as Coparceners:** A daughter is now a coparcener in her own right from birth, just like a son, in a Mitakshara joint family.
- **Equal Rights & Liabilities:** She has the same rights and obligations regarding coparcenary property as a son.
- **Saving Clause:** Any disposition, alienation, or partition of property that occurred *before*

December 20, 2004 (when the amendment took effect) remains valid and cannot be reopened.

- **Prospective Application:** The amendment applies prospectively, meaning it doesn't invalidate past transactions or partitions.

In essence: Section 6(1)(c) ensures daughters' equality in coparcenary property rights, aligning with constitutional principles, but respects settled transactions from before the law changed, preventing chaos and endless lawsuits.

8) More over the counsel for defendant No.7 relied upon case laws;-

i) Civil Revision Petition No.454/2019 between Smt.Geetha Murthy V/s Smt.Sarojamma and others

ii) Writ Petition No.21479/2024(GM-CPC) in between Mr.Venugopal Krishnamurthy and another V/s Smt.M.Thejaswini, wherein Hon'ble High Court held that, *if the suit is filed before the court it was an attempt to misuse its process, then the court ought to have exercised jurisdiction under Order 6 Rule 16 of CPC. The principles held in above case laws are aptly applicable to the facts and circumstances of instant case on hand.*

9) The materials reflect that defendant No.7 has purchased the suit item No.2 from defendant No.1 prior to amendment of Hindu Succession Act. If item No.2 is self acquired property of defendant No.1 matter would have been different if at all the item No.2 is ancestral property of plaintiff, then plaintiff is entitled for only notional share over

the suit schedule property. But as on the date of filing of the suit the alienation was done by father of plaintiff the intention of Kartha is to be considered. Since it is for family necessity defendant No.1 sold the property in favour of defendant No.7. As per Sec.6 of Amended Hindu Succession Act, saving clause the alienation had taken place before 20.12.2004, plaintiff is not entitled for share over the item No.2 property. Hence, it is necessary to strike out item No.2 and to delete defendant No.7. Therefore, I answer **Point No.1 is in Affirmative.**

10) **Point No.2:** In view of the discussion made in answering Point No.1, I proceed to pass the following:

ORDER

Application which is filed under Order 6 Rule 16 R/w Sec.151 of CPC., seeking strike of pleadings with respect to item No.2 and to delete defendant No.7 is hereby allowed.

(Dictated to the stenographer directly on computer, typed by her, corrected and then pronounced by me in the open court on this 24th day of January 2026)

(ARUNA KUMARI A)
Senior Civil Judge and JMFC
Channarayapatna