



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. 931 OF 2024 (PAR/POS)

BETWEEN:

KUMARI SHILPA G.G.
(UNMARRIED)
D/O LATE GOVINDAIAH,
AGED ABOUT 39 YEARS,
NO.8, 4TH FLOOR, 6TH CROSS,
VIDYARANYAPUR,
BENGALURU-560097

...APPELLANT

(MISS. SHILPA G.G., PARTY-IN-PERSON)

AND:

1. SMT. GOWRAMMA
AGED ABOUT 76 YEARS,
(APPELLANT MOTHER)
W/O LATE GOVINDAIAH,
GARGESHWARAPURA VILLAGE,
SOLUR HOBLI, MAGADI TALUK,
RAMANAGARA DISTRICT,
RAMANAGARA-562127.
2. MR. HANUMANTHARAJU G.G.
(DIVORCEE)
AGED ABOUT 56 YEARS,
(APPELLANT BROTHER)
S/O LATE GOVINDAIAH,
GARGESHWARAPURA VILLAGE,
SOLUR HOBLI, MAGADI TALUK,
RAMANAGARA DISTRICT,
RAMANAGARA-562127.
3. MR. VENKATACHALA MURTHY G.G.,
(MARRIED),





AGED ABOUT 44 YEARS,
(APPELLANT BROTHER)
S/O LATE GOVINDAIAH,
RESIDING IN VIDYARANYAPURA,
BENGALURU-560097.

4. MR. GOVINDARAJU G.G.
(MARRIED),
AGED ABOUT 41 YEARS,
(APPELLANT BROTHER)
S/O LATE GOVINDAIAH,
NO.125, 13TH A MAIN,
MATHIKERE, BENGALURU-560054.
5. SMT. HANUMA NARASAMMA
AGED ABOUT 65 YEARS,
(PURCHASER DODDAIAH WIFE)
W/O LATE DODDAIAH,
GARGESHWARAPURA VILLAGE,
MAGADI TALUK SOLUR HOBLI,
RAMANAGARA DISTRICT-562127,
RAMANAGARA.

...RESPONDENTS

(BY SRI. S.G.LOKESH, ADVOCATE FOR RESPONDENT NO.5;
NOTICE SERVED ON RESPONDENT NOS.1 TO 4)

THIS RFA IS FILED UNDER SECTION 96 OF CPC, AGAINST THE
ORDER DATED 07.03.2023 PASSED IN OS NO. 01/2016 ON THE FILE
OF THE SENIOR CIVIL JUDGE AND MAGADI, PARTLY DECREETING THE
SUIT FOR PARTITION AND SEPARATE POSSESSION.

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

CORAM: HON'BLE MR. JUSTICE R. NATARAJ



ORAL JUDGMENT

The plaintiff in O.S.No.1/2016 on the file of the Senior Civil Judge, Magadi (henceforth referred to as 'Trial Court') has filed this appeal challenging the judgment and decree dated 07.03.2023, by which the suit for partition was decreed in part in so far as item Nos.1, 3 to 6 and dismissed in so far as item No.2 is concerned.

2. The parties shall henceforth be referred to as they were arrayed before the Trial Court. The appellant was the plaintiff, while the respondents were the defendants before the Trial Court.

3. (i) The plaintiff is the daughter of defendant No.1 and Mr. Govindaiah. Defendant Nos.2 to 4 are the brothers of the plaintiff, while defendant No.5 is the beneficiary under a gift deed dated 30.03.2011 executed by her husband Mr. Doddaiiah, who had purchased the suit item No.2 from the plaintiff's father and defendant Nos.3 and 4 in terms of a sale deed dated 19.12.2003. The plaintiff claimed that the suit properties are ancestral and joint family properties. She claimed that her father died on 19.05.2014 leaving behind him his wife



(defendant No.1) and four children, who succeeded to the suit properties. She claimed that after the death of her father, she and the defendant Nos.1 to 4 continued to be in joint possession of the suit properties and that there was no partition of the suit properties. She claimed that she had equal share in the suit properties and that after the death of her father, defendant Nos.1 to 4 were managing the suit properties. Thereafter, she came to know that the defendant Nos.1 to 4 were mismanaging the suit properties and were misusing the suit schedule joint family income for their illegal activities. She claimed that defendant Nos.1 to 4 abused her and claimed that she has no right to question the management of the suit properties. The plaintiff therefore, demanded her share in the suit property on 01.05.2015, which was refused by the defendant Nos.1 to 4.

(ii) The plaintiff claimed that she is a spinster and residing in Bengaluru and taking advantage of her absence, defendant Nos.1 to 4 were attempting to alienate the suit properties. She alleged that she came to know that the suit item No.2 was sold to one Mr. Doddaiah by her father as well as defendant Nos.3 and 4 on 19.12.2003. Thereafter, the said



Mr. Doddaiiah gifted suit item No.2 to his wife (defendant No.5) in terms of a gift deed dated 30.03.2011. The plaintiff therefore, claimed that the said sale deed and gift deed do not bind her. Consequently, she sought for a partition and separate possession of her 1/4th share in the suit schedule properties and to declare that the sale deed dated 19.12.2003 executed by her father and defendant Nos.3 and 4 in favour of Mr. Doddaiiah and the gift deed dated 30.03.2011 executed by Mr. Doddaiiah in favour of defendant No.5, as not binding on her.

4. The suit was contested by the defendant No.5, who admitted that the suit item No.2 was conveyed to her husband Mr. Doddaiiah and that he executed a gift deed dated 30.03.2011. She claimed that the plaintiff was aware of these transactions and therefore, she is not entitled to any share in suit item No.2. She also claimed that the revenue records of suit item No.2 were transferred to her name and that she had raised mango garden in the said suit property. With these and similar other contentions, she contended that the plaintiff is not entitled for a share in the suit item No.2.



5. Based on these contentions, the Trial Court framed the following issues:-

- (i) *Whether the plaintiff prove that she and the defendants 1 to 4 are the joint family members and the suit schedule properties are their joint family properties and they are in joint possession?*
- (ii) *Whether the plaintiff prove that the sale deed dated 19.12.2003 and the gift deed dated 30.03.2011 are not binding on the rights of the plaintiff?*
- (iii) *Whether the plaintiff is entitle for partition and separate possession of her 1/4th share in the suit schedule properties?*
- (iv) *Whether the plaintiff prove that she is in possession of the suit schedule properties and the defendants are attempting to interfere with the said possession?*
- (v) *Whether the plaintiff is entitle for the relief sought for in this suit?*
- (vi) *To what order or decree?*



6. The plaintiff was examined as PW.1 and she marked Exs.P1 to P12, of which Ex.P1 was the gift deed dated 30.03.2011, while Ex.P2 was the sale deed dated 19.12.2003, Exs.P3 to P6 were the mutation register extracts, Exs.P7 to P11 were the RTCs of the suit schedule properties, Ex.P12 was the family tree. She examined a witness as PW.2, who deposed about the properties being held by the family. The special power of attorney of defendant No.5 was examined as DW.1 and he marked Exs.D1 to D4. A witness was also examined as DW.2, who spoke about the possession of the defendant No.5 in the suit item No.2.

7. Based on the oral and documentary evidence, the Trial Court held that the plaintiff had proved that she is entitled to a share in suit item Nos.1, 3 to 6. However, in so far as suit item No.2 is concerned, it held that the suit property was sold by the father of the plaintiff and her brothers for family necessities on 19.12.2003, which was prior to the Hindu Succession (Amendment) Act, 2005, coming into force. It therefore, held that the plaintiff is not entitled to a share in the suit item No.2 and thus, decreed the suit in part and declared that the plaintiff is entitled to 1/5th share in suit item Nos.1, 3



to 6 and dismissed the suit in so far as suit item No.2 is concerned.

8. Being aggrieved by the said judgment and decree, the plaintiff is before this Court in this appeal.

9. The plaintiff, who has appeared in person, submitted that she is an unmarried daughter and therefore, she has to be considered as a separate and distinct person and must be treated on par with a son and that she is entitled to claim a share in the suit item No.2 notwithstanding the sale deed dated 19.02.2003 brought about by her father and brothers. She also contends that the Hindu Succession (Amendment) Act, 2005 brought in gender equality by treating a son and daughter on par in so far as it relates to succession to properties. She therefore, contends that she is entitled to a share in the suit item No.2 notwithstanding the sale deed dated 19.02.2003 executed by her father and her brothers. She also contends that the Hindu Succession (Karnataka) (Amendment) Act, 1994 had recognized the right of a daughter to claim partition and that she is entitled to a share in the suit properties applying Hindu Succession (Karnataka)



(Amendment) Act, 1994. She also submits that depriving her share in the suit item No.2 would be denying her right to equal share in the suit properties and would amount to discrimination between the son and daughter and thereby violates Article 14 of the Constitution of India. She also contends that the sale deed dated 19.12.2003 is *ex-facie* fraudulent in as much as the suit item No.2 is sold for a sum of Rs.1,42,000/-, which was far less than the market value. Hence, she contends that the sale deed dated 19.12.2003 is unconscionable and is designed only to deprive the claim of the plaintiff in the suit item No.2.

10. Per contra, learned counsel for the defendant No.5 submitted that the husband of defendant No.5 had purchased the suit item No.2 from the plaintiff's father and her brothers on 19.12.2003, at which point in time, the plaintiff did not have a share in the suit property. He therefore, contends that the Trial Court has rightly held that the plaintiff is not entitled to share in the suit item No.2 in view of proviso to Section 6(4) of Hindu Succession (Amendment) Act, 2005. He therefore, submits that there is no error committed by the Trial Court warranting interference.



11. I have considered the submissions of the plaintiff as well as the learned counsel for the defendant No.5.

12. The only point that arises for consideration in this appeal is,

"Whether the plaintiff is entitled for a share in the suit item No.2 which was sold on 19.12.2003 by the plaintiff's father and her brothers?"

13. The fact that the suit item No.2 was sold by the father of the plaintiff and her brothers was known to the plaintiff, is evident from the averments made in the plaint, where she states as follows:-

"The plaintiff has obtained the RTCs and other title deeds relating to the suit schedule properties. It has come to the knowledge of the plaintiff that one of the suit schedule properties bearing Sy.No.49/1 was sold to one Mr. Doddaiiah by the plaintiff's father, the 3rd and the 4th defendant on 19.12.2003."

14. The Hindu Succession (Amendment) Act, 2005, recognizes the right of daughters to equal share in ancestral properties like a son, but subject to certain conditions set out in



proviso (b) to Section 6(4) of the Hindu Succession (Amendment) Act, 2005 which reads as follows:-

"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) xxxx

(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."

15. The reason for prescribing a cut off date is to protect lawful alienation made by members of the family and to protect the purchasers of such properties. Therefore, the contention of the plaintiff that she is unmarried daughter and that she should be granted a share in the suit item No.2 notwithstanding the sale deed dated 19.12.2003, cannot be accepted. The contention urged by the plaintiff is no longer *res integra* in view of the judgment of the Hon'ble Apex Court in



the case of ***Vineeta Sharma vs. Rakesh Sharma and others*** [(2020) 9 SCC 1]. Therefore, this Court does not see any error in the judgment and decree passed by the Trial Court, denying a share in suit item No.2, warranting interference in this appeal.

16. Hence, the appeal lacks merit and is ***dismissed***.

Sd/-
(R. NATARAJ)
JUDGE