

**IN THE COURT OF V ADDITIONAL DISTRICT JUDGE,
BENGALURU RURAL, SITTING AT DEVANAHALLI.**

DATED THIS THE 14TH DAY OF FEBRUARY, 2023

:PRESENT:

Sri BIRADAR DEVINDRAPPA N., B.A.,L.L.B.[Spl.]
V Additional District & Sessions Judge,
Bengaluru Rural, [to sit at Devanahalli].

REGULAR APPEAL No.15081/2022

APPELLANT/: M.V. MUNIRAJAIAH,
PLAINTIFF S/o Venkatarayappa,
Age : 56 years,
R/at Mallepura Village,
Channarayapatna Hobli,
Devanahalli Taluk,
Bengaluru Rural District.
Rep. by Mr.KHR - Advocate

V/s

RESPONDENT No.1/ : 1] VENKATARAYAPPA,
DEFENDANT No.1 S/o Late Muni Obaiah,
Age : 82 years,
R/at Mallepura Village,
Channarayapatna Hobli,
Devanahalli Taluk,
Bengaluru Rural District.

RESPONDENT No.2/ : 2] MUNIKADIRAMMA,
DEFENDANT No.2[a][1] S/o Late Gullappa alias
Muniyappa,
Age : 55 years,

R/at Mallepura Village,
Channarayapatna Hobli,
Devanahalli Taluk,
Bengaluru Rural District.

RESPONDENT No.3/ : 3] M.G.NARASIMHAMURTHY,
DEFENDANT No.2[a][2] S/o Late Gullappa alias
Muniyappa,
Age : 35 years,
R/at Mallepura Village,
Channarayapatna Hobli,
Devanahalli Taluk,
Bengaluru Rural District.

RESPONDENT No.4/ : 4] MUNINARAYANAMMA,
DEFENDANT No.2[a][3] D/o Late Gullappa alias
Muniyappa,
W/o Muniyappa,
Age : 37 years,
R/at Bhavapura Village,
K.Satyavara Post, Sulibele
Hobli, Hosakote Taluk,
Bengaluru Rural District.

RESPONDENT No.5/ : 5] MUNIRATHNAMMA,
DEFENDANT No.2[a][4] S/o Late Gullappa alias
Muniyappa,
W/o Venkatesh,
Age : 30 years,
R/at Savakanahalli Village,
Bidaluru Post, Devanahalli
Taluk, Bengaluru Rural District

RESPONDENT No.6/ : 6] KRISHNAPPA,
DEFENDANT No.2[b][6] S/o Late Narayanappa,
Age : 42 years,
R/at Mallepura Village,
Channarayapatna Hobli,
Devanahalli Taluk,
Bengaluru Rural District.

RESPONDENT No.7/ : 7] MUNICHOWDESHA,
DEFENDANT No.3 S/o Late Madduramma,
Age : 38 years,
R/at Mallepura Village,
Channarayapatna Hobli,
Devanahalli Taluk,
Bengaluru Rural District.

RESPONDENT No.8/ : 8] MUNI ANJANAPPA,
DEFENDANT No.4 S/o Late Madduramma,
Age : 36 years,
R/at Mallepura Village,
Channarayapatna Hobli,
Devanahalli Taluk,
Bengaluru Rural District.

RESPONDENT No.9/ : 9] N. NAGESH,
DEFENDANT No.5 S/o G. Narayanaswamy,
Age : 43 years,
R/at Balepura Village,
Reddahalli Post,
Devanahalli Taluk,
Bengaluru Rural District.

RESPONDENT No.10/: 10] G. NARAYANASWAMY,
NOT MADE A PARTY S/o Late Govindappa,
Age : 83 years,
R/at Balepura Village,
Reddahalli Post,
Devanahalli Taluk,
Bengaluru Rural District.

RESPONDENT No.11/: 11] NARASIMHAIAH,
NOT MADE A PARTY S/o Chikkakaiyappa,
Age : 56 years,
R/at Haraluru Village,
Channarayapatna Hobli,
Devanahalli Taluk,
Bengaluru Rural District.

ORDER REGARDING OFFICE OBJECTIONS

Being aggrieved by the Judgment and Decree dated 12.04.2022 passed in O.S.No.2305/2006 on the file of learned Addl. Senior Civil Judge and JMFC, Devanahalli, the plaintiff has preferred this appeal under Section 96 r/w Order 41 Rule 1 of C.P.C., praying to allow the appeal, set-aside the Judgment and Decree and decree the suit in respect of item No.2.

2. Brief facts leading to this appeal are that, plaintiff M.V.Munirajaiah has filed a suit against

defendant No.1 to 5 for partition and separate possession in respect of item No.1 to 6 described in schedule to the plaint. Said properties are 04 lands and 02 houses are described in the said schedule.

3. According to the plaintiff/appellant, one Muni Obaiah was owner of the suit properties and died leaving behind him two sons by name Venkatarayappa and Narayanappa. Said two sons have partitioned the properties. In the said partition, suit properties were fallen to the share of defendant No.1 Venkatarayappa. Said Venkatarayappa married defendant No.2 Narayanamma and begotten the plaintiff. Later, defendant No.1 developed illicit relationship with one Muddamma and begotten the two children [defendant No.3 and 4] and started to neglect the plaintiff. Therefore, plaintiff filed a suit in O.S.No.244/1996 for partition and separate possession. After institution of said suit, defendant No.1 assured to allot a share to him as advised by the elders. Therefore, he could not prosecute the suit. Accordingly, said suit came to be dismissed for non-prosecution. After dismissal of said

suit, defendant No.1 has again refused to effect the partition. Miscellaneous petition to restore the said suit came to be dismissed on the ground of delay and laches. Appeal filed against the said Order in MA No.1/2006 also came to be dismissed. Defendant No.1 sold item No.2 and executed a sale deed dated 21.11.2003 in favour of defendant No.5. Said sale deed is not binding upon him. Accordingly, plaintiff filed one more suit for partition.

4. Defendant No.1, 3 and 4 the father and step brothers of the plaintiff have filed a joint written statement and denied the relationship.

5. Defendant No.2 Narayanamma is dead. Her LRs have filed consenting written statement.

6. Defendant No.5 the purchaser also denied the relationship between the plaintiff and defendant No.1 contending that, defendant No.1 sold item No.2 in favour of one Narayanaswamy and he purchased said property from said Narayanaswamy and he is a bona-fide purchaser for a valuable consideration.

7. The Trial Court framed 11 issues in all, recorded evidence, heard the arguments, perused the

records and disposed off the suit thereby decreed suit in part holding that, plaintiff, defendant No.1, 3 and 4 are entitled to partition the item No.1 and 3 to 6 of schedule to the plaint in terms of compromise petition and dismissed the suit in respect of item No.2 thereby directed the office to draw the final decree.

8. It may be seen from the Trial Court Judgment that, plaintiff, defendant No.1, 3 and 4 have filed a compromise petition under Order 22 Rule 3 of C.P.C. in respect of item No.1 and 3 to 6 thereby settled the dispute in respect of all properties except, the item No.2 thus, dispute is only in respect of item No.2. Trial Court has dismissed the suit in respect of item No.2.

9. Being aggrieved by the said Judgment and Decree, the plaintiff has preferred this appeal. Office of this Court has raised objections regarding pecuniary jurisdiction to entertain the appeal. Plaintiff/appellant has filed verifying affidavit, valuation slip, copy of Judgment and decree and certified copy of valuation slip filed before the Trial Court.

10. Heard the arguments and perused the records thereafter, following points arise for determination:-

1] Whether this Court is having pecuniary jurisdiction to entertain appeal?

2] What Order or Decree?

11. My findings on the above points are as follows:-

Point No.1 : In the Negative;

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

-: R E A S O N S :-

12. **POINT No.1**:- Whenever, a party to the original suit files an appeal, jurisdiction of this Court is governed by Section 19 of Karnataka Civil Courts Act. Said provision is reproduced below for ready reference:-

Section 19 of Karnataka Civil Court Acts

19. Appeals from 1 [Senior Civil Judge]

1. - Appeals from the decrees and orders passed by a 1 [Senior Civil

Judge] 1 in original suits and proceedings of a civil nature, shall, when such appeals are allowed by law, lie,-

1. Substituted by Act 16 of 1996 w.e.f. 21.9.1996 and again substituted by Act 21 of 2009 w.e.f. 28.08.2009.

[1] to the District Court, when the amount or value of the subject-matter of the original suit or proceeding 1[does not exceed ten lakh rupees]1;

13. Plain reading of Section 19 of the Karnataka Civil Courts Act makes it clear that, appeal from the decrees and Orders passed by Senior Civil Judge in original suit can lie to the District Court when the amount or value of subject matter of the original suit or proceeding does not exceed ten lakh rupees.

14. Trial Court decree establishes that, plaintiff is claiming half share equal to that of the defendant No.1 his father and filed suit for partition and separate

possession of his half share in the suit properties.

15. Certified copy of valuation slip dated 14.12.2006 produced with the plaint before the Trial Court establish that, plaintiff valued schedule properties for more than 20 lakhs. Wordings used in the said valuation slip are reproduced below:-

"The total market value of the suit schedule properties are worth more than 20 lakhs"

16. If the said valuation slip and relief sought for by the plaintiff i.e., partition and separate possession of his $\frac{1}{2}$ share is considered, value of his share will definitely comes to rupees more than ten lakhs.

17. During the course of arguments, appellant's counsel has produced the document issued by the Sub-Registrar, Devanahalli to show the value of lands of Mallepur Village. This is not the stage of trial or enquiry and this Court is not empowered to decide the value of subject matter. Plaintiff is bound by valuation made by him before the Trial Court. Half of rupees more than 20 lakhs will definitely exceeds Rs.10 lakhs.

18. In view of above discussion, this Court has no jurisdiction to entertain the appeal in view of Section 19 referred to above. Accordingly, point No.1 is answered in the 'Negative'.

19. **POINT NO.2**:- In view of the above discussion, I proceed to pass the following:

ORDER

Office objection regarding pecuniary jurisdiction of this Court is upheld. Office is directed to return the appeal memo to the appellant to present before the proper forum.

[Dictated to the Stenographer directly on Computer, computerized by her, corrected, signed and then pronounced by me in the open court on this the 14th day of February, 2023.]

[BIRADAR DEVINDRAPPA N.]
V Addl. District & Sessions Judge,
Bengaluru Rural, Sitting at Devanahalli.