



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 26TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

REGULAR FIRST APPEAL NO. 199 OF 2025 (PAR)

BETWEEN:

SRI. D MUNIBEERAPPA
S/O LATE DODDAMUNIYAPPA
AGED ABOUT 57 YEARS
R/AT. KALLAKERE
K R PURAM HOBLI
BENGALURU SOUTH TALUK - 560036.

...APPELLANT

(BY SRI. SHIVABEERAAIAH S M., ADVOCATE)

AND:

SMT. NARAYANAMMA (DEAD)
W/O LATE DODDAMUNIYAPPA
(DIED DURING THE PENDENCY OF THE SUIT,
HER LEGAL HEIRS ARE ALREADY ON RECORD)

1. SRI. MUNIPOOJAPPA
S/O LATE DODDAMUNIYAPPA
AGED ABOUT 55 YEARS
RESIDING AT KALKERE
K.R. PURAM HOBLI
BENGALURU SOUTH TALUK- 560036.
2. SMT. LAKSHMIDEVAMMA
D/O LATE DODDAMUNIYAPPA
AGED ABOUT 60 YEARS
3. SMT. NAGARATHNA
D/O LATE DODDAMUNIYAPPA





AGED ABOUT 58 YEARS

4. SMT. VIJAYALAKSHMI
D/O LATE DODDAMUNIYAPPA
AGED ABOUT 56 YEARS
5. SMT. KANTHAMMA
D/O LATE DODDAMUNIYAPPA
AGED ABOUT 54 YEARS

RESPONDENT NOS. 3 TO 6 ARE THE
RESIDENTS OF KALLAKERE
K. R. PURAM HOBLI
HORAMAVU POST
BENGALURU EAST TALUK-560 036.

6. SRI. R. UMAPRASAD
S/O LATE B RUDRAPPA
AGED ABOUT 66 YEARS
R/AT NO. 237, 13TH CROSS
2ND STAGE, INDIRANGAR
BENGALURU-560 017.
7. SMT. S.G. SHASHIKALA
W/O R.N. PARAMESHWARA
AGED ABOUT 55 YEARS
R/AT NO.14, ULSOOR ROAD
INDIRANGAR, BENGALURU-560 038.
8. SMT. NANDA
W/O. UMAPRASAD
AGED ABOUT 63 YEARS
R/AT NO. 237M, 240
13TH CROSS, 2ND STAGE
INDIRANGAR, BENGALURU-560 038.

...RESPONDENTS

(BY SRI. RAGHAVENDRA G GAYATRI., ADVOCATE AND
SRI. SHREEDHAR G BIDRE, ADVOCATE FOR R1 TO R5;
SRI. V B SHIVAKUMAR, ADVOCATE FOR C/R6-R8)



THIS RFA IS FILED UNDER SECTION 96 OF CPC., AGAINST THE JUDGEMENT AND DECREE DATED 15.01.2025 PASSED IN O.S.NO.6922/2000 ON THE FILE OF XLIII ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU., DISMISSING THE SUIT FOR PARTITION AND SEPARATE POSSESSION.

THIS APPEAL, COMING ON FOR DICTATING JUDGMENT, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

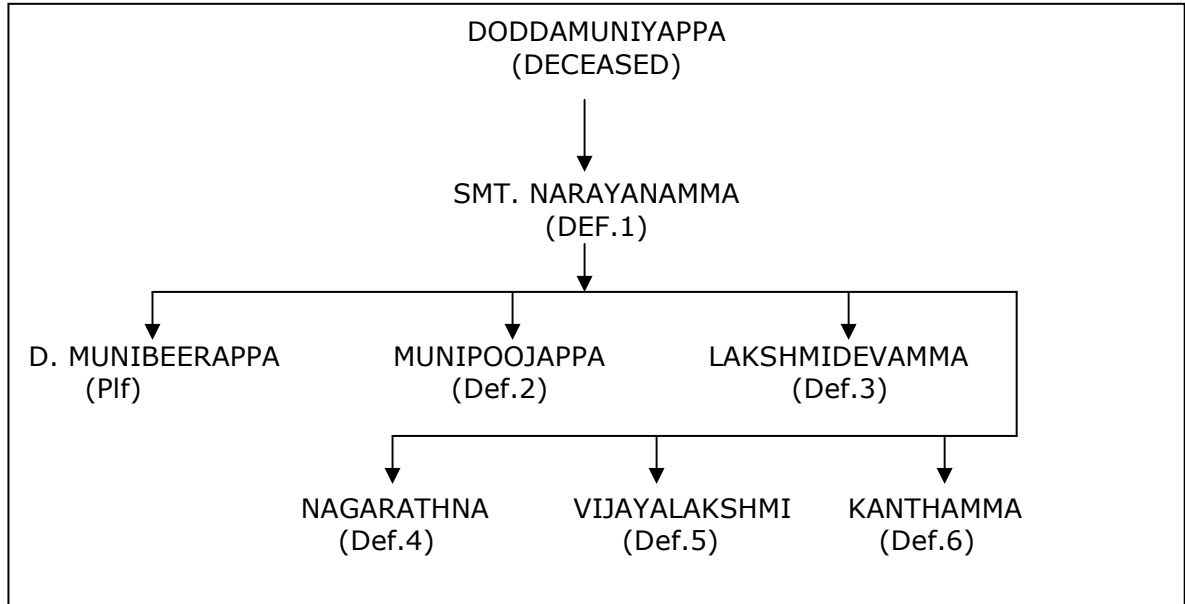
CORAM: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

ORAL JUDGMENT

The captioned appeal is by the unsuccessful plaintiff directed against the judgment and decree rendered in O.S.No.6922/2000 whereby plaintiff's suit seeking partition and separate possession is dismissed on the ground that the suit property is the self-acquired property of defendant No.1/mother of the plaintiff. Hence, this appeal.

2. For the sake of convenience, the parties are referred to as per their rank before the trial Court.

3. The family tree is as under:



4. The facts of the case are as under:

The plaintiff, being the eldest son of late Doddamuniyappa and defendant No.1–Narayanamma, instituted the present suit for partition and separate possession contending that the suit schedule property, though standing in the name of defendant No.1, was in fact acquired out of the joint family nucleus and the retirement benefits of late Doddamuniyappa. It is his specific case that defendant No.1/Mother was a homemaker, illiterate and financially dependent, and



therefore incapable of independently acquiring the property. On this premise, he asserted that the property was never intended to be the exclusive or self-acquired property of defendant No.1, but was always treated as joint family property in which the plaintiff and other defendants were in joint possession and enjoyment. Initially, the suit was one for partition alleging interference. Subsequently, upon learning of alienations effected by defendant No.1 in favour of defendants 7 and 8, the plaintiff amended the plaint and sought to challenge the said sale deeds.

5. Upon service of summons, defendant No.1 entered appearance and filed her written statement denying the plaint averments. Defendant Nos.7 and 8, being the purchasers under the impugned sale deeds, also contested the suit by filing detailed written statements traversing the allegations of joint family nucleus, fraud and want of consideration.



6. On the basis of the rival pleadings, the Trial Court framed appropriate issues and afforded full opportunity to the parties to adduce evidence. The plaintiff examined himself as P.W.1 and produced thirty-seven documents marked as Exs.P1 to P37. On the other hand, the defendants examined two witnesses and relied upon twenty-nine documents marked as Exs.D1 to D29. The Trial Court, on appreciation of the entire oral and documentary evidence, proceeded to record findings on the issues framed.

7. While answering Issue No.1 in the negative and Issue No.2 in the affirmative, the Trial Court took note of the statutory bar under Sections 3(2) and 5 of the Benami Transactions (Prohibition) Act and also adverted to Section 14 of the Hindu Succession Act, 1956. Placing reliance on the principles laid down by this Court in ***Vijayakumar vs. Vanajakshi [LAWS (KAR) 2021-12-34]***, the Trial Court held that in the absence of cogent material demonstrating that the property was purchased for the benefit of the



joint family or out of joint family nucleus, the mere fact that the purchaser was a homemaker or that the husband was in service would not, by itself, establish the character of the property as ancestral or joint family property. Consequently, the Trial Court held that the suit schedule property, admittedly standing in the name of defendant No.1, constituted her separate and absolute property, and accordingly dismissed the suit.

8. Before this Court, learned counsel for the appellant–plaintiff, while reiterating the grounds urged in the memorandum of appeal, initially contended that the suit schedule property was joint family property. However, during the course of arguments, the said contention was virtually abandoned. The thrust of the argument was shifted to allegations of fraud and mental incapacity of defendant No.1 at the time of execution of the sale deeds in favour of defendants 7 and 8. Drawing attention to Ex.P32, it was contended that defendant No.1 had undergone treatment at NIMHANS and was not in a sound



mental state. It was further alleged that D.W.1, a practicing advocate and brother of defendant No.7, had taken undue advantage of her illiteracy and allegedly engineered the execution of documents. Emphasis was laid on the fact that Exs.D4, D27 and D28 were drafted by the same scribe. The appellant even went to the extent of disputing that defendant No.1 had filed the written statement or executed the vakalathnama in earlier proceedings, including RFA No.137/2007, alleging collusion and manipulation by defendants 7 and 8 in concert with D.W.1. Minor discrepancies in the boundaries described in the sale deeds were also highlighted to buttress the plea of fraud and non-payment of consideration.

9. In support of the above contentions, learned counsel for the appellant placed reliance on several decisions of the Hon'ble Supreme Court, *inter alia*, on principles relating to fraud, burden of proof, approbation and reprobation, and scope of appellate interference.



10. Per contra, learned counsel appearing for the contesting defendants refuted the allegations of fraud and incapacity. He submitted that the appellant was admittedly not on cordial terms with his mother till her demise and that defendant No.1 herself had never questioned the sale deeds during her lifetime, though nearly two decades had elapsed. It was argued that the plaintiff, who claims through defendant No.1, cannot assert a higher right than the executant and has no *locus* to impeach the sale deeds on grounds which the executant herself never raised. It was further contended that the Trial Court, upon proper appreciation of evidence, has rightly held that the plaintiff failed to establish the existence of joint family nucleus or contribution by late Doddamuniyappa from retirement benefits. Learned counsel also drew attention to the admitted transactions wherein defendant No.1 had conveyed a portion of the property to defendant No.6 under a registered sale deed dated 25.10.2000 and had gifted four guntas to the plaintiff himself under a



registered gift deed dated 15.12.2001. The plaintiff has neither challenged the sale in favour of defendant No.6 nor the gift in his favour. Having accepted the benefit under the gift deed, it was contended, the plaintiff cannot be permitted to approbate and reprobate by simultaneously disputing the very competence and title of defendant No.1.

11. Having heard the learned counsel on both sides and on independent re-appreciation of the pleadings and evidence, this Court is of the considered view that the following points arise for determination in the present appeal:

"(i) Whether the finding recorded by the Trial Court on Issue No.2 holding that the suit schedule property is the separate property of defendant No.1 suffers from perversity or misappreciation of evidence so as to warrant interference?

(ii) Whether the registered sale deeds dated 17.10.2000 executed by defendant No.1 in favour of



defendant Nos.7 and 8 are vitiated by fraud or incapacity and therefore liable to be set aside?

(iii) What Order?"

Finding on point No.(i):

12. Though learned counsel for the appellant-plaintiff, during the course of arguments, fairly gave up the plea that the suit schedule property is ancestral in character and concentrated his submissions on the alleged non-execution of the sale deeds in favour of defendants 7 and 8, this Court cannot lose sight of the foundational pleadings on which the suit itself was instituted. The nature and character of the property form the very substratum of the plaintiff's claim for partition. Even if the contention is diluted at the appellate stage, the Court is nevertheless duty-bound to independently examine the correctness of the finding recorded by the Trial Court on Issue No.1, particularly when the burden squarely rested



on the plaintiff to establish that the property was joint family property.

13. It is trite that in a suit for partition where the property stands in the name of one member of the family, the initial onus lies heavily on the party asserting joint family character to demonstrate the existence of sufficient joint family nucleus and a nexus between such nucleus and the acquisition in question. Mere relationship or the fact that the purchaser is a homemaker does not *ipso facto* lead to a presumption that the property is joint family property. The pleadings and evidence must clearly disclose that the consideration flowed from joint family funds or from income derived from ancestral properties.

14. In the present case, the plaintiff's primary and categorical assertion in the plaint was that though the suit schedule property was purchased in the name of defendant No.1 under a registered sale deed, the real source of funds was the earnings and retirement benefits



of his father, late Doddamuniyappa. It was specifically pleaded that the father had ancestral properties which constituted a nucleus and that the retirement benefits received upon his superannuation were utilised for acquisition of the suit property. On that premise, the plaintiff contended that the property was impressed with the character of joint family property and that defendant No.1 was merely a name-lender.

15. Since the entire edifice of the plaintiff's original case rests on the above assertion, this Court deems it appropriate to extract the relevant paragraph from the plaint to appreciate the precise nature of the plea set up by the plaintiff and to test whether such plea is supported by cogent evidence on record, which reads as under:

"4(a) The 1st defendant was a house wife. 1st defendant had no independent income or properties or immovable properties belong to her. The suit schedule property was purchased in the name of 1st defendant under registered sale deed dated 21.05.1977 out of the joint family funds, retirement savings of Sri. Doddamuniyappa. The plaintiff Sri.Doddamuniyappa, 2nd defendants herein



were the joint family members, out of them plaintiff Sri.Doddamuniyappa and 2nd defendant were the co-parceners. The defendant Nos. 3 to 6 are the daughters of first defendant and Sri.Doddamuniyappa, though the funds for purchase of schedule property was paid by Sri.Doddamuniyappa, who was the kartha of joint family. The schedule property was purchased in the name of first defendant ever since, the purchase of schedule property is in possession and enjoyment of joint family members. The land was cultivated jointly by spending joint family funds and also with the joint labour and joint efforts of the joint family members. Though, the property was standing in the name of first defendant, the first defendant never treated the said property as her separate property. Ever since, the purchase of the property, the schedule property was merged with the joint family properties and treated the schedule property as the joint family. The late Sri.Doddamunishamappa, being the karta of the joint family the land revenue pertaining the schedule property was paid in his name out of the joint family funds. The first defendant always treating as the joint family property with all the joint family member have undivided right, title and interest. Since, the schedule property is merged with the joint family properties and treating the same as joint family properties irrespective of sale deed in the name of 1st defendant. She was lost her right to deal with the property independently. The co-parceners of the joint family got the ancestral properties divided. The schedule properties was a joint family property belongs to the joint family members i.e., that is plaintiff and defendant No.1 to 6 are having



equal rights in the schedule property and it was figured at the time of division of ancestral property."

(Emphasis Supplied)

In the backdrop of the above pleadings, the next material document that assumes considerable significance is the registered partition deed dated 03.12.2002, marked as Ex.P11. A careful perusal of Ex.P11 discloses that the said partition was not an internal arrangement confined to the immediate family of late Doddamuniyappa, but a comprehensive partition effected between the branch of Doddamuniyappa and the branches of his brothers. In the said registered instrument, defendant No.1, representing the branch of her husband, has actively participated and is shown as the head of that branch.

16. What is of crucial importance is that the suit schedule property does not find place as a subject matter of the said registered partition. The plaintiff's categorical plea in the plaint was that the corpus of the joint family, including ancestral nucleus and retirement benefits of late



Doddamuniyappa, was utilised for purchase of the suit schedule property in the name of defendant No.1. If that assertion were to be true, and if indeed the property had been acquired out of joint family nucleus, then logically and legally the property would have partaken the character of joint family property of the larger family comprising Doddamuniyappa and his brothers. In such an event, the property ought to have been included in the schedule to the partition deed dated 03.12.2002 and made available for division amongst all coparceners entitled thereto.

17. The conspicuous omission of the suit schedule property from Ex.P11 therefore strikes at the very root of the plaintiff's case. The non-inclusion of the property in a registered partition between the branches of the family clearly militates against the plea that the acquisition was out of joint family funds. The plaintiff's selective assertion that the corpus of the joint family was utilised, while simultaneously accepting a partition deed that excludes



the suit property, renders his claim inherently inconsistent and devoid of credibility.

18. Even otherwise, the pleadings in the plaint relating to the alleged acquisition of the suit schedule property out of joint family nucleus are vague and bereft of material particulars. There is no specific averment detailing the existence, nature, extent or income of the alleged ancestral properties so as to establish a sufficient nucleus capable of funding the purchase. There are also no pleadings that, subsequent to its acquisition, the property was thrown into the common hotchpotch or consciously blended with other joint family properties so as to alter its character. The plaint is conspicuously silent as to any overt act on the part of late Doddamuniyappa during his lifetime asserting dominion over the property standing in the name of defendant No.1 or treating it as joint family property. In the absence of such foundational pleadings, the claim of joint family character cannot be countenanced.



19. It is a well-settled principle of Hindu law that property standing in the name of a Hindu female is presumed to be her absolute property, particularly in view of Section 14 of the Hindu Succession Act, 1956. Such presumption can be displaced only by clear, specific and cogent pleadings supported by convincing evidence demonstrating that the purchase was benami for the benefit of the joint family or that the consideration flowed from joint family nucleus. The burden to rebut the statutory and factual presumption squarely rests upon the plaintiff who asserts a contrary position. In the case on hand, except for bald assertions, there is absolutely no documentary or dependable oral evidence establishing that the consideration for the purchase emanated from joint family funds or retirement benefits of late Doddamuniyappa. The plaintiff has thus failed to discharge the burden cast upon him.

20. Significantly, during the course of arguments before this Court, learned counsel for the plaintiff, who



had initially projected the case on the footing that the suit schedule property was ancestral and joint family in nature, substantially shifted his stand. The principal thrust of the submissions was no longer directed towards establishing the joint family character of the property. Instead, emphasis was laid on allegations that defendant No.1 was suffering from mental illness and that defendant Nos.7 and 8, in collusion with D.W.1, had practiced fraud and obtained the sale deeds without payment of consideration. This marked departure from the original case pleaded in the plaint itself highlights the inherent weakness in the plaintiff's foundational claim.

21. On a holistic re-appreciation of the pleadings and evidence, this Court finds no perversity, misapplication of law or misreading of evidence in the findings recorded by the Trial Court on Issue Nos.1 and 2. The conclusions arrived at are borne out by the material on record. Accordingly, Point No.(i) formulated for consideration is answered in the **Negative.**



Finding on point No.(ii):

22. Ex.D4 is the registered sale deed dated 17.10.2000 executed by defendant No.1 in favour of defendant Nos.7 and 8. Being a registered instrument, it carries with it a statutory presumption of due execution and validity. The presumption attached to a registered document cannot be lightly brushed aside on the basis of bald allegations. Strong, cogent and convincing evidence is required to dislodge such presumption.

23. The records unmistakably reveal that defendant No.1 lived for nearly two decades after execution of Ex.D4. During her lifetime, she never instituted any proceedings to challenge or annul the sale deeds executed by her. If indeed fraud had been practiced upon her, she was the most competent person to question the transaction. The silence maintained by defendant No.1 for almost twenty years assumes great evidentiary significance.



24. It is also not in dispute that the relationship between the plaintiff and his mother was strained. Learned counsel for the plaintiff fairly admitted during the course of arguments that the plaintiff and defendant No.1 were not on talking terms for a considerable period. In that backdrop, the plaintiff's allegation that defendant No.1 never appeared before the Sub-Registrar or that she never authorised the filing of appeal in RFA No.137/2007 lacks credibility. On the contrary, the records clearly demonstrate that the earlier *ex parte* decree obtained by the plaintiff was set aside at the instance of defendant No.1 herself and the matter was remitted for fresh consideration. This conduct unequivocally establishes that defendant No.1 was actively defending her interest and was conscious of the proceedings. The plea that she was unaware of the transactions or the litigation is therefore wholly untenable.

25. Another significant aspect which cannot be overlooked is the selective nature of the challenge



mounted by the plaintiff. This Court specifically queried learned counsel for the plaintiff as to why the sale deed executed by defendant No.1 in favour of defendant No.6, who is none other than the plaintiff's own sister, has not been questioned. Similarly, the registered gift deed executed by defendant No.1 in favour of the plaintiff himself in respect of four guntas of land, evidenced at Ex.D27, has not been assailed. If the plaintiff's case is that defendant No.1 was mentally incapacitated and incapable of executing valid documents, then such incapacity would necessarily affect all transactions executed by her during the relevant period.

26. However, the plaintiff has chosen to challenge only the sale deeds in favour of defendant Nos.7 and 8, while accepting and retaining the benefit under the gift deed executed in his favour and remaining silent about the conveyance in favour of his sister. Such selective impeachment of transactions clearly exposes the lack of bona fides in the allegations of fraud. Learned counsel for



the plaintiff had no satisfactory answer to this Court's query in that regard. The selective challenge materially undermines the seriousness of the allegations levelled against defendant Nos.7 and 8.

27. The plaintiff has gone to the extreme extent of questioning the mental health of his own mother, defendant No.1, in an attempt to invalidate the sale deeds. Except producing a stray medical record from NIMHANS, no substantive evidence has been placed on record to establish that defendant No.1 was suffering from such mental illness as would render her incapable of understanding the nature and consequences of her acts. The document relied upon does not demonstrate any legal incapacity or unsoundness of mind within the meaning of law.

28. On the contrary, the conduct of defendant No.1 during the relevant period clearly belies the allegation of mental incapacity. As noticed earlier, she participated in



the registered partition deed dated 03.12.2002 representing the branch of Doddamuniyappa in proceedings involving her brothers-in-law. A person who is mentally unstable and incapable of understanding transactions could not have effectively participated in such a formal and legally significant family arrangement. There is no plausible explanation, either in the pleadings or in evidence, reconciling this conduct with the allegation of unsoundness of mind.

29. Furthermore, defendant No.1 remained alive till 2019. During her lifetime, she not only failed to question the alienations, but also actively contested the proceedings initiated by the plaintiff and succeeded in getting the *ex parte* decree set aside. Her conduct in defending the suit and pursuing appellate remedies clearly demonstrates that she was fully aware of the transactions and consciously stood by them.



30. In these circumstances, the plaintiff, being merely a son claiming through defendant No.1 and having failed to establish that the suit schedule property was joint family property, cannot assume a superior position and impeach the alienations made by her. When the executant herself never questioned the transactions and, on the contrary, validated them by her conduct, the plaintiff lacks *locus* to allege fraud and prosecute the suit and this appeal on that ground. The attempt of the plaintiff to cast aspersions on the mental health of his own mother, without credible evidence and while simultaneously accepting benefits under her gift deed, only reinforces the conclusion that the challenge is untenable.

Accordingly, Point No.(ii) is answered in the ***Negative.***



Finding on Point No.(iii):

31. For the foregoing reasons, this Court proceeds to pass the following:

ORDER

The appeal is devoid of merits and accordingly, stands ***dismissed***.

**Sd/-
(SACHIN SHANKAR MAGADUM)
JUDGE**

ALB
List No.: 1 Sl No.: 14