



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

REGULAR FIRST APPEAL NO. 71 OF 2012 (DEC/INJ)

BETWEEN:

1. M. ESWARA
SON OF LATE J. MUNINANJAPPA
AGED ABOUT 48 YEARS
2. SMT. JAYAMMA
WIFE OF LATE G. MANJAPPA,
AGED ABOUT 69 YEARS
3. RAMU M
SON OF LATE G. MANJAPPA
AGED ABOUT 56 YEARS
4. SMT. SARASWATHI M
DAUGHTER OF LATE G. MANJAPPA
AGED ABOUT 49 YEARS
5. SMT. LAKSHMI M
DAUGHTER OF LATE G. MANJAPPA
AGED ABOUT 43 YEARS

ALL R/AT NO.175/2, N.S. PALYA
4TH MAIN, NEAR ANJANEYA TEMPLE,
B.G. ROAD, BANGALORE - 560 048.

...APPELLANTS

(BY SRI. NISHANTH A.V, ADVOCATE)





AND:

1. SMT. VELLIYAMMA
W/O LATE NARAYANASWAMY
AGED ABOUT 70 YEARS
2. SMT. HEMALATHA
DAUGHTER OF LATE NARAYANASWAMY
AGED ABOUT 34 YEARS
3. MUTHAIAH
S/O LATE NARAYANASWAMY
AGED ABOUT 36 YEARS
4. SMT. SHREEDEVI
D/O LATE NARAYANASWAMY
AGED ABOUT 32 YEARS
5. RANI
D/O LATE NARAYANASWAMY
AGED ABOUT 45 YEARS
RESPONDENT NO.1 TO 5 ARE
RESIDENT AT NO.8 GOSIA STREET
AKKITHIMMANAHALLI, SHANTHINAGAR
BANGALORE - 27.
6. SMT. VIJAYALAKSHMI
WIFE OF VIJAYAKUMAR
AGED ABOUT 54 YEARS
R/AT E-18/2, 11TH MAIN ROAD
2ND CROSS, K.P. AGRAHARA
BANGALORE - 23.

...RESPONDENTS

(BY SRI. T.N. VISHWANATH, ADVOCATE FOR R1, R3 TO R6;
R2 SERVED AND UNREPRESENTED)



THIS RFA IS FILED U/O-41, RULE-1 AND 2, R/W, SEC.96 OF CPC, AGAINST THE JUDGMENT AND DECREE DATED 24.09.2011 PASSED IN O.S.808/2008 ON THE FILE OF THE XXXVII-ADDL. CITY CIVIL AND SESSIONS JUDGE, BANGALORE, DISMISSING THE SUIT FOR THE DECLARATION AND PERMANENT INJUNCTION.

THIS APPEAL, COMING ON FOR FURTHER HEARING, 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 plaintiffs directed against the judgment and decree dated 24.09.2011 passed in O.S.No.808/2008 whereby the plaintiffs' suit seeking cancellation of the registered sale dated 18.03.1985 executed by the father of plaintiffs No.1, 3 and 5 and husband of plaintiff No.2 in favour of the husband of defendant No.1, namely, Late Narayanaswamy, on the ground that it is a nominal deed and for consequential relief of injunction is dismissed.

2. For the sake of brevity, the parties are referred to as per their ranking before the Trial Court.



3. Facts leading to the case are as under:

The plaintiffs instituted the suit in O.S. No.808/2008 contending that the suit schedule property is a joint family ancestral property. It is their specific case that the property originally belonged to one Chikkaveeramma, who had acquired the same under a registered sale deed dated 06.03.1907. It is further pleaded that upon her demise, the property devolved upon her son, Muninanjappa, who is the father of the plaintiffs, and that the property continued to be enjoyed as ancestral property without any severance in the family. The plaintiffs have primarily questioned the sale deed dated 18.03.1985. According to them, the said sale deed is only a nominal document and there was no real intention to convey the property. The plaintiffs have further asserted that notwithstanding the alleged sale deed dated 18.03.1985, they have continued in exclusive possession of the suit schedule property even after the demise of their father Muninanjappa, who died on 27.11.1987. It is their further case that they came to



know about the existence of the alleged sale deed only in September 2007, when defendant No.6 set up a claim over the property. Apprehending interference with their possession, the plaintiffs instituted the present suit seeking cancellation of the sale deed and consequential relief of permanent injunction.

4. Upon service of summons, the defendants entered appearance and filed their written statement, stoutly denying the averments made in the plaint. While the defendants admitted that the property originally belonged to Chikkaveeramma, they seriously disputed the contention that the sale deed dated 18.03.1985 was nominal in nature. The defendants specifically contended that Muninanjappa, having succeeded to the property of his mother Chikkaveeramma, became the absolute owner of the property and had validly conveyed the same in favour of Narayanaswamy, the husband of defendant No.1, under a registered sale deed for valuable consideration. It was therefore contended that once the



property was conveyed under a registered document, Muninanjappa stood completely divested of his right, title and interest in the property and consequently the plaintiffs cannot maintain the present suit seeking cancellation of the sale deed. The defendants also raised a specific plea of limitation contending that the suit filed in the year 2008 seeking cancellation of the sale deed dated 18.03.1985 is hopelessly barred by limitation.

5. Based on the rival pleadings, the Trial Court framed appropriate issues and called upon the parties to lead evidence. In support of their case, the plaintiffs examined plaintiff No.1 as P.W.1 and relied upon eight documents which were marked as Exs.P.1 to P.8. On the other hand, the defendants examined defendant No.6 as D.W.1 and produced relevant title documents to demonstrate that the property had been validly conveyed under a registered sale deed for valuable consideration.



6. The Trial Court, upon appreciation of the oral and documentary evidence on record, answered Issue No.1 in the affirmative and held that the property in question was the ancestral property of the plaintiffs. However, Issue Nos.2 to 7 were answered in the negative and Issue No.8 relating to limitation was answered in the affirmative against the plaintiffs. Aggrieved by the said judgment and decree, the plaintiffs are before this Court.

7. This Court has heard the learned counsel appearing for the parties and has carefully examined the pleadings as well as the oral and documentary evidence placed on record. In the light of the rival contentions urged before this Court, the following points arise for consideration:

(i) Whether the judgment and decree passed by the Trial Court suffer from perversity warranting interference by this Court?



(ii) Whether the finding recorded by the Trial Court holding that the suit filed by the plaintiffs is barred by limitation suffers from perversity?

(iii) What order?

Finding on point Nos.(i) and (ii):

8. On a careful examination of the pleadings and the material placed on record, it clearly emerges that the plaintiffs themselves have unequivocally admitted that the suit schedule property originally belonged to their grandmother, Chikkaveeramma. The plaintiffs have specifically pleaded that Chikkaveeramma had acquired the property under a registered sale deed dated 06.03.1907, which is produced and marked as Ex.P.6. The plaintiffs have further candidly admitted in the plaint that upon the demise of Chikkaveeramma, the property devolved upon their father, Muninanjappa. This admitted factual matrix assumes considerable significance in



determining the nature of the property and the rights flowing therefrom.

9. At this juncture, it becomes necessary to examine the legal consequence of such succession. Chikkaveeramma having acquired the property under a registered sale deed was the absolute owner of the property. Upon her death, the property devolved upon her legal heirs in accordance with the provisions governing succession to the property of a female Hindu. Under Section 15 of the Hindu Succession Act, 1956, the property of a female Hindu dying intestate devolves firstly upon her sons and daughters and the husband. In the present case, the plaintiffs themselves have admitted that their father, Muninanjappa, inherited the property after the demise of Chikkaveeramma. Therefore, the inheritance by Muninanjappa was not by virtue of any coparcenary or joint family lineage but by operation of statutory succession under Section 15 of the Hindu Succession Act.



10. Once the property devolved upon Muninanjappa under Section 15 of the Act, he acquired the property in his individual and absolute capacity. Property inherited by a son from his mother under Section 15 of the Hindu Succession Act does not partake the character of joint family or ancestral property in the hands of such heir. It remains his separate property over which he exercises full ownership rights. Therefore, the plaintiffs' contention that the property constituted joint family ancestral property cannot be accepted, particularly in the light of their own admission that the property originally belonged to Chikkaveeramma and devolved upon Muninanjappa after her demise. Consequently, Muninanjappa became the absolute owner of the property with full powers of disposition, including the right to alienate the property in favour of any third party.

11. The records further disclose that Muninanjappa, in exercise of his absolute ownership, executed a registered sale deed dated 18.03.1985 conveying the suit



schedule property in favour of Narayanaswamy, the husband of defendant No.1, for valuable consideration. Significantly, it is not the case of the plaintiffs that Muninanjappa himself had ever challenged or disputed the said sale deed during his lifetime. On the contrary, the material on record indicates that the said transaction remained unquestioned by the executant himself. In such circumstances, once the absolute owner has voluntarily executed a registered sale deed conveying the property, the plaintiffs, who do not possess any independent or antecedent right in the property, cannot seek to invalidate the transaction by merely alleging that the property was joint family ancestral property.

12. In the light of the aforesaid admitted facts and the legal position governing succession, the principal question that survives for consideration is whether the plaintiffs could have maintained the present suit seeking cancellation of the registered sale deed dated 18.03.1985 by instituting the suit in O.S.No.808/2008 on 28.01.2008.



The material placed on record assumes importance while examining this question. The defendants have produced a legal notice dated 23.06.2000, which is marked as Ex.D.20. The said document clearly demonstrates that as early as in the year 2000, the plaintiffs had knowledge of the sale deed executed by their father and had even issued a legal notice alleging that the sale deed was nominal in nature.

13. This document is of considerable significance in determining the question of limitation. When the plaintiffs themselves had issued a legal notice in the year 2000 asserting that the sale deed was nominal and disputing the validity of the transaction, it clearly establishes that the plaintiffs had knowledge of the sale deed at least from that point of time. Despite having such knowledge, the plaintiffs have chosen to institute the present suit only on 28.01.2008 seeking cancellation of the registered sale deed. A suit seeking cancellation of an instrument is governed by Article 59 of the Limitation Act, 1963, which



prescribes a period of three years from the date when the facts entitling the plaintiff to seek cancellation first become known.

14. In the present case, even if the plaintiffs' case is accepted to the extent that they had knowledge of the sale deed in the year 2000, the limitation for instituting a suit for cancellation would expire within three years therefrom. However, the plaintiffs have approached the Court only in the year 2008, nearly eight years after issuing the legal notice and more than two decades after the execution of the sale deed dated 18.03.1985. Therefore, the suit is clearly and hopelessly barred by limitation. The plea sought to be raised by the plaintiffs that they came to know about the sale deed only in September 2007 is wholly untenable and stands completely contradicted by their own legal notice dated 23.06.2000 marked as Ex.D.20.



15. These crucial aspects have been rightly examined and appreciated by the Trial Court. Though the learned Trial Judge has erred in answering Issue No.1 in the affirmative by holding that the suit schedule property is ancestral in nature, the remaining issues have been correctly considered in the light of the pleadings and the evidence placed on record. Once it is evident from the admitted facts that Muninanjappa inherited the property in his individual capacity under Section 15 of the Hindu Succession Act, he became the absolute owner of the property with full powers of alienation. The material on record clearly establishes that he exercised such right by executing a registered sale deed dated 18.03.1985 for valuable consideration. Upon execution of the said sale deed, the right, title and interest of Muninanjappa stood validly transferred to the purchaser, and the said transaction would consequently bind the plaintiffs as well.

16. The plaintiffs do not possess any independent right in the property so as to challenge the sale



transaction. Their attempt to portray the property as joint family ancestral property is therefore legally untenable. The entire foundation of the plaintiffs' case rests on an erroneous understanding of the nature of the property inherited by their father. Since the property was the separate property of Muninanjappa, the plaintiffs cannot question the alienation executed by him in favour of a third party.

17. The documentary evidence produced by the defendants further demonstrates that the plaintiffs had knowledge of the sale transaction long prior to the institution of the suit and had even issued a legal notice in the year 2000 alleging that the sale deed was nominal. This clearly establishes that the plaintiffs were fully aware of the transaction at least from the year 2000. Despite such knowledge, the plaintiffs have chosen to institute the suit only in the year 2008 seeking cancellation of the registered sale deed. The suit therefore squarely falls



within the mischief of Article 59 of the Limitation Act and is clearly barred by limitation.

18. In the light of the aforesaid discussion, this Court does not find any perversity or illegality in the conclusions recorded by the Trial Court while holding that the suit is barred by limitation and that the plaintiffs are not entitled to the relief sought. Accordingly, point Nos.(i) and (ii) are answered in the negative.

Finding on point No.(iii):

19. For the foregoing reasons, this Court passes the following:

ORDER

The regular first appeal stands dismissed.

Sd/-
(SACHIN SHANKAR MAGADUM)
JUDGE