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IN THE COURT OF PRINCIPAL CIVIL JUDGE & JMFC.,
KRISHNARAJANAGAR

PRESENT

Sri. Chandan S, B.Com., LL.B
Prl. Civil Judge & JMFC, Krishnarajanagara.

DATED 02ND DAY OF JUNE 2026

O.S. No. 529/2022

Plaintiff :

1. Smt.Manchamma
W/o Late.Javarayanayaka,
Aged about 70 years,
R/at Hosa Agrahara Village & Hobli,
K.R.Nagar Taluk, Mysore District.
2. Smt.Shanthamma W/o Kumara Nayaka,
D/o Late.Javarayanayaka,
Aged about 50 years,
R/at Bherya Village,
Hosa Agrahara Hobli,
K.R.Nagar Taluk, Mysore District.
3. Smt. Lakshmi W/o Chandranayaka,
D/o Late.Javarayanayaka,
Aged about 43 years,
R/at Mallarajapattana Village,
Ramanathapura Hobli,
Arakalagudu Taluk, Hasssan District.
4. Smt.Rani D/o Late.Javarayanayaka,
Aged about 37 years,
R/at Hosa Agrahara Village & Hobli,
K.R.Nagar Taluk, Mysore District.

(Rep. By Sri. P.S., Advocate)

V/s

Defendants:

1. Smt.Thimmajamma,
W/o Late.Boranayaka,
D/o Late.Subbanayaka,
Aged about 80 years,
R/at Nayakara Beedhi,
Saligrama Village & Hobli,
Saligrama Taluk, Mysore District.
2. Janardhan S/o Late.Channegowda,
Aged about 50 years,
3. H.C.Prakash S/o Late.Channegowda,
Aged about 45 years,
D2 and D3 are R/at
Hosa Agrahara Village,
Hosa Agrahara Hobli, K.R.Nagar Taluk,
Mysore District.

(D1 Ex-parte)

(D2 & D3 Rep. By Sri. T.G., Advocate)

ORDERS ON PRELIMINARY ISSUE NO.4

This Court has framed issue No.4 on 18.02.2026 and treated the Issue No.4 as Preliminary Issue. Issue No.4 is as under:

1. Whether the suit is not maintainable for want of proper cause of action as contended and submitted in the para No.11 of the written statement?

2. The plaintiffs have introduced and brought the suit to prosecute the same against the defendants with a request to declare their sale deed dated 22.03.1974 executed by the husband of the plaintiff No.1 Javarayanayaka towards and in

favour of the father of the defendant No.2 and 3 is not having any effect, implication and bind over the share of the plaintiffs.

3. Further she has also appealed and prayed for the relief of partition to effect partition and to allot the plaintiffs half share in respect of the suit schedule property appended and submitted along with the plaint. The sum and substance brief-out and the epitomized pleadings as it was enunciated, enumerated and emerged from the suit that, the suit schedule property is the ancestral and also the constructive cumulative, integral, joint and undivided property of the plaintiffs and the defendants.

4. The plaintiffs herein are also owing to the liaison, nexus and propinquity between the parties, they are having half share in respect of the suit schedule property appended and furnished along with the plaint which they are legally bound, entitled and legible to acquire and obtain. But when the plaintiffs met approached and contacted the defendants with a lawful plea, request and humble avocation to effect division, bifurcation and partition so as to concede and provide their half share in respect of the schedule property. Wherein the defendants outright, precision, frantic and tempestuous, sass, sassily and tautly they have dissented,

refused, declined the very share of the plaintiffs which she is lawfully and legally entitled for.

5. Therefore it is according to the plaintiffs, the suit is lodged and it has been laid before this court on account of reclining, declining and deprivation and also to ignite and to obtain the lawful share in respect of the schedule property which they are absolutely entitled. Therefore, it is in their accord and also opinion, the cause, instance, reasons, stature and the grounds for installation of the suit is also took place, accrues, created and accumulated during 1st week of September 2022 and on 01.10.2022.

6. Therefore, the suit is produced and it has been advanced before this court for the relief of partition. Wherein while the defendant No.2 and 3 in response, answers and reply to the said pleadings of the plaint upon their appearance and representation before this court through their counsel they strongly, seriously, decorous, frantic, tempestuous, candid, alacrity and hermetically they have apposed, resisted, challenged and agitated the each and every pleadings of the plaint.

7. Further in the statement of defence set out in the form of written statement, the contention would further emerge, emanate, overt and discloses that, the suit of the plaintiff is

certainly and absolutely suffering from infirmities and lacuna and it is liable for dismissal.

8. Further it has also been informed and asserted over the said written statement that, the suit is suffering and it has been lack of proper cause of action. Therefore, there is no cause of action for presentation of the suit and the alleged and enunciated described paragraph regarding cause of action at para No.6 of the plaint is false, frivolous, untenable, created, fabricated and concocted one. Therefore, the suit is liable to be dismissed for want of proper cause of action.

9. Thereafter on account of such material discrimination, differences, conflicts contrary pleadings and due to such constrains, changes, controversies, vicissitude changes and meta which are pleaded over the plaint being dissented, declined and negated in the statement of objections, this court has recorded, framed, drafted, crafted and also drawn the 6 issues in all, wherein the issue No.4 being cause of action it has been taken up for deciding the same even before determining and adjudicating upon the other issues.

10. Further it is well settled proposition principle, tenets, rules and regulation of law that, while adjudicating, determining and ascertaining the actual findings in respect of the cause of action and finalizing the preliminary issue,

the court has not suppose to decide and eventually conclude the right of the parties in respect of the actual material conflicts and controversies between the parties.

11. Further the court is presently suppose to adjudicate and decide, whether the suit can be further proceed continued and taken further or whether the suit at this very stance, stake and juncture it is to be dismissed without further proceeds. Further as it is set out in the numerous verdicts and clarified from the decided case while adjudicating and deciding the said issue preliminary and primarily, the court has to appreciate, evaluate, analyze, consider and also take note of the entries which are contemplated, stated and described over the plaint and it shall not pray, wigwag, pock, travel and peep into the written statement and the documents furnished by the defendants.

12. Moreover at this very stage, the court is not expected to hold or conduct the rowing trial, it is only requires to ensure whether there is sufficient and adequate reasonable grounds causes and also the elements to prosecute the suit prima-facie appears in the pleadings of the plaint or not? The said suit in the very patent and very plain reading of the plaint would appears and depicts that, the plaintiff has made out some triable case and factors, wherein the case for the purpose of trial before this court and whether the plaintiffs

are finally succeeds in the suit or not is a matter of further proceedings and trial which is to be eventually concluded and determined at the full fledged trial. Further the onus and liability saddled upon the very plaintiffs to authenticate, produce and submit all the suitable convincing reliable source of evidence in respect of the pleadings contended in the plaint.

13. Moreover, the court must provide an opportunity to the parties, whenever certain pleadings are asserted to enable and also to lead the documentary piece so as to collaborate, corroborate and also correspondence in respect of the pleadings of the plaint. Further there is a clear contents, regarding the cause is enunciated and shown in the plaint, the correctness, strength, fidelity, genuineness and whether it is proper or not cannot be said and adjudicated at this very juncture, it is to be liberally considered without looking and considering the written statement. Further an arguable and simple cause of action is enough and suffice the court to maintain the suit. The court shall not embark upon the contents divulged and stipulated in the written statement and the court must not treat the cause of action with stern, grim and hard hands. Therefore from all these factors, elements, observations, discussion, articulation and observations made supra, this court is of the absolute opinion that, the suit presently cannot be held negative and

the opportunity must not be restricted, derailed and curtailed so to further proceed in the suit. Hence, the preliminary issue framed by this court is answered in the **Negative** and this court proceeds to pass the following:

ORDER

Issue No.4 is answered in the Negative.

Accordingly, the suit is maintainable.

(Dictated to the Stenographer transcribed by her, revised, corrected, signed and then pronounced by me in the open Court on this the 02nd day of June 2026)

(Chandan.S)
Prl. Civil Judge and JMFC,
K.R.Nagara.