

2. Sri. K. Kendaganna
S/o late Kempanna
R/at Kothegeela village,
Saraguru Hobli,
H.D. Kote Taluk.

**(By. Sri. S. Shivannegowda,
Advocate)**

- V/S -

- DEFENDANT :**
1. President
H.D. Kote Taluk Contractors
Society, Jyothi Complex,
H.B. Road, H.D. Kote Town,
H.D. Kote Taluk, Mysuru District.
R/at Hanumanthanagar,
Metikuppe Road.

Rep. By Sri.M.C. Doddanayaka
S/o Channanayaka
Aged about 60 years
President.
 2. Secretary
H.D. Kote Taluk Contractors
Society, Jyothi Complex,
H.B. Road, H.D. Kote Town,
H.D. Kote Taluk, Mysuru District.
R/at Housing Board Colony
H.D. Kote Town, H.D. Kote.

Rep. By Sri.A.D. Thomas
S/o P.G.Dyanial
Aged about 58 years
 3. Smt. Manjula
W/o C.N. Sathyanarayana
Aged about 41 years
 4. Sri. C.N. Sathyanarayana
S/o Nanjanayaka

Aged about 49 years

Defendant No.3 and 4 are
R/at No.2942, 8th Cross,
14th Main, RPC Layout,
Bengaluru.

**(D1 & 2 – Sri.G.N. Narayanagowda,
D3 & 4 – Sri.Sadashivappa B,
Advocate)**

ORDERS ON PRELIMINARY ISSUE

The plaintiffs have filed the suit for permanent injunction restraining the defendants from alienating the suit schedule properties in any manner till disposal of the suit.

2. It is the case of the plaintiffs that, plaintiffs are the class-II contractors, during 1995-96 at the time of starting H.D. Kote Taluk Contractors Society, the defendant No.1 and 2 have collected subscription from plaintiffs of Rs.200/- and deposited in the name of Society. The said society was registered before Sub-registrar, H.D. Kote in Register No.86/1997-98 dated 19.07.1997. Thereafter defendant No.1 and 2 have purchased the suit schedule A and B properties from the subscription amount of Society. The suit schedule properties are purchased with an intention to allot sites to the members of the Contractors Society with the subscription amount or fee amount collected from the members. The 1st defendant was the

President and 2nd defendant was the Secretary of the said Society elected in the Executive Committee election during the year 1997-98. The defendant No.3 and 4 are the necessary parties to this suit but they were not the members of the Society. But the defendant No.1 and 2 have sold the suit schedule properties to these defendant No.3 and 4 illegal by violating the terms and conditions of Society. Hence they were impleaded in this suit. The defendant No.1 and 2 have illegally got executed the Sale deed in respect of suit schedule properties into their names from the amount of Society. The suit schedule properties belongs to the Contractors Society. The defendant No.1 and 2 by colluding with Executive committee have not conducted General body meeting or Annual meeting of the Contractors Society within the time and have also not conducted elections and also not made any developmental activities in the Society. They have also not maintained proper accounts of the Society and committed fraud to the members of the Society. Further they have misused the funds of the Society at difference Banks. From the funds of Society instead of registering the suit schedule properties into theirs names as President and Secretary, they have illegal got executed the sale deed in their personal names. But they have no right, title or ownership with respect to suit schedule properties. The suit properties are not belongs to their private properties, but the same are belongs to the

Society. The defendant No.1 and 2 have illegal sold the suit schedule properties in favor of defendant No.3 and 4 for illegal gain.

3. Further it is submitted that, Sri. Mariyappa Devaru, Rajarathnam and Devaraju have filed suit in OS No.11/2010 against the defendants in the Court of Senior Civil Judge, Hunsur seeking for permanent injunction. Similarly another suit in OS No.25/2012 is also pending for adjudication. The land bearing Sy. No.36/1 measuring to an extent 5 acre 13 guntas, Sy. No.37/1 measuring to an extent of 1 acre 27 guntas and Sy. No.30 to an extent of 2 acre 19 guntas situated at H.D. Kote village, Kasaba Hobli, H.D. Kote Taluk, have been divided into Sy. No.30/2 and 30/3 in the RTCs. The defendant No.1 and 2 have illegally sold suit properties in favor of defendant No.3 and 4 who are not the members of the Society and also try to alienate the suit properties in favor of others, the Mariyappa Devaru and others have filed case in PCR No.11/2011 and PCR No.34/2011 and they are pending before this Court. The said cases are relating to the fraud committed by defendant No.1. The defendant No.1 has sold the suit A schedule property in favor of his daughter/3rd defendant and suit B schedule property in favor of his son-in-law i.e., 4th defendant during the pendency of OS No.11/2010 dated 06.02.2012. The said sale deeds are not binding to the

plaintiffs Society. The defendant No.1 and 2 have no exclusive right to sell the suit properties in favor of defendant No.3 and 4. The plaintiffs are the members of Society and have paid amount and got receipts. They are waiting for the allotment of sites. Hence, the plaintiffs have filed the present suit against the defendants.

4. After service of summons, defendants appeared before the Court through their counsel. The defendant No.1 & 2 have filed the written statement and contended that the suit of the plaintiff is not maintainable either in law or on facts. It is true that defendant No.1 and 2 are the President and Secretary of the Society during 1997 and 1998. But the said Society is not in exist at present. Rest of the plaint averments are denied as false and concocted. The cause of action mentioned in the suit is false and it is created for the purpose of filing suit. The Court fee paid by the plaintiffs is not sufficient and this Court has no jurisdiction to try this suit. Further it is contended that, the plaintiffs are not the members of H.D. Kote Taluk Contractors Society. The plaintiffs have filed this suit in respect of suit properties purchased by defendant No.3 and 4, but there is no relationship for the plaintiffs with respect to the said sites. There are already suits in OS No.25/2012 and OS No.11/2010 are pending before the Senior Civil Judge Court, Hunsur for seeking the same relief in respect of suit schedule properties by claiming as the members of said

Society. If the plaintiffs are the members of said society, they can also implead themselves in the said suit but instead of that they have filed this false suit against the defendants. The government rate for one site in the suit schedule properties is Rs.2,55,000/-, the plaintiffs have filed suit in respect of 8 sites and the suit value is above Rs.5 lakhs. Hence this Court has no jurisdiction to try this suit. On these grounds, prays to dismiss the suit.

5. On the basis of the rival pleadings of the parties, my predecessor has framed the following Issues.

- 1) Whether the plaintiffs prove that they are the members of H.D. Kote Taluk Contractors Association in Reg. No.86/1997-98?
- 2) Whether the plaintiffs further prove that 'A' and 'B' schedule properties are purchased by defendant No.1 & 2 out of the Contractors Association fund?
- 3) Whether the plaintiffs further prove that the defendant No.1 & 2 have illegally changed the khatha of suit schedule properties in their name and then they have illegally sold the suit schedule properties in favour of defendant No.3 & 4?
- 4) Whether the defendants further prove that the value of the suit schedule properties are exceeding the pecuniary jurisdiction of this Court?

- 5) Whether the plaintiffs are entitled to the relief as sought for?
- 6) What order or decree?

6. Among the above issues, **Issue No.4** is treated as preliminary issue and posted for hearing on preliminary issue.

7. Heard the arguments and perused the records.

8. My answer to the above preliminary issue is in the **Negative** for the following:

REASONS

9. **ISSUE No.4:-** The plaintiffs have filed the suit against defendants for permanent injunction in respect of suit properties. The plaintiffs have valued the suit U/sec.26(c) of KCF and SV Act, and it comes under the jurisdiction of this court and they have paid court fee of Rs.25/-.

10. On the basis of pleadings, the issues are framed. The issue relating to pecuniary jurisdiction is also framed as preliminary issue. The defendants are directed to make enquiry with regard to said issue. Therefore the defendant No.1 is examined as DW.1 and has furnished Gazette Notification which is marked as Ex.D1 and certified copy of sale deed as Ex.D2. On perusal of Ex.D1, it shows that suit schedule properties are situated

at Housing Board Colony, H.D. Kote and value of suit schedule properties at Rs.225/- per Sq. Ft. and Rs.2,425/- per every Sq. Mtr.

11. The suit A and B vacant sites are situated at Housing Board Colony, H.D. Kote Town. Accordingly the value of suit property comes more than 5 lakhs. However the plaintiffs have filed instant suit for permanent injunction, therefore pecuniary jurisdiction would not arise in a suit for bare injunction. If at all plaintiffs filed a suit other than permanent injunction then the question of pecuniary jurisdiction would arise. Therefore in this suit the question of pecuniary jurisdiction does not arise at all. Since plaintiffs have valued the suit under Sec.26(C) of KCF and SV Act and paid Court fee of Rs.25/-. Therefore, this court is having pecuniary jurisdiction to entertain the suit claim. And the plaintiffs have paid court fee on the relief claimed in respect of the suit schedule properties. Therefore, I am of the opinion that the suit is maintainable as this court is having pecuniary jurisdiction to try the suit.

12. Therefore, it is clear that the court fee paid by the plaintiffs is correct and proper. Under these circumstances, it is opined that defendants have failed prove the preliminary issue. By this observation, I proceed to hold

the above **Preliminary Issue No.4** in the '**Negative**'. and pass the following:

ORDER

The court fee paid by the plaintiffs is correct and proper and this Court is having pecuniary jurisdiction to try this suit.

(Directly dictated to the Stenographer directly in the computer, corrected and then pronounced by me in the Open Court, on this the **10th day of NOVEMBER 2025**).

(SUSHMA.M)
Addl. Civil Judge & J.M.F.C.
Heggadadevanakote.