



**IN THE COURT OF THE ADDITIONAL SENIOR CIVIL
JUDGE AND J.M.F.C., AT MAGADI**

Present: Sri Shivakumar R., B.A.L., LL.B.,
Addl. Sr. Civil Judge & JMFC, Magadi.

Dated: 28th Day of March 2026
F.D.P.No.02/2015

Petitioners : 1. Sri. Muniyappa,
S/o. Late. Muniyappa,
Aged about 60 years,

2. Sri. Muniraju,
S/o. Late. Muniyappa,
Aged about 58 years,

3. Sri. Somashekar,
S/o. Late. Kempaiah,
Aged about 34 years,

4. Smt. Muniyamma,
W/o. Lakshmanna,
D/o. Late. Muniyappa,



Aged about 62 years,

5. Smt. Siddamma,
W/o. Late. Muniyappa,
Aged about 88 years,

All are R/at: Kethohalli,
Tavarekere Hobli,
Bangalore South Taluk.

(By Sri. M.K.S. Advocate)

V/s

- Respondents** : 1. Sri. Doddarangaiah,
S/o. Late. Muniyappa,
Aged about 64 years,
Since dead by his L.Rs.,
(a) Sri. D. Nagaraj,
S/o. Doddarangaiah,
Aged about 29 years,
(b) Sri. D. Muniyappa,
S/o. Doddarangaiah,

KARN410003762015



3

FDP.NO.2/2015(Or.)

Aged about 26 years,

(c) Smt. Muniyamma,

D/o. Late. Doddarangaiah,

W/o. Muthuraj,

Aged about 30 years,

R/at: Hunigeri Village,

Tavarekere Hobli,

Chunchanaguppe Post,

Bangalore South Taluk.

2. Sri. D. Nagaraj,
S/o. Doddarangaiah,
Aged about 29 years,

3. Sri. D. Muniyappa,
S/o. Doddarangaiah,
Aged about 26 years,

R1(a & b), 2 & 3 are R/at:

Kethohalli, Tavarekere Hobli,

KARN410003762015



4

FDP.NO.2/2015(Or.)

Bangalore South Taluk.

4. Sri. G. Venkatesh,
S/o. Giryappa,
Aged about 48 years,
R/at: Peddanahalli Village,
Tavarekere Hobli,
Bangalore South Taluk.

5. Mr. Sathish Kumar Goyal,
S/o. Late. Kailash Chand Goyal,
Aged about 52 years,
R/at: No.41, 39th Cross,
2nd Main Road, 8th Block,
Jayanagara, Bangalore – 560028.

{ R1(c), 3 & 4 **Exparte** }

{ R2 **Dismissed** }

{R5 by **Sri. N.N. Advocate**}



PARTIES TO I.A.NO.IX

Applicant/s : Mr. Sathish Kumar Goyal (R5)

Vs.

Opponent/s : Sri. Muniyappa & Ors.,

ORDER ON I.A.NO.IX

The respondent No.5 has filed the instant I.A., under Order 20 Rule 18 r/w. Section 151 of CPC and prayed that, the preliminary decree declaring share of the applicant may be drawn as to work out his remedy as he has steps into show of his vendors, in place of respondent No.1 to 3 in the interest of justice and equity.

2. I.A., is supported with the affidavit of the respondent No.5. It is stated in the affidavit that, the Petitioner 1 to 4 and one deceased Siddamma w/o Late of Muniyappa filed O.S.142/2007 on the file of the Senior Civil Judge, at Magadi for partition and separate possession of their alleged 1/5th



share in the suit properties against respondent No.1 & 2, their deceased father Doddarangiah s/o Muniyappa and for declaration that sale deed dated: 30.10.2006 in favour of respondent No.4 is not binding on them. The suit of the petitioner is decreed by Judgment and decree dated 26.11.2013. They had impleaded one Venkatesh as respondent No.4 in the above case. This Court pleased to pass judgment to the effect the plaintiff No.1 to 4 are entitled to 1/5th share in the schedule property and it is further held that sale deed executed by defendants No.1 to 3 dated; 18.10.2006 in favour of Venkatesh is not binding. The respondent No.5 has purchased the property on 9.3.2010 from Venkatesh, the defendant No.4 in suit referred to above, the respondent No.5 is the bonafide purchaser for value. The respondent No.5 filed I.A. No. 8 to implead in the final decree proceedings in FDP.No. 2/2015 on the file of this court and this Court has been pleased to allow his application for



Impleading by its order dated: 11.1.2023. Therefore, the respondent No.5 has filed Application to claim equity having purchased under registered sale deed 9.3.2010 from defendant No. 4. The decree is dated; 26.11.2013 do not bind the share of petitioners 1 to 4. In so far as, respondent 1 to 3 are his sale deed executed by defendants/respondent 1 to 3 in favour of Venkatesh. The respondent No.5 is entitled to share which of his vendors are had in schedule property, the respondent No.5 has also filed impleading application in RSA No.2576/2017 and the above application is filed without prejudice to pendency of RSA 2576/2017 on the file of the Hon'ble High Court of Karnataka, Bengaluru. Hence, this application.

3. The copy of the I.A., served to the other side. The counsel for the petitioner has filed detailed objections and resisted the I.A., filed by the respondent No.5 and interalia contended that, the suit is filed by petitioners against the



respondents No.1 to 3 for the relief of partition and separate possession in respect of joint family properties. The said suit came to be decreed as per the Judgment and decree dated 26/11/2013. The operative portion of the Judgment reads as follows:- "The suit of the plaintiffs is hereby decreed with costs. The plaintiffs 1 to 4 are each entitled for 1/5th share in the suit schedule properties by metes and bounds. It is hereby declared that the sale deed executed by defendant No.1 to 3 dated 18/10/2006 is not binding on the plaintiffs". It is further contended that, the sale deed executed by the respondent No.1 to 3 in favour of respondent No.4 herein, who is defendant No.4 in the said suit and he has questioned the judgment and decree before any court. It is further contended that, that the respondent No.5 is stepped in to the shoes of the respondent No.4 and he has to work out his remedy with them. The doctrine of lis pendens provides that no fixed property can be transferred while an action relating



to it is pending before a court of law and any sale deed taken place between the respondent No.4 and respondent No.5 it amounts to lis pendens and the respondent No.4 had not questioned the decree.

4. It is further contended that, the application filed by the respondent No.5 is misconceived application alleging that he is the absolute owner of the property and he has purchased the property from respondent No.4 and same is his self explanation and same is created with the sole purpose of making a wrongful gain and he is not in possession of the property as alleged by defendant No.5. Hence the application is liable to be rejected on this count alone.

5. It is further contended that, the defendants No.1 to 3 are not having independent right over the schedule property to sell in favour of the respondent No.4. It is submitted that the alleged right under alleged sale deed which respondent No.5 is claiming is created for the sole purpose of making a



wrongful gain and the Judgement and decree was not challenged by the respondent No.4. It is submitted that the Judgement and decree was challenged by the respondents No.2 and 3 before Hon'ble District and sessions Judge, Ramanagar in R.A.No.5/2016 is came to be dismissed on 20.11.2017 and confirmed the Judgment and decree in O.S. No. 142/2007, hence, there is no scope for respondent No. 5 to come on record. Hence on this count alone the impleading application is liable to be dismissed with exemplary cost.

6. It is further contended that, the application filed by the respondent No.5 lacks bonafide, since the measurement in the sale deed and the share allotted in the suit were different, wherefore, the application of provisions of Order 20 Rule 18 CPC., would not arise. There is no merit in the contention taken by the defendant No.5. It is clear from a perusal of the terms of the judgment and decree passed by this Court and it is clear from the decree that is passed by the



this court that the suit was decreed by declaring that the plaintiffs are entitled to 1/5th share in the schedule properties and be put in possession of the same after partition by metes and bounds. There is no bonafides in the present application. On this ground, the respondent No.5 is not entitled for discretionary order to come on record. When such being the case, the question of impleading as party defendant in the above suit does not arise. Hence, the petitioners pray for to reject the I.A., filed by the respondent No.5 with exemplary cost.

7. Heard arguments on both sides.

8. On perusal of the rival contentions and other materials placed on record, the following points that would arise for my consideration are :

- 1) Whether the I.A.No.IX filed by the respondent No.5 is deserves to be allowed?
- 2) What order?



9. My findings on the above points are as follows :

Point No.1 : In the Negative,

Point No.2 : As per the Order,

for the following:

REASONS

10. **POINT NO.1** : It is the urge of the respondent No.5 that, The respondent No.5 has purchased the property on 9.3.2010 from Venkatesh, the defendant No.4 in suit referred to above, the respondent No.5 is the bonafide purchaser for value. The respondent No.5 filed I.A. No. 8 to implead in the final decree proceedings in FDP.No. 2/2015 on the file of this court and this Court has been pleased to allow his application for Impleading by its order dated: 11.1.2023. Therefore, the respondent No.5 has filed Application to claim equity having purchased under registered sale deed 9.3.2010 from defendant No. 4. The decree is dated; 26.11.2013 do not bind the share of petitioners 1 to 4. In so far as, respondent 1 to 3



are his sale deed executed by defendants/respondent 1 to 3 in favour of Venkatesh. The respondent No.5 is entitled to share which of his vendors are had in schedule property, the respondent No.5 has also filed impleading application in RSA No.2576/2017 and the above application is filed without prejudice to pendency of RSA 2576/2017 on the file of the Hon'ble High Court of Karnataka, Bengaluru.

11. On the other hand, the petitioners have contended that, the suit is filed by petitioners against the respondents No.1 to 3 for the relief of partition and separate possession in respect of joint family properties. The said suit came to be decreed as per the Judgment and decree dated 26/11/2013. The operative portion of the Judgment reads as follows:- "The suit of the plaintiffs is hereby decreed with costs. The plaintiffs 1 to 4 are each entitled for 1/5th share in the suit schedule properties by metes and bounds. It is hereby declared that the sale deed executed by defendant No.1 to 3



dated 18/10/2006 is not binding on the plaintiffs". It is further contended that, the sale deed executed by the respondent No.1 to 3 in favour of respondent No.4 herein, who is defendant No.4 in the said suit and he has questioned the judgment and decree before any court. It is further contended that, that the respondent No.5 is stepped in to the shoes of the respondent No.4 and he has to work out his remedy with them. The doctrine of lis pendens provides that no fixed property can be transferred while an action relating to it is pending before a court of law and any sale deed taken place between the respondent No.4 and respondent No.5 it amounts to lis pendens and the respondent No.4 had not questioned the decree. The Judgement and decree was challenged by the respondents No.2 and 3 before Hon'ble District and sessions Judge, Ramanagar in R.A.No.5/2016 is came to be dismissed on 20.11.2017 and confirmed the Judgment and decree in O.S. No. 142/2007, hence, there is



no scope for respondent No. 5 to come on record. Hence on this count alone the impleading application is liable to be dismissed with exemplary cost.

12. On perusal of the materials placed on record, admittedly the petitioners have filed this petition for the final decree proceedings in pursuance of the preliminary decree passed by this Court in O.S.No.142/2007 vide Judgement & Decree dated: 26.11.2013. In the instant I.A., the respondent No.5 has taken a contention that, he has purchased the property in question from respondent No.4/defendant No.4 by virtue of the registered Sale Deed dated: 09.03.2010. Hence, he has filed instant application and prayed for be pleased to in preliminary decree declaring the share of the applicant may be drawn has to work out his remedy as he has stepped into the shoe of his vendor in the place of defendant No.1 to 3. It is to be noted that, in O.S.No. 142/2007 the preliminary decree was drawn and allotted the shares of the plaintiffs.



13. At this juncture, I would like to refer decision rendered by the Hon'ble Apex Court of India in the case of **T. Ravi v. B. Chinna Narasimha, (2017) 7 SCC 342: (2017) 3 SCC. (Civ) 666: 2017 SCC OnLine SC 263 at page 383.**

(iv) In re: What is the effect of preliminary decree for partition and the extent to which it is binding?

45. In the instant case preliminary decree was passed in the year 1970 and the shares were declared to the aforesaid extent of the respective parties therein who were the heirs of late Nawab Jung. Hamid Ali Khan, Defendant 1, had only 14/104th share in the disputed property. Preliminary decree dated 24-11-1970 has attained finality which was questioned in appeal on limited extent in the High Court which has attained finality by dismissal of LPA on 12-10-1977. Thus the determination of shares as per preliminary decree has attained finality, shares of the parties had been crystallized in each and every property. **Purchaser pendente lite is bound by the preliminary decree with respect to the shares so determined and it**



cannot be reopened and whatever equity could have been claimed in the final decree proceedings to the extent of the vendor's share has already been extended to the purchasers.

14. On perusal of the ratio laid down in the aforesaid decision is aptly applicable to the present case on hand. On perusal of the aforesaid decision the Hon'ble Supreme Court of India has clearly stated that the purchaser pendente lite is bound by the preliminary decree with respect to the shares already determined in the preliminary decree. The purchaser pendente lite can only claim his shares in the final decree proceedings with extent to the top his vendor's shares only. The purchaser pendente lite cannot buy the shares. The applications as aforementioned in the present suit. Under these facts and circumstances, the I.A., filed by the respondent No.5 is devoid of merits. For considering all these reasons, I answer Point No.1 in the Negative.

KARN410003762015



18

FDP.NO.2/2015(Or.)

15. **POINT NO.2** : In view of my findings on Point No.1, I proceed to pass the following :

ORDER

I.A.No.IX filed by the respondent No.5 under Order 20 Rule 18 r/w Section 151 of CPC is hereby rejected.

No order as to cost,

For call on 02.05.2026.

(Dictated to the Typist directly on the computer, typed by her, corrected by me and then pronounced in the open Court, on this the day of **28th day of March 2026.**)

(SHIVAKUMAR.R)
ADDL. SR. CIVIL JUDGE &
J.M.F.C., MAGADI.