



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF MARCH, 2026

PRESENT

THE HON'BLE MR. JUSTICE D K SINGH

AND

THE HON'BLE MR. JUSTICE T.M.NADAF

REGULAR FIRST APPEAL NO. 295 OF 2018 (PAR/DEC)

BETWEEN:

1. SMT RATHNAMMA
D/O LATE NARAYANAPPA
W/O B.M. MUNIYAPPA
3RD CROS, NEAR BUS STOP,
VARTHUR POST,
BANGALORE 560 087.

...APPELLANT

(BY SRI. KIRAN GOWDA.M, ADVOCATE FOR
SRI. R S PRASANNA KUMAR., ADVOCATE)

AND:

1. SMT MALLAMMA
W/O LATE NARAYANAPPA
AGED ABOUT 86 YEARS,
R/AT KOTURU VILLAGE
ANUGONDANAHALLI HOBI,
HOSAKOTE TALUK,
BANGALORE RURAL DISTRICT.
KARNATAKA-560067
2. SRI. MUNIRAJU
S/O LATE NARAYANAPPA
AGED ABOUT 59 YEARS,
R/AT KOTURU VILLAGE
ANUGONDANAHALLI HOBI,
HOSAKOTE TALUK,
BANGALORE RURAL DISTRICT.





KARNATAKA-560067

3. SMT. GOWRAMMA
D/O LATE NARAYANAPPA
3RD CROSS, NEAR BUS STOP,
VARTHUR POST, BANGALORE 560 087.
4. SRI. VENKATESH
S/O LATE NARAYANAPPA
AGED ABOUT 59 YEARS,
R/AT KOTURU VILLAGE
ANUGONDANAHALLI HOBI,
HOSAKOTE TALUK,
BANGALORE RURAL DISTRICT.
KARNATAKA-560067
5. SRI. ANIL KUMAR
S/O GOVINDARAJU AND LATE BHAGYAMMA
R/AT BILAKERI VILLAGE
ANGONDANAHALLI HOBLI,
HOSKOTE TALUK,
BANGALORE RURAL DISTRICT.
SINCE DEAD BY LR.,
- 5(a) GOVINDRAJU,
S/O LATE B.S.RAMAIAH,
AGED ABOUT 55 YEARS,
R/AT BELAKERI VILLAGE,
ANGONDANAHALLI HOBLI,
HOSAKOTE TALUK,
BANGALORE RURAL DISTRICT-560067.
6. SMT MEGHANA
D/O GOVINDARAJU AND LATE BHAGYAMMA
AGED ABOUT 21 YEARS,
R/AT BILAKERI VILLAGE,
ANUGONDANAHALLI HOBI,
HOSAKOTE TALUK,
BANGALORE RURAL DISTRICT.
KARNATAKA-560067



7. SRI. SANJEEV PATAK
S/O RAJESHWAR PATAK
R/AT KOTURU VILLAGE
ANUGONDANAHALLI HOBI,
HOSAKOTE TALUK,
BANGALORE RURAL DISTRICT.
KARNATAKA-560067
8. SRI. RAJU PATAK
S/O RAJESHWAR PATAK
AGED ABOUT 48 YEARS,
R/AT KOTURU VILLAGE
ANUGONDANAHALLI HOBI,
HOSAKOTE TALUK,
BANGALORE RURAL DISTRICT
KARNATAKA-560067
9. SRI. K. SUDHEER
S/O RAMACHANDAN PRASAD
AGED ABOUT 42 YEARS,
R/AT KOTURU VILLAGE
ANUGONDANAHALLI HOBI,
HOSAKOTE TALUK,
BANGALORE RURAL DISTRICT
KARNATAKA-560067
10. SMT SUBHALA SRIVATSAV
W/O A.K. SRIVATSAV
AGED ABOUT 47 YEARS,
R/AT KOTURU VILLAGE
ANUGONDANAHALLI HOBI,
HOSAKOTE TALUK,
BANGALORE RURAL DISTRICT
KARNATAKA-560067
11. SMT BABY SRIVATSAV
W/O ANIL KUMAR SRIVATSAV
AGED ABOUT 57 YEARS,
R/AT KOTURU VILLAGE
ANUGONDANAHALLI HOBI,
HOSAKOTE TALUK,



BANGALORE RURAL DISTRICT
KARNATAKA-560067

12. SMT. SUGUNA
W/O ANAND REDDY
AGED ABOUT 51 YEARS
R/AT KOTURU VILLAGE
ANUGONDANAHALLI HOBI,
HOSAKOTE TALUK,
BANGALORE RURAL DISTRICT
KARNATAKA-560067
13. SRI. B.N. SRIVATSAV
S/O BADARINARAYAN PRASAD
AGED ABOUT 52 YEARS,
R/AT KOTURU VILLAGE
ANUGONDANAHALLI HOBI,
HOSAKOTE TALUK,
BANGALORE RURAL DISTRICT
KARNATAKA-560067
14. SRI. ALOK KUMAR KAPUR
S/O VIJAY KUMAR KAPUR
AGED ABOUT 36 YEARS,
R/AT KOTURU VILLAGE
ANUGONDANAHALLI HOBI,
HOSAKOTE TALUK,
BANGALORE RURAL DISTRICT
KARNATAKA-560067
15. SRI RAJIW BABU @ RAJIW LOCHAN TIWARI
S/O LATE SHYAMMANANDTIWARI
AGED ABOUT 60 YEARS,
R/AT KOTURU VILLAGE
ANUGONDANAHALLI HOBI,
HOSAKOTE TALUK,
BANGALORE RURAL DISTRICT
KARNATAKA-560067
16. SRI. ARUN KUMAR
S/O LATE DURGA PRASAD



AGED ABOUT 48 YEARS,
R/AT KOTURU VILLAGE
ANUGONDANAHALLI HOBI,
HOSAKOTE TALUK,
BANGALORE RURAL DISTRICT
KARNATAKA-560067

17. SRI. VEJANIT DEVI
W/O MANOJ KUMAR CHAUDHARY@ MANJUNATH
AGED ABOUT 41 YEARS
R/AT KOTURU VILLAGE
ANUGONDANAHALLI HOBI,
HOSAKOTE TALUK,
BANGALORE RURAL DISTRICT
KARNATAKA-560067
18. SRI. SRINIVAS K
S/O KODANDARAMAIAH
RESIDING NEAR YELLAMMA TEMPLE
NALLURUHALLI VILLAGE
WHITEFIELD,
BANGALORE EAST TALUK,
BANGALORE 560 066.
19. SRI. OM PRAKASHTAKUR @ PRAKASH
S/O RAMADHARITAKUR
AGED ABOUT 40 YEARS
R A/T NO.161,
NEAR ANNAMA TEMPLE
KOTOORUVILALGE
MUTASANDRA POST
ANAGONDANAAHLLI HOBLI,
HOSKOTE TALUK,
BANGALORE RURAL DISTRICT.
20. SRI. RAJKISHOR SHARMA
S/O JAGADISHSHARMA @ JAGADISH
R/AT NO.161, NEAR ANNAMA TEMPLE
KOTOORU VILLAGE,
MUTASANDRA POST
ANAGONDANAHALLIHOBLI,



HOSKOTE TALUK,
BANGALORE RURAL DISTRICT.

21. SRI.K.GOPALA REDDY,
S/O LATE RAMAIAH REDDY,
AGED ABOUT 63 YEARS,
22. SRI. G.RAGHU RAMA REDDY,
S/O K GOPAL REDDY,
AGED ABOUT 33 YEARS,

BOTH R/AT RAGHURAM WOOD WORKS,
NEAR RAMA WOOD WORKS,
NEAR K.K.SCHOOL,
VARTHUR MAIN ROAD,
VARTHUR HOBLI,
VARTHUR, BENGALURU-560087

...RESPONDENTS

(BY SRI. RISHYAK.R.BHANAVERA., ADVOCATE FOR R21 AND
R22;
R5(a) ARE SERVED AND UNREPRESENTED;
VIDE ORDER DATED 09.02.2023, SERVICE OF NOTICE TO
R2, R3, R5-R20 IS DISPENSED WITH)

THIS RFA IS FILED UNDER SEC.96 OF CPC., AGAINST
THE ORDER DATED 25.10.2017 PASSED IN OS NO.949/2017
ON THE FILE OF THE I ADDL. SENIOR CIVIL JUDGE,
BANGALORE RURAL DISTRICT, BANGALORE, REJECTING THE
PLAINT.

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

CORAM: HON'BLE MR. JUSTICE D K SINGH
and
HON'BLE MR. JUSTICE T.M.NADAF



ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE D K SINGH)

The present regular first appeal has been filed under Section 96 r/w Order 41 Rule 1 of the Code of Civil Procedure (for short '**the CPC**'), impugning the order dated 25.10.2017 passed by the trial Court in O.S.No.949/2017.

2. The appellant was the plaintiff in Original Suit No. 949/2017. The defendants were the mother and brothers of the plaintiff, as well as the purchasers of the property in question, left behind by their father Narayanappa. The said Narayanappa died intestate on 07.05.2006 leaving behind his wife Smt. Mallamma-defendant No.1, his two sons Muniraju and Venkatesh, defendant Nos.2 and 4, and three daughters viz., Smt.Rathamma-the plaintiff, Smt.Gowramma-defendant No.3 and Smt.Bhagyamma. Smt.Bhagyamma died prior to filing of the suit and her two children are arrayed as defendant Nos.5 and 6 in the original suit. Late Narayanappa, the father of the plaintiff



and the defendant Nos.1 to 6 had acquired the suit schedule properties in land bearing Survey Nos.82/1 82/2 and 82/3, totally measuring 3 acres 3 guntas situated at Koturu Village of Hosakote Taluk, by way of succession from his father late Poojappa. The case of the plaintiff was that plaintiff and defendant Nos.1 to 6 were having undivided interest in the suit schedule properties. The defendant No.4 got executed a gift deed on 12.03.2004 with respect to the suit schedule properties from Narayanappa. It was further said that neither the gift deed nor the sale effected in respect of the suit schedule properties in favour of the defendants were binding on her and she was entitled for 1/4th share in the suit schedule properties.

3. During the pendency of the suit, the Court *suo motu* raised objection regarding the maintainability of the suit, as the Court was of the opinion that the suit was barred by the Proviso to Section 6(1) of the Hindu Succession



Amendment Act, 2005, and the following two points were framed for consideration by the trial Court:-

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| <p>"a. Whether the suit is maintainable, in view of the provisions of Hindu Succession Act, 1956 ?</p> |
| <p>b. What Order ?"</p> |

4. The trial Court, considering the provisions of Section 8 of the Hindu Succession Act, 1956 was of the opinion that after the death of Narayanappa's father, Narayanappa became the absolute owner of the suit schedule properties by virtue of provisions of Section 8 of the Hindu Succession Act, as the suit schedule properties were his self-acquired properties by way of succession and held that his sons and daughters would not have claim to partition of the said properties. Further during the lifetime of Narayanappa he had executed a gift deed dated 12.03.2004 in respect of the suit schedule properties in favour of one Son Venkatesh/the defendant No.4 and subsequently defendant No.4 had alienated different



portion of the suit schedule properties in favour of defendant Nos.7 to 19 under different sale deeds and thereafter, the defendant Nos.7 and 8 i.e., the purchasers of a portion of the suit properties have alienated the different portions of the suit schedule properties in favour of defendant No.20.

5. Considering the fact that Narayanappa had executed the gift deed prior to the coming into force amendment to Section 6(1) of the Hindu Succession Act and he had died on 07.05.2006, the trial Court has held that suit was not maintainable as the plaintiff would not have any right, title and interest that exist in respect of the suit schedule properties, and thus invoking the provisions of Order VII Rule 11(a) and (d) of the CPC, the trial Court rejected the plaint.

6. We have considered the submission of learned counsel for the parties.



7. We do not find that the trial Court has committed any error in rejecting the plaint inasmuch as the plaintiff does not have cause of action with respect to the suit schedule properties to seek partition.

8. In view thereof, we do not find that there is any ground to admit this regular first appeal. Therefore, we ***dismiss*** the appeal at the stage of admission itself.

9. In view dismissal of the appeal pending interlocutory applications, if any do not survive for consideration, hence stand disposed of.

**Sd/-
(D K SINGH)
JUDGE**

**Sd/-
(T.M.NADAF)
JUDGE**