



**IN THE COURT OF THE ADDL. SENIOR CIVIL JUDGE &
JMFC, AT SIRA**

PRESENT: **Sri.VINOD KUMAR.M** BAL.,LLB,LLM.,
ADDL. SENIOR CIVIL JUDGE & JMFC
AT SIRA

RA.No.21/2019

Dated this the 20th day June – 2026

Appellant/s

1. Eranna,

S/o late Giddaiah,
Aged about 56 years,
R/at Gollarahatti,
Bramhasandara,
Kallambella Hobli,
Sira Taluk.

..... (BY **Sri.V.S.R** Adv.)

V/s

1. Eramma Dead by LR's on record,

2. Jayanna,

S/o late Giddaiah,
Aged about 52 years,

3. Giddaiah @ Sannagiddaiah,

S/o late Giddaiah,
Aged about 42 years,
R.1 to 3 are R/at
Gollarahatti,
Bramhasandara,
Kallambella Hobli,
Sira Taluk.

4. B.N.Veeranna,

S/o Nanjundaiah,
Aged about 45 years,
R/at Sorekunte,



Bellavi Hobli,
Tumakuru Taluk.

5. Krishnappa,
S/o late Giddaiah,
Aged about 51 years,

6. Kaduraiah B.G,
S/o late Giddaiah,
Aged about 50 years,
R.5 & 6 both R/at Bramhasandara,
Kallambella Hobli,
Sira Taluk.

7. B.V.Paramesh,
S/o Veeranna,
Aged about 49 years,
R/at Bommegowdanapalya,
Bellavi Hobli, Tumakuru Taluk.

(R.1 to 3 **Sri.M.S.J.** Adv.)

(R.4 **Sri. T.N.R.** Adv.)

(R.5 & 6 **Sri. B.A.R.** Adv.)

(R.7 **Sri. H.C.M.** Adv.)

Date and nature of decree appealed against	Judgment and decree passed in O.S.No.275/2011 dated 30.01.2019 by the Prl. Civil Judge and JMFC, Sira.
Date of institution of the appeals	26-03-2019
Date on which the judgment was pronounced.	20-06-2026
Total duration	Year/s : Month/s : day/s
	07 02 25

Sd/-
(VINOD KUMAR. M)
Addl. Senior Civil Judge &
JMFC., Sira



:: J U D G M E N T ::

The present appeal filed by appellant/original plaintiff against respondent/original defendants U/o 41 Rule 1 R/w 96 of CPC challenging the judgment and decree passed in O.S.No.275/2011 dated 30.01.2019 by the Prl. Civil Judge and JMFC, Sira.

2. For the sake of convenient and brevity, the parties would be referred to in this judgment as per their ranks before the trial court.

3. Brief facts of the case leading to appeal are as follows :

The appellant/original plaintiff filed this appeal challenging the judgment and decree passed in O.S.No.275/2011 dated 30.01.2019 by the Prl. Civil Judge and JMFC, Sira and set aside the said judgment and decree by allowing the same.

4. The contention of plaintiff in their plaint before the trial court that, his father Giddaiah married with defendant No.1 about 55-56 years ago. After the marriage, the defendant No.1 lived with Giddaiah about 2 years and left the company. Subsequently, his father Giddaiah married with Mallakka died issueless and said Giddaiah was married with his mother Kaduramma. Out of wedlock the Giddaiah had four children i.e., 1.Eranna(plaintiff), 2.Kariyamma, 3.Giriyamma and 4.Nagaraju died issue-less. During the lifetime of Giddaiah, the defendant No.1 filed P.Misc.No.44/2017 before Madhugiri court against Giddaiah came to be compromised and defendant No.1



got two property bearing Sy.No.27/1a and 20/3 as maintenance by executed release deed. After death of Giddaiah the defendant No.1 and got changed Khatha of item No.1 & 2 of suit property without having any right, title or interest over the same. On the basis of Khatha, the defendants No.1 to 3 sold the item No.2 of suit property in favor of defendant No.4. The said sale deed is not binding. It is further that, he purchased the item No.3 of suit property under sale deed dated 28.03.1981 from Venkataramaiah. The Khatha and Pahani of item No.3 got transferred in his name. Since the date, he has been owner in possession and enjoyment of suit property. Now the defendants colluded with each other and tried to interfere with possession of suit property on the strength of sale deed in favor of defendant No.4. On these grounds they prays to decree the suit for Declaration of title and Injunction.

5. After service of suit summons, the defendants No.1 to 7 appeared through their counsel and filed written statement by denied the contents of plaint.

6. The defendants No.1 to 3 contended that, they are wife and children of Giddaiah and plaintiff is illegitimate son of Giddaiah. During the lifetime of Giddaiah acquired the suit property from ancestors. The suit properties are Hindu Undivided Joint family property in joint possession of plaintiff and defendants No.1 to 3. The suit filed by the plaintiff in O.S.No.220/2010 against defendants No.1 to 3 came to be withdrawn for non-joinder of necessary parties. One Krishnappa and Kaduraiah filed suit in O.S.No.05/2011 for



partition and separate possession in respect of suit property, which is pending for adjudication. Item No.3 of suit property purchased by defendant No.1 out of the joint family funds. They sold item No.2 of suit property in favor of defendant No.4 for legal necessities. The defendant No.4 becomes bonafide purchaser of item No.2 of suit property. The suit is bad for non-joinder of necessary parties. On these grounds, they pray to dismissal the suit.

7. The contention of defendants No.4 before trial court that, the defendant No.1 and sons sold the item No.2 of suit property in his favor. He becomes bonafide purchaser of item No.2 of suit property. He also sold the same and not necessary party to this suit. On these grounds, he prays to dismissal the suit.

8. The contention of defendants No.5 & 6 before trial court that, Giddaiah got married with Mallakka after left the company of defendant No.1. The said Giddaiah was married with Kaduramma and they got four children i.e., 1. Eranna, 2. Kariyamma, 3. Girijamma and 4. Nagaraju, which are not dispute. They filed suit in O.S.No.05/2011 for partition in respect of three property. Since the beginning they and defendants No.1 to 3 are in joint possession of suit property. The plaintiff has no manner of right, title or interest over the suit property. On these ground, they pray to dismissal the suit.

9. The contention of defendant No.7 before trial court that, he purchased the item No.2 of suit property from defendant No.4 under sale deed dated 13.09.2011 for valuable sale



consideration. In turn, the defendant No.4 purchased the property from defendants No.1 to 3 for consideration. Since the date of sale deed, he got changed Khatha and Pahani of item No.2 of suit property vide M.R.No.36/2010-11 and becomes owner in possession of the item No.2 of suit property as bonafide purchaser. Neither plaintiff nor defendants have right, title or possession over the suit property.

10. On the basis of rival pleadings, the trial court has framed the following issues as hereunder:

I S S U E S

- 1. Whether the plaintiff prove that, he is the absolute owner and in possession of the suit schedule properties by way of succession?***
- 2. Whether the plaintiff further proves that, the sale deed executed by defendant No.1 to 3, in favor of defendant No.4 is null and void and the same is not binding upon the right of him?***
- 3. Whether the plaintiff further proves the alleged interference caused by the defendants?***
- 4. Whether the defendant No.1 to 3 prove that, they became the owner of the suit schedule properties, by way of inheritance?***
- 5. Whether the defendants prove that, court fee paid by the plaintiff is insufficient?***
- 6. Whether the defendant No.1 to 3 further prove that, they sold the suit property in favor of defendant No.4, for their family and legal necessity?***



7. Whether the defendants prove that the suit of the plaintiff is bad for non-joinder of necessary parties?

8. Whether the defendant No.4 proves that, he is the bonafide purchaser of the suit schedule item No.2, for valuable consideration?

9. Whether the plaintiff is entitled for the relief as sought for?

10. What order or decree?

11. After framing of the issues by trial court, the plaintiff examined as PW.1 and got marked as many as 25 documents at Ex.P.1 to 25 and examined two independent witnesses as PW.2 & PW.3. On other hand, defendants No.7 & 5 examined as DW.1 & 2 and got marked as many as 20 documents at Ex.D.1 to 20 and examined two independent witnesses as DW.3 & DW.4. Closed the both side evidence before the trial court.

12. Thereafter, the trial court after hearing the arguments and perused the materials available on record to partly decree the suit of the plaintiffs by passing a Judgment and decree in O.S.No.275/2011 on dated 30.01.2019.

13. Being the aggrieved by the impugned judgment and decree passed in O.S.No.275/2011, the plaintiff/appellant preferred an this appeal on the following:-

GROUND

1. The trial court erred in answering the issue No.1 in partly Affirmative instead of fully Affirmative.



2. The trial court erred in hold that, the Judgment and Decree in O.S.No.05/2011 is binding on appellant/original plaintiff.

3. The trail court has not at all consider the oral and documentary evidence produced by parties.

14. Hence, on the above among other grounds, the original plaintiff/appellant in appeal prayed before this court to allow appeal and set-aside the impugned judgment and decree in O.S.No.275/2011.

15. In spite of service of notice on the appeal, the respondents appeared through counsel and respondent No.1 died during the pendency of appeal. In the meantime, this court secured the entire record of O.S.No.275/2011 from the trial court.

16. Thereafter, it heard arguments of the counsel for appellant and respondents. Perused the entire materials available on record of the case. In view of the grounds in the appeal made out by the appellant/plaintiff, the following points arise for my consideration :

P O I N T S

1. Whether judgment and decree passed by the trial court is apposed to law and same is arbitrary, capricious & perverse.?

2. Whether the trail court has erred in not consider the plaintiff is being owner in possession and enjoyment of item No.1 to 3 of suit property and alleged interference by defendants to item No.1 to 3 of suit property?



3. Whether the judgment and decree passed by the trial court calls for interference by this court?

4. What order or decree?

17. After scrutiny of the oral and documentary evidence placed on record and after hearing the arguments by both counsel, my findings to the above points are as follows :

POINT NO.1 : In the **Negative**
POINT NO.2 : In the **Negative**
POINT NO.3 : In the **Negative**
POINT NO.4 : As per final order
for the following :

REASONS

18. POINTS NO.1 to 3 : Since all these points are interconnected with each other and involved common discussion, they are taken up together for consideration in order to avoid repetition of facts and discussion.

19. I have gone through the records carefully and heard the arguments by counsel for the appellant and respondents in detail. From the record, it can be borne out that the plaintiff filed this suit before the trial court against defendants for Declaration of title and Injunction. It was the case of plaintiff before the trial court that, he and defendants No.2, 3, 5 & 6 are children of Giddaiah born through first wife Eramma i.e., defendant No.1 and Kaduramma. During the lifetime of Giddaiah had given the properties to defendant No.1, who left



the company of Giddaiah by executed release deed and no right over the suit property to execute sale deed in favor of defendant No.4. He is owner in possession of item No.1 to 3 of suit property and defendants tried to interference with possession of suit property. On other hand, the defendants disputing the relationship with plaintiff that, the plaintiff is not son of Giddaiah and illegitimate son. But the defendants No.1 to 3 sold the item No.2 of suit property in favor of defendant No.4, who also sold the same in favor of defendant No.7 under sale deed.

20. In order to prove the contention, PW.1 reiterated the contention of plaint in the affidavit by deposed that, he is the owner of item No.3 acquired under sale deed and item No.1 & 2 of suit property acquired under inheritance from their father Giddaiah. But the defendants No.1 to 3, 5 & 6 have no right over the property and sale deed executed in favor of defendant No.4 pertaining to item No.3 of suit property is not binding. In the cross-examination of PW.1 admits the relationship with Giddaiah and defendants No.1 to 3, 5 & 6 and item No.1 & 2 of suit property acquired from father Giddaiah under ancestors.

21. In support of contention, PW.1 produced release deed dated 04.07.1970 clearly establish that, defendant No.1 executed release deed in favor of Giddaiah and relinquished the all the rights of the family property except Sy.No.27/1 and Sy.No.20/3. On other hand the defendants No.1 to 3 denied the Ex.P.1 but Ex.P.1 clearly reveals the defendant No.1 had been released from the family and right had been waived in view of



relinquishes her right over family property. But the right of children of defendant No.1 and Giddaiah cannot be waived of unless stating by them. PW.1 further produced Ex.P.2/Sale deed dated 28.03.1981 clearly establish that, he purchased the item No.3 of suit property from Venkataramaiah for valuable sale consideration and Khatha got transferred in his name. In the plaint and contention of plaintiff clearly supported with Ex.P.2/Sale deed regarding item No.3 of suit property is self acquired property of plaintiff. On other hand, the trial court has rightly come to the opinion on the aspect of item No.3 of suit property is self acquired property of plaintiff.

22. In order to prove the contention, PW.1 further produced Ex.P.5 to 17/RTC extracts clearly establish that, item No.1 & 2 of suit property belongs to Giddaiah, who died intestate leaving behind plaintiff and defendants No.1 to 3, 5 & 6. On other hand, the defendants No.4 & 7 contended that, they purchased the item No.2 of suit property from defendants No.1 to 3 for valuable sale consideration and becomes bonafide purchaser of the same. In support of contention, DW.1 clearly deposed that, he purchased the item No.2 of suit property for valuable sale consideration and becomes bonafide purchaser of said property includes got changed the Khatha and RTC in his name. To substantiate the oral evidence DW.1 produced Ex.D.1/Sale deed clearly revels that, he purchased the item No.2 of suit property from defendant No.4 after purchased by him as per Ex.D.2/Sale deed for valuable sale consideration. DW.1 further produced Ex.D.3 & 4/RTC clearly establish that, the name of



plaintiff and defendant No.1 reflected in the RTC column and paying taxes to concerned authority. DW.1 further produced Judgment and Decree in O.S.No.05/2011 came to be partly decreed. On other hand, DW.2 deposed that, originally suit property belongs to his father Giddaiah acquired under inheritance and it is joint family property in joint possession after death of Giddaiah. The counsel for respondents have rightly argued that, item No.1 & 2 of suit property his their joint family property acquired from Giddaiah as per revenue documents.

23. In support of contention, the plaintiff examined two witnesses as PW.2/Eranna and PW.3/Shivanna similarly deposed that item No.2 of suit property is their joint family property. But in the cross examination of PW.2 & 3 admits relationship between plaintiff and defendants. But PW.2 & 3 denied the plaintiff was in possession of item No.2 of suit property. On perusal of oral evidence of PW.1 & 2 never disclosed the item No.2 of suit property is joint family property without supporting evidence.

24. On other hand, the defendants also examined two witnesses as DW.3/Ranganath and DW.4/B.H.Thimmappa similarly deposed that, they knows the each paries in the village and item No.1 & 3 of suit property are joint family property in joint possession. But in the cross-examination of DW.2 & 3 nothing deposed about item No.3 of suit property acquired by plaintiff. In the cross-examination of DW.2 & 3 clearly deposed



about item No.1 of suit property is joint family property of both parties, but not item No.2 & 3 as contended in the pleadings.

25. It is important to note that, both parties and their counsel never disputed the relationship between plaintiff and defendants No.1 to 3, 5 & 6, who are children of Giddaiah and also item No.1 of suit property acquired by defendant No.1 and plaintiff under inheritance. But item No.2 & 3 of suit property are not joint family property and item No.3 is self acquired property of plaintiff as per Ex.P.2/Sale deed. The respondent No.5 & 6 failed to prove the item No.3 of the suit property acquired in the name of plaintiff from the joint family funds. Mere contention of defendant No.5 & 6 regarding item No.3 is joint family property itself not consider unless corroboration evidence.

26. Even after by close reading the judgment and decree passed by the trial court, it is justified one and no any found fault with the findings given by the trial court after considering the oral and documentary evidence of plaintiff in respect of proper rights over the suit property. On other hand, the contention of defendants No.5 & 6 are not at all acceptable one for the item No.3 also joint family property. Therefore, for all the above reasons, I hold that the judgment and decree passed by the trial court in O.S.No.275/2011 on dated 30.01.2019 is correct and no called for interference by this appeal court. Accordingly, **I answered to points No.1 to 3 in the Negative.**



27. POINT NO.4 : For foregoing reasons, I proceed to pass the following :

ORDER

The appeal filed by the appellant/plaintiff U/o XLI Rule 1 R/w Sec. 96 of C.P.C. is hereby Dismissed.

Consequently, the judgment and decree passed in O.S.No.275/2011 on dated 30.01.2019 by the Prl. Civil Judge and JMFC, Sira is hereby Confirmed.

Office is hereby directed to draw decree accordingly.

Office is further directed to return entire records of the original suit along with a copy of this judgment to the trail court.

(Dictated to Stenographer directly on computer, typed by him, corrected by me & then pronounced in open court on this the **20th day of June 2026**)

Sd/-
(VINOD KUMAR. M)
Addl. Senior Civil Judge &
JMFC., Sira