



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF FEBRUARY, 2026

PRESENT

THE HON'BLE MR. JUSTICE D K SINGH

AND

THE HON'BLE MR. JUSTICE S RACHAIAH

REGULAR FIRST APPEAL NO. 1099 OF 2015 (PAR)

BETWEEN:

1. SRI KEMPARAJ A
AGED ABOUT 39 YEARS,
S/O SRI.ASHWATHAPPA,
RESIDING AT NO.155,
BILISHIVALE VILLAGE,
DODDAGUBBI POST,
BANGALORE EAST TALUK,
BANGALORE 560077
2. SRI SRINATH B.A
AGED ABOUT 34 YEARS,
S/O. SRI ASHWATHAPPA,
RESIDING AT NO.155,
BILISHIVALE VILLAGE,
DODDAGUBBI POST,
BANGALORE EAST TALUK,
BANGALORE 560077
3. SMT.SHAKUNTALA
AGED ABOUT 37 YEARS,
D/O SRI ASHWATHAPPA,
W/O. SRI NAGARAJ G.D
RESIDING AT NO.7,
S.M.GOLLAHALLI,
ARALALU MALLIGE POST,
KASABA HOBLI,





DODDABALLAPURA TALUK,
BANGALORE RURAL DISTRICT

4. SMT.ANASUYA
AGED ABOUT 36 YEARS,
D/O SRI ASHWATHAPPA,
W/O. SRI N.K MANJUNATH,
RESIDING AT NELAVAGILU VILLAGE
AND POST, NANDAGUDI HOBLI,
HOSKOTE TALUK,
BANGALORE RURAL DISTRICT

5. SMT. SAVITHA
AGED ABOUT 32 YEARS,
D/O SRI ASHWATHAPPA,
W/O SRI GANGADHAR,
RESIDING AT NO.85,
MARALUBAGILU STREET,
WARD NO.11,
DEVANAHALLI TOWN 562 110
DEVANAHALLI TALUK,
BANGALORE RURAL DISTRICT

...APPELLANTS

(BY SRI. T.SRINIVASAN., ADVOCATE)

AND:

1. SRI ASHWATHAPPA
AGED ABOUT 61 YEARS,
S/O SRI KEMPALAKKAPPA,
RESIDING AT
BILISHIVALE VILLAGE,
BIDARAHALLI HOBLI,
DODDAGUBBI POST,
BANGALORE EAST TALUK,
BANGALORE 560077
2. SRI G.LALANATHA REDDY @ G.L REDDY
AGED ABOUT 38 YEARS,
S/O B.N. GOVINDA REDDY,
RESIDING AT NO.1,



WHITE HOUSE,
BABUSABARAPALYA,
KALYANA NAGAR POST,
BANGALORE 560043

...RESPONDENTS

(R1 SERVED;
BY SRI. RAKESH.M.T., ADVOCATE FOR
SRI. M.V.CHANDRASHEKAR REDDY, ADVOCATE FOR R2)

THIS RFA IS FILED UNDER SECTION 96 OF CPC,
AGAINST THE JUDGMENT AND DECREE DATED 27.04.2015
PASSED IN OS.NO.1365/2013 ON THE FILE OF THE
PRL.SENIOR CIVIL JUDGE BANGALORE RURAL DISTRICT,
BANGALORE, DISMISSING THE SUIT FOR PARTITION AND
SEPARATE POSSESSION.

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

CORAM: HON'BLE MR. JUSTICE D K SINGH
and
HON'BLE MR. JUSTICE S RACHAIAH

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

The present Regular First Appeal under Section 96 of
the Code of Civil Procedure has been filed impugning the
judgment and decree dated 27.04.2015 passed in O.S
No.1365/2013 instituted by the plaintiffs/appellants
herein.



2. The parties are referred to as per their ranking before the trial Court, for the sake of convenience.

3. The plaintiffs are the sons and daughters of defendant No.1 Sri Ashwathappa, S/o Kempalakappa. The plaintiffs had filed the suit for partition of the land in Survey No.109 measuring 2 acres 5 guntas situated at Bilishivale Village, Bidarahalli Hobli, formerly Hoskote Taluk and now Bangalore East Taluk.

4. The defendant No.2 had purchased the suit property on 10.03.2006 from defendant No.1 and his other siblings i.e. the children of Kempalakappa, the father of defendant No.1 and grandfather of the appellants/plaintiffs.

5. The grandfather of the plaintiffs had purchased an extent of 1 acre 20 guntas of land in Survey No.109 through the sale deed dated 02.05.1973 and he had also inherited properties from his forefathers. The defendant No.1 i.e., the father of the plaintiffs had purchased 25 guntas of land in Survey No.109. After the death of the



grandfather-Kempalakkappa, the defendant No.1 along with his four brothers had sold the suit property in favour of defendant No.2 through a registered sale deed dated 10.03.2006. The plaintiffs demanded partition of the schedule property in the suit, which was filed in the year 2013. The defendant No.1, father of the plaintiffs remained ex parte. However, defendant No.2 though represented by his counsel, did not file the written statement. In view of absence of pleadings on behalf of the defendants, the trial Court framed following points for consideration:-

- "1. Whether the suit property is an ancestral joint family property?
 2. Whether plaintiffs are entitled for partition and separate possession as sought?
 3. Whether the sale deed executed by the 1st defendant in favour of the 2nd defendant is to be declared as invalid and it does not bind the interest of the plaintiffs?
 4. To what decree or order?"
6. The plaintiff No.2 examined himself as PW1 and got marked the documentary evidence Exhibits P1 to P7. The



Trial Court decided all issues together and held that there was nothing on record to suggest that any partition had taken place between the children of Kempalakappa i.e. 4 brothers and 1 sister. But the plaintiffs' witness admitted that there was a family arrangement in the year 1984 and in the family arrangement the suit property was allotted in favour of their father. But no pleadings to that effect were made in the plaint. The plaintiffs also did not make the brothers of his father, who are other sons of late Kempalakkappa as defendants.

7. The Trial Court also noticed that the plaintiffs did not produce any document to show that children of Kempalakappa had become the owner of the property inherited from Kempalakkappa in Exhibit R4 - RTC from 2001 to 2005, the name of only defendant No.1 was shown in column No.9 in respect of the suit property and in column No.10 it was mentioned through sale. The sale deed (Exhibit P3) would suggest that all the children of the



plaintiff's grandfather, late Kempalakkappa had sold the property in favour of defendant No.2.

8. Unless the sale deed executed by the plaintiff's father, defendant No.1 and other children of late Kempalakkappa in favour of the defendant No.2 in respect of the said site, there is no question of partition of the said suit schedule property. There was no prayer in the suit for decree for cancellation of the sale deed executed in favour of defendant No.2. The sale deed was of the year 2006 and the suit came to be filed in 2013 and therefore, we are of the view that the Trial Court has rightly dismissed the suit vide impugned judgment and decree.

9. We do not find any ground to interfere with the impugned judgment and decree dated 27.04.2015 passed by the trial Court in O.S.No.1365/2013. We thus **dismiss** this appeal.

No order as to costs.



10. In view dismissal of the regular first appeal, pending interim applications, if any do not survive for consideration, hence stand disposed of.

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

**Sd/-
(S RACHAIAH)
JUDGE**

NG
CT: SN
List No.: 2 SI No.: 12