



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF MARCH, 2026

BEFORE

THE HON'BLE MRS. JUSTICE K.S. HEMALEKHA

REGULAR SECOND APPEAL NO. 776 OF 2018 (MON)

BETWEEN:

MR. GOVINDEGOWDA
S/O LATE THAMMANNEGOWDA,
AGED ABOUT 60 YEARS,
DEVARAHALLI VILLAGE,
BILIKERE HOBLI, HUNSUR TALUK,
MYSURU DISTRICT-571 105.

...APPELLANT

(BY SRI. B. S. NAGARAJ., ADVOCATE)

AND:

1. SMT. DEVAMMA
AGED ABOUT 60 YEARS,
W/O LATE GOVINDA.
2. SRI SRINIVASA
AGED ABOUT 40 YEARS,
S/O LATE GOVINDA.
3. SRI MOHANA
AGED ABOUT 37 YEARS,
S/O LATE GOVINDA,

RESP.1 TO 3 ARE RESIDING AT:
DOOR NO.37, 19TH CROSS,
JAYANAGAR, MYSURU-570 001.

4. SMT. SHYLA
AGED ABOUT 39 YEARS,
W/O MAHADEVU,
HOSAKOTE VILLAGE,



YELAWALA HOBLI,
MYSURU TALUK & DISTRICT-570 001.

5. SMT. GOWRAMMA
AGED ABOUT 35 YEARS,
W/O CHALUVARAJU,
MANCHANAHALI VILLAGE,
HAMPAPURA HOBLI,
K. R. NAGARA TALUK,
MYSURU DISTRICT.

...RESPONDENTS

(BY SRI. K. S. GANESHA, ADVOCATE FOR R1, R3 & R5;
V/O DATED 10.06.2024 NOTICE TO R2 IS H/S;
NOTICE TO R4 IS SERVED AND UNREPRESENTED)

THIS RSA IS FILED UNDER SECTION 100 OF CPC.,
AGAINST THE JUDGEMENT AND DECREE DATED 03.01.2018
PASSED IN R.A.NO.12/2016 ON THE FILE OF THE PRINCIPAL
SENIOR CIVIL JUDGE AND JMFC., HUNSUR, ALLOWING THE
APPEAL AND SETTING ASIDE THE JUDGEMENT AND DECREE
DATED 29.10.2015 PASSED IN OS.NO.128/2011 ON THE FILE
OF THE CIVIL JUDGE AND JMFC., HUNSUR.

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

CORAM: HON'BLE MRS. JUSTICE K.S. HEMALEKHA

ORAL JUDGMENT

The substantial question of law framed by this Court
on 12.08.2024 is as under:

*"Whether the finding recorded by the First
Appellate Court interfering with the Judgment and
Decree in O.S. No.128/2011 in respect of the
Ex.P1 is just and proper?"*



2. Heard Sri B.S. Nagaraj, learned counsel for the appellant and Sri K.S. Ganesha, learned counsel for the respondents on the substantial question of law framed by this Court.

Plaint averments:

3. The plaintiff instituted suit for recovery of ₹1,00,750/-, contending that the deceased Govinda borrowed a sum of ₹1,00,000/- for legal necessity and he issued a post-dated cheque (Ex.P1) towards discharge of the said debt. The cheque was dishonored for insufficient funds. After his death, the defendants, being the legal representatives, failed to discharge the liability despite notice. Hence, the suit for recovery of money.

Written statement:

4. The defendants appeared and filed their written statement, *inter alia*, denying the loan transaction in toto and contending that the plaintiff is a stranger and the claim is fabricated. It is stated that the deceased had no financial necessity and defendants have disputed the



liability on the ground that they are not liable as legal representatives.

5. The Trial Court framed necessary issues. In order to substantiate the claim, the plaintiff examined himself as PW.1, marked documents at Exs.P1 to Exs.P7. Smt. Devamma, wife of late Govinda was examined as DW.1, however, no documents were marked on their behalf.

6. The Trial Court, on appreciation of the oral and documentary evidence, held that Ex.P1-cheque belongs to the deceased and signature was not disputed. Presumption under Sections 118 (a) and 139 of the Negotiable Instruments Act, 1881 ('NI Act' for short) operates in favour of the plaintiff and the defendants failed to rebut the presumption. The Trial Court observed that the plaintiff proved existence of a legally enforceable debt and accordingly, decreed the suit in part, directing payment of amount with interest.



7. The First Appellate Court reversed the judgment and decree of the Trial Court holding that the plaintiff has failed to prove that the loan was for legal necessity and that the plaintiff failed to prove that the defendants had inherited the estate of the deceased. By invoking Section 6 (4) of the Hindu Succession Amendment Act, 2005, it held that the legal representatives were not liable and accordingly, the appeal was allowed and the suit was dismissed.

8. Learned counsel for the appellant submits that the First Appellate Court being the last-fact finding Court, has ignored the statutory presumption attached to Ex.P1, the signature and the issuance of cheque not being in dispute, the presumption of debt stands established. It is contended that the finding regarding non-existence of the estate is beyond the pleadings and unsupported by evidence. Learned counsel submits that the First Appellate Court has misapplied Section 6 (4) of the Hindu Succession (Amendment) Act, 2005 and that the liability



of legal representation is only to the extent of the estate inherited and is not absolutely barred and reversal of the Trial Court's findings is perverse and contrary to the settled proposition of law.

9. *Per contra*, learned counsel for the respondents sought to justify the judgment and decree of the First Appellate Court and submits that the plaintiff has failed to prove the loan transaction independently, and mere production of the cheque is insufficient and there is no proof that the defendants inherited any estate and the First Appellate Court has rightly appreciated the evidence.

10. This Court has carefully considered and perused the material on record.

11. It is not in dispute that Ex.P1 belongs to the account of the deceased and the signature is not denied. Once execution is admitted, statutory presumption under Sections 118 (a) and 139 of the NI Act arises that the cheque was issued towards discharge of a legally



enforceable debt. The defendants have not placed any cogent or acceptable evidence to rebut the presumption, mere denial is not sufficient. The First Appellate Court has failed to appreciate the legal presumption attached to the negotiable instrument and the absence of rebuttal evidence by the defendants. The doctrine of pious obligation under the traditional Hindu law imposed a moral and legal duty upon a son, grand son and great-grandson to discharge the debts of their father, grandfather or great-grandfather, even in the absence of any inheritance of the property. However, the doctrine has been expressly abolished by virtue of 6(4) of the Hindu Succession (Amendment) Act, 2005, which reads as under:

**"6. Devolution of interest in
coparcenary property.—(1) x x x**

(4) After the commencement of the Hindu Succession (Amendment) Act, 2005, no court shall recognise any right to proceed against a son, grandson or great-grandson for the recovery of any debt due from his father, grandfather or great-grandfather solely on the ground of the pious



obligation under the Hindu law, of such son, grandson or great-grandson to discharge any such debt:

Provided that in the case of any debt contracted before the commencement of the Hindu Succession (Amendment) Act, 2005, nothing contained in this sub-section shall affect.—

- (a) the right of any creditor to proceed against the son, grandson or great-grandson, as the case may be; or*
- (b) any alienation made in respect of or in satisfaction of, any such debt, and any such right or alienation shall be enforceable under the rule of pious obligation in the same manner and to the same extent as it would have been enforceable as if the Hindu Succession (Amendment) Act, 2005 had not been enacted.*

Explanation.—*For the purposes of clause (a), the expression "son", "grandson" or "great-grandson" shall be deemed to refer to the son, grandson or great-grandson, as the case may be, who was born or adopted prior to the commencement of the Hindu Succession (Amendment) Act, 2005."*



12. The above provision clearly provides that no Court shall recognize any right to proceed against such defendants for recovery of debts solely on the ground of pious obligations. Thus, after amendment, there is no personal liability attaches to the legal representative merely by reason of their relationship with the deceased.

13. Nevertheless, the abolition of the doctrine of pious obligation does not completely absorb the liability of legal representatives. The liability of the legal representatives continues to subsist, but is limited in nature and governed by settled principles, including those embodied under Sections 50 and 52 of the CPC, which reads as under:

"50. Legal representative.—(1) Where a judgment-debtor dies before the decree has been fully satisfied, the holder of the decree may apply to the Court which passed it to execute the same against the legal representative of the deceased.

(2) Where the decree is executed against such legal representative, he shall be liable only to



the extent of the property of the deceased which has come to his hands and has not been duly disposed of; and, for the purpose of ascertaining such liability, the Court executing the decree may, of its own motion or on the application of the decree-holder, compel such legal representative to produce such accounts as it thinks fit.

X X X

52. Enforcement of decree against legal representative.—(1) *Where a decree is passed against a party as the legal representative of a deceased person, and the decree is for the payment of money out of the property of the deceased, it may be executed by the attachment and sale of any such property.*

(2) *Where no such property remains in the possession of the judgment-debtor and he fails to satisfy the Court that he has duly applied such property of the deceased as is proved to have come into his possession, the decree may be executed against the judgment-debtor to the extent of the property in respect of which he has failed so to satisfy the Court in the same manner as if the decree had been against him personally.”*



14. As per the above provision, the legal representatives of deceased debtor can be made liable for the debts of the deceased, but only to the extent of the property (assets) they have inherited and has not been duly disposed of. In other words, the liability is not personal but is strictly confined to the property inherited by them. The Hindu Succession (Amendment) Act, 2005 protects the personal self-acquired property. A creditor cannot touch upon the salary, house of the legal representatives for discharge of the father's debt. They can only touch what has been received from his father in estate. Meaning to say, 'if a person inherits and holds the property in trust for the deceased creditors until the debts are discharged; and therefore, the legal representatives cannot be absolved if they are sitting on the deceased assets.'

15. The expression 'estate inherited' or 'property of the deceased' includes both movable and immovable properties left behind by the deceased, such as land,



house, bank deposits and other assets, including service benefits, if any, devolving upon the legal representative. Therefore, it is established that the legal representatives have succeeded to the estate of the deceased and they are liable to satisfy the debt, but only to the extent of such inherited estate. Thus, the legal position that emerges is that when the doctrine of pious obligation is no longer enforceable, the creditor is not left remediless. Recovery can still be effected against the estate of the deceased in the hands of legal representatives, provided it is proved that such estate had devolved upon them. Accordingly, the substantial question of law is answered in favour of the appellant and this Court pass the following:

ORDER

- i. The regular second appeal is ***allowed***.
- ii. The judgment and decree dated 03.01.2018 passed in R.A.No.12/2016 on the file of the Principal Senior Civil Judge and JMFC, Hunsur is ***set aside***.



- iii. The judgment and decree dated 29.10.2015 passed in O.S. No.128/2011 on the file of the Civil Judge and JMFC, Hunsur is restored and ***confirmed.***

Sd/-

JUSTICE K.S. HEMALEKHA