



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13TH DAY OF OCTOBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

CIVIL REVISION PETITION No.282 OF 2025 (IO)

BETWEEN:

SMT. N MEENA
D/O BHASKAR
AGED ABOUT 42 YEARS,
R/O JANNGATTA VILLAGE,
SUGATUR HOBLI, TQ AND DISTRICT
KOLAR-563 101

...PETITIONER

(BY SRI PRAVEEN KUMAR RAIKOTE, ADVOCATE)

AND:

1. SMT V JAYAMMA
D/O H. VENKATAPPA
W/O LATE B.N. NAGABHUSAN
AGE ABOUT 72 YEARS
R/O MANAJLI VILLAGE, VEMGAL HOBLI,
TQ AND /DISTRICT KOLAR-563 101

H VENKATAPPA
SINCE DECEASED BY LRS

- 2A. SMT MUNIYAMMA
W/O LATE VENKATAPPA
AGE ABOUT 85 YEARS,
R/O MANJAL VILLAGE, VEMGAL HOBLI,
KOLAR TALUK AND DISTRICT-563101

...RESPONDENTS

(BY SRI RAMAKRISHNA HEGDE, ADVOCATE)

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Location:
HIGH
COURT OF
KARNATAKA



THIS CRP IS FILED UNDER SECTION 115 OF CIVIL PROCEDURE CODE AGAINST THE ORDER DATED 10.02.2025 PASSED ON I.A.No.9 IN O.S.No.70/2016 ON THE FILE OF THE I ADDITIONAL CIVIL JUDGE AND JMFC, KOLAR, DISMISSING THE I.A.No.9 FILED UNDER ORDER 7 RULE 11(d) R/W SECTION 151 OF CPC, FOR REJECTION OF PLAINT.

THIS PETITION, COMING ON FOR ADMISSION, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE V SRISHANANDA

ORAL ORDER

Heard Sri Praveen Kumar Raikote, learned counsel for the petitioner and Sri Hegde S. Ramakrishna, learned counsel for the contesting respondent.

2. Present Revision Petition is filed by the defendant No.2 challenging the order of dismissal of application filed under Order VII Rule 11(d) of the Code of Civil Procedure by considered Order dated 10.02.2025 passed in O.S No.70/2016 on the file of the I Additional Civil Judge and JMFC, Kolar.

3. Facts in the nutshell for the disposal of the present revision petition are as under:

A suit came to be filed by the first respondent in O.S No. 70/2016 with the following prayer:



"WHEREFORE, it is most humbly prayed that this Hon'ble Court may be pleased to pass Judgment and Decree in favour of the Plaintiff and against the Defendants;

a) To direct the defendant to effect the partition of ½ share to the plaintiff and direct the defendants to deliver the exclusive share to the plaintiff by metes and bounds.

b) To allow court costs.

c) To allow any other relief or reliefs which this Hon'ble Court deem fit and proper to grant in the facts and circumstances of the case.

SCHEDULE

All piece and parcel of the land bearing Sy.No.16, totally measuring 6-00 acres out of which 1 acre 20 guntas, situated at Sujjanahalli village, Vemgal hobli, Kolar taluk bounded on East by: Bettahosapura gadi, West by government road, North by: remaining land in same Sy.No.16, South by: remaining land in same Sy.No.16.

4. Plaintiff contended that first defendant H.Venkatappa is her father. Hanumanthappa, the grandfather of the plaintiff had four sons namely H. Venkatappa who is the first defendant, Munishamappa who is no more, Ramaiah and Narayanappa.



5. Hanumanthappa and his four sons namely Venkatappa, Munishamappa, Ramaiah and Narayanappa constituted a Hindu Joint Family. Venkatappa was the head of the family and was looking after the affairs of the joint family.

6. Hanumanthappa possessed ancestral property and out of the income derived from the ancestral properties, land in Sy.No.16 measuring 6 acres situated at Sujjanahally, Vemgal Hobli, Kolar Taluk, was acquired by the joint family, but in the name of H. Venkatappa.

7. Plaintiff further contended that first defendant-Venkatappa and his three brothers divided the suit land bearing No.16 into four shares through 'Panchayathi Vibhaga Pathra'. First defendant was allotted 1 acre 20 guntas as his share. But, katha of the property was not mutated in the individual names as per the partition.

8. It is further contended by the plaintiff that first defendant and plaintiff were in joint possession and enjoyment of the suit property as members of the Joint family insofar as



H.Venkatappa's Branch is concerned and was growing Neelgiri trees in the suit property.

9. It is also contented that trees were cut and removed by first defendant many times. Plaintiff being the co-sharer to the suit property, is entitled for her share in the suit property.

10. Having lost her husband, plaintiff is now residing in Manjali Village, Vemgal Hobli, Kolar Taluk, and defendant no. 1 is aged 101 years at the time of the filing of the suit.

11. Defendant No.1-H.Venkatappa obtained monetary help for his hospital expenses from plaintiff time and again. It is further contended by the plaintiff that to the utter surprise and dismay, plaintiff came to know that first defendant in collusion with second defendant, sold the suit property by sale deed dated 26.12.2003 without the knowledge and consent of the plaintiff.

12. She further contended that assuming for a moment that sale deed is valid, Venkatappa could only bind his share in the sale deed in favour of the second defendant and plaintiff's



share in the suit property could not have been sold in favour of the second defendant.

13. Upon the service of suit summons, second defendant entered appearance, filed written statement and also an application under Order VII Rule 11 of the Code of Civil Procedure seeking rejection of the plaint inasmuch as the plaintiff has no right whatsoever to seek for partition, by taking advantage of the amendment to the Hindu Succession Act in the year 2005, as the sale is earlier to the amendment.

14. First defendant died during the pendency of the suit and his legal representatives were brought on record.

15. Plaintiff filed objection to the application filed by the second defendant. Learned Trial Judge, after considering the rival contentions of the parties, by the impugned judgment dated 10.02.2025, dismissed the application on the ground that the amendment made to the Hindu Succession Act by the Karnataka Government would save the right of the plaintiff as she being the unmarried daughter as on the date of the sale.



16. The reasoning assigned by the learned Trial Judge at paragraphs 8 to 10, are culled out hereunder for ready reference:

"8. The first ground pleaded for rejection of plaint is existence of judgment and decree in O.S No.69/2013. Learned Counsel for defendant No.2 argued that even though the said judgment might not operate as res judicata, the findings given in such judgment are binding on the plaintiff who was defendant No.7 in such suit. In this connection he has tendered photo copy of the said judgment and decree. But upon eyeballing into it, it is found that plaintiff is not a party to it. Hon'ble Apex Court and various High Courts have time and gain held that, while considering application under Order 7 Rule 11 of CPC, the court must confine itself strictly to the averments of the plaint and cannot look into the external materials such as prior judgment, written statement or evidences from another suit. It is also trite law that a plaint cannot be rejected on the grounds on res judicata. Hence the first contention of defendant No.2 holds, no water.

9. The second ground for rejection of plaint is that the sale transactions in favour of defendant No.2 falls within the proviso to Section 6 of Hindu Succession Act (Amended) Act 2005.



10. It is a established fact that the Hindu Succession (Amendment) Act 2005, under Section 6 granted coparcenary rights to the daughters making them equal legal heirs as sons. However, in Karnataka, this type of right was already granted much earlier, under Hindu Succession (Karnataka Amended) Act 1994, which came into effect from 30-07-1994. Since the plaintiff is a daughter and suit schedule property is claimed to be ancestral, her claims fall within the preview of Hindu Succession (Karnataka Amended) Act 1994. Thus, the defence raised by defendant No.2 that plaintiff has no right as per the proviso of Section 6 of Hindu Succession Act is untenable. For these reasons this court has answered the point No.1 in negative."

17. The said reasoning and dismissal of the application is assailed in this Revision Petition on the following grounds:

- *"It is submitted that the court below has not consider that the suit is barred by the limitation Act as the sale deed is of the year 2003 and suit is field in the year 2016.*
- *It is submitted that court below has considered the Karnataka Hindu amendment and held the suit maintainable but however the Central Act over rides the Karnataka amendment and therefore the court below is in error in dismissing the application.*
- *It is submitted that the provisions of Section 6 of Hindu Succession Act as amended by the Parliament*



the suit is maintainable s there is registered deed before the Act came into force. Therefore, the court below is in error in not considering the Central amendment over the Karnataka Amendment.

- *It is submitted that the previous court judgement in OS 69/2013 it is said that Father of plaintiff has self-acquired property and not ancestral property of his and even though the plaintiff was not party but her father was party to suit and he has suffered the decree and plaintiff succeeds through her father and therefore this aspect of the matter is not considered by the court below."*

18. Sri Praveen Kumar Raikote, learned counsel for the petitioner reiterating the grounds urged in the Revision Petition vehemently contended that the reasoning assigned by the learned Trial Judge in paragraph 10 of the impugned order referred to *supra* would not stand for any logic whatsoever, inasmuch as, the amendment to Section 6 of the Hindu Succession Act would take away all other legislations which were in force and interpreting the amended provisions of the Hindu Succession Act would make it clear that, if alienation has taken place earlier to the coming into the force of the amendment by virtue of a registered document, such a



transaction could not be subject matter of a suit seeking right in respect of the property by taking the advantage of the amendment.

19. In that regard, Sri Praveen Kumar Raikote, learned counsel would rely on the judgment of the Hon'ble Apex Court in the case of ***Uma Devi and others vs. Anand Kumar and others*** reported in ***(2025)5 SCC 198***. The relevant paragraphs of the said judgment are culled out hereunder for any ready reference.

“11. The sole argument advanced by the respondent-plaintiffs is that the suit was only for partition, filed in the year 2023 and was within the limitation period as the limitation will be counted from the date of their knowledge of the sale deed. However, upon examining the pleadings before the trial court and the appellate court, it is evident that the plaintiff failed to address the crucial question of when they became aware of the registered sale deeds. If they had prior knowledge of the sale deeds, they failed to specify the exact date of such knowledge. Additionally, the pleadings suggest suppression of essential facts by the plaintiffs.

12. In the case at hand, partition took place way back in the year 1968, which is evident from the revenue record entries. The suit is filed in the year 2023 i.e. after a period of 55 years. Further, many of the family members had



executed registered sale deeds in the year 1978. These sale deeds have been attached, and on perusal it is observed that these were in fact registered sale deeds.

13. *A registered document provides a complete account of a transaction to any party interested in the property. This Court in Suraj Lamp & Industries (P) Ltd. (2) v. State of Haryana [Suraj Lamp & Industries (P) Ltd. (2) v. State of Haryana, (2012) 1 SCC 656 : (2012) 1 SCC (Civ) 351 : (2012) 169 Comp Cas 133 : (2012) 340 ITR 1] held as under : (SCC pp. 664-65, para 15)*

"15. ... '17. ... Registration of a document [when it is required by law to be, and has been effected by a registered instrument] [Ed. : Section 3 Explanation I TPA, reads as follows:"S. 3 Expln. I—Where any transaction relating to immovable property is required by law to be and has been effected by a registered instrument, any person acquiring such property or any part of, or share or interest in, such property shall be deemed to have notice of such instrument as from the date of registration...."(emphasis supplied)]] gives notice to the world that such a document has been executed.

18. Registration provides safety and security to transactions relating to immovable property, even if the document is lost or destroyed. It gives publicity and public exposure to documents thereby preventing forgeries and frauds in regard to transactions and execution of documents.



Registration provides information to people who may deal with a property, as to the nature and extent of the rights which persons may have, affecting that property. In other words, it enables people to find out whether any particular property with which they are concerned, has been subjected to any legal obligation or liability and who is or are the person(s) presently having right, title, and interest in the property. It gives solemnity of form and perpetuate documents which are of legal importance or relevance by recording them, where people may see the record and enquire and ascertain what the particulars are and as far as land is concerned what obligations exist with regard to them. It ensures that every person dealing with immovable property can rely with confidence upon the statements contained in the registers (maintained under the said Act) as a full and complete account of all transactions by which the title to the property may be affected and secure extracts/copies duly certified.’ [Ed. : As observed in Suraj Lamp & Industries (P) Ltd. (1) v. State of Haryana, (2009) 7 SCC 363, pp. 367-68, paras 17-18.] ”

14. *Applying this settled principle of law, it can safely be assumed that the predecessors of the plaintiffs had notice of the registered sale deeds (executed in 1978), flowing from the partition that took place way back in 1968, by virtue of them being registered documents. In the*



lifetime of Mangalamma, these sale deeds have not been challenged, neither has partition been sought. Thus, the suit (filed in the year 2023) of the plaintiffs was prima facie barred by law. The plaintiffs cannot reignite their rights after sleeping on them for 45 years.

15. *The learned Senior Counsel for the appellant-defendants, Mr Sundaram, relied upon the decision of this Court in Shri Mukund Bhavan Trust v. Chhatrapati Udayan Raje Pratapsinh Maharaj Bhonsle [Shri Mukund Bhavan Trust v. Chhatrapati Udayan Raje Pratapsinh Maharaj Bhonsle, (2024) 15 SCC 675 : 2024 SCC OnLine SC 3844] to substantiate the contention that the suit was barred by limitation. It was observed as follows : (SCC paras 22 & 25)*

"22. When a portion of the property has been conveyed by court auction and registered in the first instance and when another portion has been conveyed by a registered sale deed in 1952, there is a constructive notice from the date of registration and the presumption under Section 3 of the Transfer of Property Act, comes into operation. The possession, in the present case, also has been rested with the appellant before several decades, which operates as notice of title.

...

*23.-24. ****

25. Continuing further with the plea of limitation, the Courts below have held that the question of the suit being barred by limitation can



HC-KAR

NC: 2025:KHC:40432
CRP No. 282 of 2025

be decided at the time of trial as the question of limitation is a mixed question of law and facts. Though the question of limitation generally is mixed question of law and facts, when upon meaningful reading of the plaint, the court can come to a conclusion that under the given circumstances, after dissecting the vices of clever drafting creating an illusion of cause of action, the suit is hopelessly barred and the plaint can be rejected under Order 7 Rule 11."

16. *In Madanuri Sri Rama Chandra Murthy v. Syed Jalal [Madanuri Sri Rama Chandra Murthy v. Syed Jalal, (2017) 13 SCC 174 : (2017) 5 SCC (Civ) 602] , this Court laid down the scope of Order 7 Rule 11 CPC : (SCC pp. 178-79, para 7)*

"7. The plaint can be rejected under Order 7 Rule 11 if conditions enumerated in the said provision are fulfilled. It is needless to observe that the power under Order 7 Rule 11 CPC can be exercised by the Court at any stage of the suit. The relevant facts which need to be looked into for deciding the application are the averments of the plaint only. If on an entire and meaningful reading of the plaint, it is found that the suit is manifestly vexatious and meritless in the sense of not disclosing any right to sue, the court should exercise power under Order 7 Rule 11 CPC. Since the power conferred on the Court to terminate civil action at the threshold is drastic, the conditions



enumerated under Order 7 Rule 11 CPC to the exercise of power of rejection of plaint have to be strictly adhered to. The averments of the plaint have to be read as a whole to find out whether the averments disclose a cause of action or whether the suit is barred by any law. It is needless to observe that the question as to whether the suit is barred by any law, would always depend upon the facts and circumstances of each case. The averments in the written statement as well as the contentions of the defendant are wholly immaterial while considering the prayer of the defendant for rejection of the plaint. Even when the allegations made in the plaint are taken to be correct as a whole on their face value, if they show that the suit is barred by any law, or do not disclose cause of action, the application for rejection of plaint can be entertained and the power under Order 7 Rule 11 CPC can be exercised. If clever drafting of the plaint has created the illusion of a cause of action, the court will nip it in the bud at the earliest so that bogus litigation will end at the earlier stage."

17. *In Dahiben v. Arvindbhai Kalyanji Bhanusali* [Dahiben v. Arvindbhai Kalyanji Bhanusali, (2020) 7 SCC 366 : (2020) 4 SCC (Civ) 128] , it is stated as under : (SCC p. 377, para 23)

"23. ... 23.3. The underlying object of Order 7 Rule 11(a) is that if in a suit, no cause of action is disclosed, or the suit is barred by limitation under



Rule 11(d), the Court would not permit the plaintiff to unnecessarily protract the proceedings in the suit. In such a case, it would be necessary to put an end to the sham litigation, so that further judicial time is not wasted."

20. *Per contra*, Sri Ramakrishna Hegde, learned counsel for the respondents supports the impugned Order.

21. He would contend that in view of the authoritative pronouncement of the Hon'ble Apex Court in the case of ***Vineeta Sharma vs. Rakesh Sharma*** reported in **(2020)9 SCC 1**, issues raised in the application seeking for rejection of the plaint is rightly rejected, though not in happy words by the learned Trial Judge in the impugned order.

22. Insofar as the decision in the ***Umadevi's*** case is concerned, in the said case, sale deed is of the year 1968 was questioned in the year 2023 and therefore, Their Lordships had to take a view that such an belated suit would by taking advantage of the Amendment Act is *per se* frivolous and therefore upheld the rejection of the plaint. On facts, the decision of Umadevi can be distinguished in the case on hand.



23. Having heard the arguments of both sides, this Court perused the material on record meticulously.

24. On such perusal of the material on record, it is crystal clear that Venkatappa-first defendant held the share in the suit property for and on behalf of the joint family of his branch.

25. Therefore, it cannot be construed that first defendant had every right to alienate the property in favour of the second defendant though the sale deed is earlier to the amendment to Section 6 of the Hindu Succession Act.

26. Further, whether at all the sale deed of the second defendant would be saved in view of the proviso to Section 6 of the Hindu Succession Act, is a matter of evidence that can be looked into before the Trial Court after holding a detailed enquiry.

27. Therefore, even assuming that alienation has taken place earlier to amendment to Hindu Succession Act following the dictum of the Hon'ble Apex Court in the case of ***Vineeta Sharma*** *supra*, an adjudication has to take place whether the sale deed in favour of second defendant by the first defendant



could be saved by resorting to the proviso to paragraph 6 of the said Act.

28. Thus, matter requires recording of evidence. Therefore the plaint could not have been rejected at the threshold. Therefore dismissal of the application seeking rejection of the plaint by the Trial Court needs to be upheld, though reasons assigned in the impugned Order are not satisfactory for rejection of the application.

29. Accordingly following:

ORDER

(i) Revision Petition is ***dismissed***. Parties are at liberty to canvas.

(ii) Parties are at liberty to canvass all favourable points in the pending trial, uninfluenced by the order of rejection of the plaint or rejection of the present Revision Petition.

Sd/-
(V SRISHANANDA)
JUDGE

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List No.: 2 Sl No.: 45