



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE R. NATARAJ

REGULAR FIRST APPEAL NO. 432 OF 2026 (PAR)

BETWEEN:

SMT. SUMA M REDDY,
W/O. SOMASHEKAR REDDY,
D/O. A. MUNIRAJAREDDY,
AGED ABOUT 43 YEARS,
R/AT. NO.14, 7TH MAIN ROAD,
BTM 2ND STAGE, N.S. PALYA,
BANNERGHATTA ROAD,
BENGALURU -560 076

...APPELLANT

(BY SRI. PRAKASH TIMMANNA HEBBAR, ADVOCATE)

AND:

1. SRI. A. MUNIRAJA REDDY,
S/O. ANNAIAH REDDY,
AGED ABOUT 66 YEARS

2. SRI. M. SRIKANTH,
S/O. A. MUNIRAJA REDDY,
AGED ABOUT 39 YEARS

DEFENDANTS NO.1 AND 2 ARE
R/AT. NO.79, TEMPLE STREET,
DODDANAGAMANGALA VILLAGE,
ELECTRONIC CITY POST,
BENGALURU-560 100

3. SMT. PAVULURI LAXMI BHAVANI,
W/O. N. SWAMY DAMACHERLA,
AGED ABOUT 36 YEARS,
R/AT. FLAT NO. 305,
SAI SREENIVASA SHINE,

Digitally
signed by
HEMALATHA
J
Location:
HIGH COURT
OF
KARNATAKA



9TH CROSS, ANATHNAGAR, PHASE II,
ELECTRONIC CITY PHASE II,
BENGALURU-560 100

4. SMT. C. NEELIMA,
W/O. SRI. C. VENKATA SESHIAIAH,
AGED ABOUT 41 YEARS,
R/AT. NO.15-621, PRT STREET,
NEAR RAGHAVENDRA SWAMY TEMPLE,
DHARAMAVARAM,
ANANTHAPURA DISTRICT,
ANDHRA PRADESH-515671
5. SRI. CHINTA BHUVANASHANKAR DAS,
S/O. CHINTA VENKATADA,
AGED ABOUT 33 YEARS,
R/AT. NO. 15-620, PRT STREET,
WARD-15, DHARAMAVARAM,
ANANTHAPURA DISTRICT,
ANDHRA PRADESH-515671
6. SRI. CHINTA PRAVEEN DAS,
S/O. SRI. CHINTA VENKATADAS,
AGED ABOUT 32 YEARS,
R/AT. NO.15-620, PRT STREET,
WARD-15, DHARAMAVARAM,
ANANTHAPURA DISTRICT,
ANDHRA PRADESH-515671
7. SRI. SRIKUMAR ANAMALA,
S/O. LATE A CHANDRA BABU,
AGED ABOUT 40 YEARS,
R/AT NO.1-63, PAIDIPALLI VILLAGE,
SANAMBATALA POST, TIRUPATHI ROAD,
CHITTOOR DISTRICT,
ANDHRA PRADESH-517505
8. SRI. SARAVANAN PAYANI,
S/O. LATE A. PAYANI,
AGED ABOUT 48 YEARS,
R/AT. NO.8-12, SATHYANARAYANA PURAM,
RAJIV NAGAR, TIRUPATHI (URBAN),
CHITTOOR DISTRICT-517501



9. SRI. P. BALAJI,
S/O. LATE A. PAYANI,
AGED ABOUT 44 YEARS,
R/AT. NO. 8-12, SATHYANARAYANA PURAM,
RAJIV NAGAR, TIRUPATHI (URBAN),
CHITTOOR DISTRICT-517501
10. SRI. V. SANKAR,
S/O. SRI. VEERAPATHIRAM,
AGED ABOUT 56 YEARS,
R/AT. NO.184/A, CHITTUR MAIN ROAD,
ASWARAVANTHAPURAM, ERUMBI POST,
PALLIPATTU, TIRVALLUR,
TAMILNADU - 6313021
11. SRI. NULU SUBRAMANYAM,
S/O. NULU VENKATARAMAIAH,
AGED ABOUT 54 YEARS,
R/AT. NO.6-63, NADIMPALLI,
ROMPICHERLA MANDALAM,
PEDDAMALLELA GRAMAM, CHITTOOR,
ANDHRA PRADESH - 517 192
12. SRI. H. MOHAN RAO,
S/O. LATE S. HANUMATHA RAO,
AGED ABOUT 48 YEARS,
R/AT. NO.17/18, EARAMMA LAYOUT,
ADUGODI POST, BANNERGHATTA ROAD,
BENGALURU - 560 030

...RESPONDENTS

(BY SRI. S. SREEVATSA, SENIOR ADVOCATE FOR SRI. GOUTHAM M.,
ADVOCATE FOR CAVEATORS/RESPONDENT NOS.1 AND 2)

THIS RFA IS FILED UNDER SECTION 96 OF CPC., AGAINST
THE ORDER DATED 02.12.2025 PASSED ON I.A.NO.V IN OS
NO.2010/2022 ON THE FILE OF I ADDITIONAL SENIOR CIVIL JUDGE,
BENGALURU RURAL DISTRICT, BENGALURU, ALLOWING I.A.NO. V
FILED UNDER SECTION VII RULE 11(a) AND (d) R/W SEC.151 OF
CPC FOR REJECTION OF PLAINT.



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

CORAM: HON'BLE MR. JUSTICE R. NATARAJ

ORAL JUDGMENT

This appeal is filed by the plaintiff under Section 96 of the Code of Civil Procedure, 1908 (henceforth referred to as 'CPC') challenging an order dated 02.12.2025 passed by the I Additional Senior Civil Judge, Bengaluru Rural District, Bengaluru (henceforth referred to as 'Trial Court') in O.S.No.2010/2022 by which, the plaint filed by her was rejected under Order VII Rule 11(a) and (d) read with Section 151 of CPC.

2. The suit in O.S.No.2010/2022 was filed for partition and separate possession of the plaintiff's 1/3rd share in the suit properties and for a declaration that the sale deeds dated 12.05.2022 and 02.06.2012 are not binding on her share in the suit properties and for an enquiry regarding mesne profits.

3. The plaintiff claimed that she is the daughter of defendant No.1 and elder sister of defendant No.2. She claimed that the defendant No.1 is the kartha of the family and



defendant Nos.1 and 2 are in possession of the suit properties. She claimed that she, defendant Nos.1 and 2 are the legal heirs of late Sri. Annaiah Reddy and all the suit properties belonged to Sri. Annaiah Reddy, who had five sons namely, Sri. A. Narayana Reddy, Sri. A. Muniswami Reddy, Sri. A. Venkataswami Reddy, Sri. A. Ramareddy and Sri. A. Muniraja Reddy. She claimed that the sons of late Sri. Annaiah Reddy had partitioned the then existing joint family properties in terms of a partition deed dated 03.05.2006 in terms of which, nine items of properties fell to the share of defendant No.1. She claimed that aforesaid nine items were the properties of the joint family where she, defendant Nos.1 and 2 had an equal share. She claimed that she approached the defendant Nos.1 and 2 to effect the partition but they postponed the issue on one or the other ground. She therefore, caused a notice on 27.07.2022, which was not replied by the defendant Nos.1 and 2 and they did not partition the properties. She claimed that the defendant Nos.1 and 2 along with the grandchildren of defendant No.1 sold the land in Sy.No.40/4, measuring 20 guntas situate at Doddanagamangala village to defendant Nos.3 to 11 on 12.05.2022 without her notice, knowledge and



consent. Thereafter, the defendant Nos.1 and 2 sold the land in Sy.No.22/2 measuring 6½ guntas situate at Naganathapura village in favour of defendant No.12 on 02.06.2012 without her notice, knowledge and consent. She therefore, claimed that the above sale deeds do not bind her share in the properties conveyed and consequently, sought for the above mentioned reliefs.

4. The suit was contested by the defendants. Later, an application (I.A.No.V) was filed by the defendant Nos.1 and 2 under Order VII Rule 11(a) and (d) read with Section 151 of CPC to reject the plaint. They contended in the affidavit accompanying the application that there was no cause of action for the suit and that it was barred under Section 8 of the Hindu Succession Act, 1956. They also contended that the plaintiff admitted that there was a partition amongst the children of late Annaiah Reddy on 03.05.2006 in terms of which, the defendant No.1 derived nine items of the properties. It was contended that item No.1 of the schedule of the partition deed dated 03.05.2006 and the item No.1 mentioned in the plaint schedule were different. They contended that item No.1 of 'E' schedule mentioned in the partition deed dated 03.05.2006 was acquired



by the defendant No.1 and he had gifted the same to the plaintiff vide gift deed dated 02.12.2021, which was suppressed by her. They contended that the suit item No.1 was not available for partition since it was purchased by the defendant No.2. They contended that the plaintiff can claim a share in the properties of the defendant No.1 only after his death as he had succeeded to the properties in his individual capacity and not as a kartha of the family. They therefore, contended that the suit properties were the self-acquisition of the defendant No.1. They also contended that by virtue of Section 8 of Hindu Succession Act, 1956 and the judgment of this Court in ***Mrs. Mallika and others vs. Mr. Chandrappa and others [ILR 2007 KAR 3216]***, the plaintiff has no right to seek for partition in the suit properties. Therefore, they claimed that there was no cause of action for the plaintiff to sue and the suit was barred under Section 8 of the Hindu Succession Act, 1956, as the father is still alive.

5. This application was opposed by the plaintiff, who contended that the defendant Nos.1 and 2 had filed the application on 28.01.2025 after the suit was listed for the evidence of the plaintiff. She contended that the plaint



sufficiently discloses the cause of action for the suit. She also claimed that though the gift deed was executed in her favour, the defendant Nos.1 and 2, mother and sister-in-law of the plaintiff were earning Rs.39,00,000/- per year. She also claimed that the defendant No.1 had executed a Memorandum of Understanding in favour of People Education Society and that it had agreed to pay rent of Rs.39,00,000/- per year and defendant Nos.1 and 2 had received a sum of Rs.90,00,000/- as advance. With these contentions, she contended that the application for rejection of the plaint is not maintainable.

6. Based on these contentions, the Trial Court passed the impugned order rejecting the plaint primarily on the ground that after the defendant No.1 derived the suit properties at the partition deed dated 03.05.2006, the suit properties became his separate properties and the plaintiff could seek partition only after the death of the defendant No.1, if he died intestate. It also held that *"It is not the case of the plaintiff that after the partition, both the plaintiff and defendants have constituted a joint family and all the properties including the properties acquired by the defendant No.1 under the partition were not*



brought into the common hotchpotch and therefore, the plaintiff is entitled for the share."

7. Being aggrieved by the said order, the plaintiff is before this Court.

8. The learned counsel for the plaintiff contended that the defendant Nos.1 and 2 did not dispute that the properties of the joint family were divided amongst the members of the larger undivided family in terms of a partition deed dated 03.05.2006. He contends that as per this partition, suit properties fell to the share of the defendant No.1 as the kartha of a smaller joint family comprised of the plaintiff and defendant Nos.1 and 2. He therefore, contended that the plaintiff is entitled to sue for partition as a coparcener and therefore, the Trial Court committed an error in applying Section 8 of the Hindu Succession Act, 1956. He contended that the plaint could not be rejected on the ground that the suit properties became the absolute properties of the defendant No.1. He contends that the defendant No.1 received the suit properties as the share of the joint family comprised of the plaintiff and defendant Nos.1 and 2, as by the time the partition



deed dated 03.05.2006 was executed, the plaintiff and defendant No.2 were already born and therefore, they had an undivided interest in the suit properties. He therefore, contended that the impugned order passed by the Trial Court is manifestly erroneous and is liable to be set aside.

9. Per contra, learned Senior counsel for the defendant Nos.1 and 2 submitted that the partition deed dated 03.05.2006 was entered into in respect of the properties owned and possessed by the father of the defendant No.1. He therefore, contended that the defendant No.1 received the suit properties in his individual capacity and not as a kartha of the joint family. He contends that the plaintiff did not plead that the suit properties were received by the defendant No.1 as the kartha of the joint family and therefore, she is entitled to a share. Thus, he contends that the impugned order passed by the Trial Court is just and proper, as the plaintiff is not entitled to make a claim during the lifetime of defendant No.1. He therefore, prays that this appeal be dismissed by upholding the order passed by the Trial Court.



10. I have considered the submissions of the learned counsel for the plaintiff as well as the learned Senior counsel for the defendant Nos.1 and 2.

11. The learned Senior counsel for defendant Nos.1 and 2 did not dispute that nine items of properties fell to the share of defendant No.1 at a partition dated 03.05.2006 between him and his brothers. It is not the case of the defendant Nos.1 and 2 that at the time when the partition deed dated 03.05.2006 was entered into, the father of defendant No.1 was alive and/or that he had left behind a testament defining the way in which the properties will have to be divided after his death. By the time the partition deed dated 03.05.2006 was entered into, the plaintiff and defendant No.2 were already born which meant that they too were entitled to an undivided interest in the properties. The Trial Court misdirected itself in holding that the properties derived by the defendant No.1 at a partition dated 03.05.2006 was in his individual capacity and that the plaintiff could not demand a share in his share during the lifetime of defendant No.1. This is a palpably erroneous finding recorded by the Trial Court, which deserves to be deprecated.



12. In that view of the matter, the following order is passed:-

ORDER

- (i) The appeal is ***allowed.***
- (ii) The impugned order dated 02.12.2025 passed by the I Additional Senior Civil Judge, Bengaluru Rural District, Bengaluru in O.S.No.2010/2022 is set aside. The application (I.A.No.V) filed by the defendant Nos.1 and 2 under Order VII Rule 11(a) and (d) read with Section 151 of CPC is rejected. The suit filed by the plaintiff is restored to file.
- (iii) Parties are directed to appear before the Trial Court on **24.04.2026.**
- (iv) It is made clear that any observations made in this judgment shall not come in the way of the defendant Nos.1 and 2 raising any defences in accordance with law and in the Trial Court considering those defences.



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- (v) In view of disposal of the appeal, pending I.As., if any, do not survive for consideration and the same stand disposed off.

Sd/-
(R. NATARAJ)
JUDGE

PMR
List No.: 1 Sl No.: 37