



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. 2769 OF 2025 (PAR)

BETWEEN:

1. SRI UDAY KUMAR
S/O. LATE. CHIKKATHIMMAIAH,
AGED ABOUT 59 YEARS,
2. SRI. GOVINDARAJU K.C
S/O. LATE. CHIKKATHIMMAIAH,
AGED ABOUT 52 YEARS,
3. SRI. RAMAKRISHNAIAH K.C.
S/O. LATE CHIKKATHIMMAIAH,
AGED ABOUT 51 YEARS,

ALL ARE R/AT. KODIHALLY VILLAGE,
KALLUPALYA MAJARE, GULUR HOBLI,
TUMAKURU TALUK AND DISTRICT - 572 217.

Digitally
signed by
HEMALATHA J
Location:
HIGH COURT
OF
KARNATAKA

...APPELLANTS

(BY SRI. SIDDARAMAIAH V B, ADVOCATE)

AND:

1. SMT PUTTAMMA
W/O. LATE. KRISHNAIAH
S/O. DASEGOWDA
AGED ABOUT 67 YEARS
2. SMT. NAGAMMA
W/O. LATE. THIMMAIAH



S/O. DASEGOWDA
AGED ABOUT 57 YEARS

3. SRI. RANGAIAH
S/O. LATE. DASEGOWDA
AGED ABOUT 50 YEARS
4. SRI. MUKKUNDAIAH
S/O. LATE. CHANNAPPA
AGED ABOUT 77 YEARS
5. SRI. RANGASWAMAIAH
S/O. LATE. CHANNAPPA
AGED ABOUT 70 YEARS
6. SRI. NAGAIAH
S/O. LATE. CHANNAPPA
AGED ABOUT 55 YEARS
7. SRI. RAJU
S/O. LATE. RANGAPPA @ VENKATARANGAIAH
AGED ABOUT 52 YEARS
8. SRI. LOKESH
S/O. LATE. RANGAPPA @ VENKATARANGAIAH
AGED ABOUT 49 YEARS
9. SRI. RAJU. G
S/O. LATE. GOVINDAIAH K.T.
AGED ABOUT 47 YEARS

ALL ARE R/AT. KODIHALLI VILLAGE
KALLUPALYA MAJARE, GULUR HOBLI
TUMAKURU TALUK AND DISTRICT - 572 118.

...RESPONDENTS

(BY SRI. LAKSHMISH G., ADVOCATE FOR RESPONDENT NO.8)



RFA IS FILED UNDER ORDER XLI RULE 1 READ WITH SECTION 96 OF CPC., AGAINST THE ORDER DATED 29.10.2025 PASSED ON IA NO.IV (STATED AS I.A. NO.I IN THE IMPUGNED ORDER) IN O.S NO.169/2018 ON THE FILE OF THE PRINCIPAL SENIOR CIVIL JUDGE AND CJM, TUMAKURU., ALLOWING THE IA NO.IV FILED UNDER ORDER VII RULE 11(a) AND (d) READ WITH SECTION 151 OF CPC FOR REJECTION OF PLAINT.

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

CORAM: HON'BLE MR. JUSTICE R. NATARAJ

ORAL JUDGMENT

This is a plaintiffs' appeal challenging the order dated 29.10.2025 passed by the Principal Senior Civil Judge and CJM., Tumakuru, on I.A. No.IV filed by the defendant Nos.1, 3 and 8 under Order VII Rule 11(a) and 11(d) read with Section 151 of the Code of Civil Procedure, 1908, in O.S. No.169/2018, by which the plaint was rejected on the ground that it did not disclose cause of action and that it was barred under Order XXIII Rule 3A of the Code of Civil Procedure, 1908.

2. The parties shall henceforth be referred to as they were arrayed before the Trial Court. The appellants herein were the plaintiffs while the respondents herein were the defendants.



3. The suit in O.S No.169/2018 was filed for partition and separate possession of the plaintiffs' share in the suit 'A' schedule properties and for 1/5th share in the suit 'B' schedule properties. The plaintiffs claimed that they are the children of Sri Chikkathimmaiah, Son of Sri Doddathimmegowda. They claimed that the suit 'A' schedule properties were purchased by their father in terms of a sale deed dated 14.04.1959 and after his death, they were in possession of the said properties. They claimed that the suit 'B' schedule properties were the undivided family properties of the plaintiffs and the defendants. They claimed that their uncle filed O.S No.28/1991 before the Principal Civil Judge (Jr. Dn.), Tumakuru, against their father and his other brothers for partition and separate possession. In the said suit, the properties involved were land in Survey Nos.11/1 and 26/3, which are presently included as item No.1 in the suit 'A' schedule and as item No.6 in the suit 'B' schedule respectively. The said suit was compromised. They claimed that they never allowed the defendants to divide the suit 'B' schedule properties as per the compromise decree drawn in O.S No. 28/1991. Therefore, they filed the instant suit for



claiming their share in the suit 'A' Schedule properties and 1/5th share in the suit 'B' schedule properties.

4. After service of suit summons, the defendant Nos.1 to 3, 5, 8 and 9 appeared through their counsel. The defendant Nos.1, 3 and 8 filed a written statement contending that the properties were already divided as per the compromise decree passed in O.S No.28/1991 and that the said compromise was acted upon. They claimed that once the properties were divided, there is no question of the joint family continuing and hence, claimed that there was no cause of action for the suit and that the suit was hopelessly barred by limitation as the plaintiffs proposed to challenge a compromise drawn up in O.S No.28/1991.

5. Defendant Nos.4 and 6 remained *ex parte* before the Trial Court. The suit against defendant No.7 was dismissed.

6. Based on these contentions, the Trial Court framed the issues and set down the case for trial.

7. The plaintiff No.2 was examined as PW.1 and he marked documents as Exs.P1 to P71 and when the suit was



listed for cross-examination of PW.1, an application (I.A. No.IV) under Order VII Rule 11(a) and 11(d) of CPC was filed by the learned counsel for defendant Nos.1, 3 and 8 on the ground that there is no cause of action to file the suit and the suit is barred by limitation and also under Order XXIII Rule 3A of CPC. This application was objected by the plaintiffs, who claimed that the compromise decree in O.S No.28/1991 is not lawful.

8. The Trial Court after considering the contentions of the learned counsel for the plaintiffs and the learned counsel for defendant Nos.1, 3 and 8, passed an order allowing the application (I.A. No.IV) and rejecting the plaint under Order VII Rule 11(a) and 11(d) of CPC.

9. Being aggrieved by the said order, the plaintiffs are before this Court.

10. The learned counsel for the plaintiffs contended that the decree passed in O.S No.28/1991 is fraudulent as all the properties of the family were not included in the said suit. He claimed that though the plaintiffs had filed O.S No.600/2015 for partition and separate possession of all the properties of the family, the said suit was dismissed for non-prosecution. He



contended that the defendants had selectively obtained a compromise decree in respect of valuable properties and therefore, the plaintiffs were advised to seek for their legitimate share in the suit schedule properties. He thus contends that the Trial Court could not have rejected the plaint on the ground that it did not disclose cause of action and that it was barred under Order XXIII Rule 3A of CPC.

11. Per contra, the learned counsel for the defendant No.8 submitted that the plaintiffs have filed a suit virtually challenging the compromise recorded in O.S No.28/1991. He contends that the father of the plaintiffs was a party to the suit in O.S No.28/1991 and that he during his lifetime did not challenge the correctness of the compromise recorded therein. Therefore, he contends that the plaintiffs who are claiming through the defendant No.2 in O.S No.28/1991, cannot challenge the compromise reported in the said suit. He submitted that under Order XXIII Rule 3A of the CPC, a separate suit to challenge the compromise on the ground that it is fraudulent is not maintainable and hence, the Trial Court was right in invoking Order XXIII Rule 3A of CPC to reject the plaint.



12. I have considered the submissions of the learned counsel for the plaintiffs and the learned counsel for the defendant No.8.

13. A perusal of the plaint in O.S. No.28/1991 shows that the properties that were the subject matter of that suit are the properties involved in the present suit in O.S. No.169/2018 filed by the plaintiffs. In the suit in O.S. No.28/1991, the father of the plaintiffs was arrayed as defendant No.2 and he settled the same with his other brothers in terms of which certain properties were allotted to his share. The other properties were divided amongst the other brothers of the plaintiffs' father. When once the parties have settled the dispute, the only remedy to challenge a settlement is to approach the Court which had accepted the settlement on any available grounds such as, the compromise was fraudulent or was obtained by force, undue influence, misrepresentation etc. Order XXIII Rule 3A is incorporated in the Code of Civil Procedure, 1908 to ensure that there is no fresh suit to challenge a compromise and the same reads as follows:



"3A. Bar to suit.—*No suit shall lie to set aside a decree on the ground that the compromise on which the decree is based was not lawful.*"

In addition, the father of the plaintiffs was alive till the year 2010. He did not challenge the said compromise and the plaintiffs also did not do so during the life time of their father. They have now after several years, have filed the present suit claiming their share in the very same properties that were the subject matter of the suit in O.S. No.28/1991. In that view of the matter, the Trial Court has rightly exercised jurisdiction and has rightly held that the suit filed by the plaintiffs was not maintainable and rightly rejected the plaint under Order VII Rule 11(a) and 11(d) of the Code of Civil Procedure, 1908. Hence, the appeal lacks merit and is **dismissed**.

In view of disposal of the appeal, the pending interlocutory applications stand disposed of.

**Sd/-
(R. NATARAJ)
JUDGE**