



HC-KAR

NC: 2026:KHC-D:4820
CRP No. 100015 of 2025

IN THE HIGH COURT OF KARNATAKA AT DHARWAD

DATED THIS THE 27TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V.HOSMANI

CIVIL REVISION PETITION NO. 100015 OF 2025

BETWEEN:

SMT.MAHADEVI W/O SHIVAPUTRAPPA BELLAD,
AGE. 52 YEARS, OCC. AGRICULTURE AND HOUSEHOLD,
R/O DASTIKOPPA VILLAGE, TQ. KALAGHATAGI,
DIST. DHARWAD-581204.

...PETITIONER

(BY SRI GC BADIGER, ADVOCATE)

AND:

1. SMT.VIMALAKSHI W/O GOVINDAPPA BENGARI,
AGE. 45 YEARS, OCC. HOUSEHOLD WORK,
R/O MAILARAJJAN GUDIYA HATIIRA GOKUL,
TQ. HUBBALLI, DIST. DHARWAD-580023.
2. SMT.SHANTAVVA S/O SOMANAGOUDA HOOLI,
AGE. 57 YEARS, OCC. HOUSEHOLD,
R/O MISHRIKOTI VILLAGE, TQ. KALAGHATAGI,
DIST. DHARWAD.
3. SMT.MANJULA W/O MAHADEVAPPA KANNIKOPPA,
AGE. 38 YEARS, OCC HOUSEHOLD,
NOW R/O MISHRIKOTI VILLAGE, TQ. KALAGHATAGI,
DIST. DHARWAD-581204.
4. SMT.SAVITRI W/O MANJUNATH HOSAMANI,
AGE. 35 YEARS, OCC. HOUSEHOLD WORK,
R/O SORASETIKOPPA, TQ. KALAGHATAGI,
DIST. DHARWAD-582208.
5. SMT.GAYATRI W/O CHANNAPPA KUNDAGOL,
AGE. 32 YEARS, OCC. HOUSEHOLD,
R/O UGGINAKERI, TQ. KALAGHATAGI,
DIST. DHARWAD-581204.



6. SRI BANAPPA S/O BASAVANNEPPA KUNDAGOL,
AGE. 76 YEARS, OCC. AGRICULTURE,
R/O UGGINAKERI, TQ. KALAGHATAGI,
DIST. DHARWAD-581204.
7. SRI ULAVAPPA S/O BASAPPA BELLAD,
AGE. 65 YEARS, OCC. AGRICULTURE,
R/O JADAGERI ONI MISHRIKOTI, TQ. KALAGHATAGI,
DIST. DHARWAD-581204.
8. SRI SANKRAPPA S/O BASAPPA BELLAD,
AGE. 59 YEARS, OCC. AGRICULTURE,
R/O JADAGERI ONI MISHRIKOTI, TQ. KALAGHATAGI,
DIST. DHARWAD-581204.
9. SRI BASAVARAJ S/O SANKRAPPA BELLAD,
AGE. 20 YEARS, OCC. STUDENT,
R/O JADAGERI ONI MISHRIKOTI, TQ. KALAGHATAGI,
DIST. DHARWAD-581204.
10. SMT.ANASUYA W/O CHANDRASHEKAR GADAG,
AGE. 55 YEARS, OCC. HOUSEHOLD,
R/O GAYATRI COLONY BENGARI,
TQ. HUBBALLI, DIST. DHARWAD-580023.
11. SMT.LAKHMAVVA W/O CHANNAPPA KARIYATTIN,
AGE. 55 YEARS, OCC. HOUSEHOLD,
R/O HALLADAKERI, TQ. LAKHMESWAR,
DIST. GADAG-582116.
12. SMT.CHANNAMMA W/O BASAPPA BELLAD,
AGE. 81 YEARS, OCC. HOUSEHOLD,
R/O JADAGERI ONI MISHRIKOTI, TQ. KALAGHATAGI,
DIST. DHARWAD-581204.

...RESPONDENTS

THIS CRP IS FILED UNDER SECTION 115 OF CPC, PRAYING TO CALL FOR THE RECORDS AND TO REJECT THE PLAINT BY SETTING ASIDE THE ORDER PASSED ON I.A.NO.8 IN O.S.NO.110/2022 DATED 15.10.2024 ON THE FILE OF THE HON'BLE SENIOR CIVIL JUDGE AND JMFC KALAGHATAGI & ETC.

THIS CRP COMING ON FOR ORDERS, THIS DAY,
ORDER WAS MADE THEREIN AS UNDER:



CORAM: THE HON'BLE MR. JUSTICE RAVI V.HOSMANI

ORAL ORDER

In view of urgency pleaded, matter is heard for admission.

2. Revision petition is filed challenging order dated 15.10.2024 passed by Senior Civil Judge and JMFC, Kalaghatagi in OS no.110/2022 on IA no.8.

3. Sri GC Badiger, learned counsel for petitioner submitted that petitioner was defendant no.8 in OS no.110/2022 filed by respondents no.1 to 6/plaintiffs seeking for relief of partition and separate possession of their 3/9th share in suit schedule properties etc. In said suit, defendant no.8 had entered appearance and filed written statement. He had also filed IA no.8 under Order VII Rule 11(a) and (d) of Code of Civil Procedure, 1908 ('**CPC**', for short) for rejection of plaint. It was submitted that suit was filed without disclosing proper cause of action and it was also barred by law. In affidavit filed in support of application, it was stated that there was an earlier registered partition between members of joint family, on 30.06.1997, suppressed by plaintiffs. Therefore, suit was filed without cause of action.



Further, said partition was by execution of registered partition deed and alienation/partition/testamentary disposition made prior to 20.12.2004 were saved. As such, claim for partition would be barred by limitation since suit filed in year 2022 after partition took place in year 1997. It was submitted under impugned order, trial Court rejected application on untenable reasons. While contentions about suit being filed without proper cause of action and barred by limitation were rejected and kept open for trial, observation by trial Court that on perusal of partition deed it found plaintiffs were not parties to it and therefore would not bind them would be an observation on merits of suit and come in way of defendants establishing their stand in trial. Besides it was contended that at time of consideration of an application under Order VII Rule 11(a) CPC, trial Court was required to confine its observations to contents of plaint and documents produced along with plaint. On said ground, sought for setting aside of impugned order.

4. Heard learned counsel, perused impugned order as well as material on record.



5. This revision petition is by defendant no.8 being aggrieved by order passed by trial Court dismissing his application filed for rejection of plaint. Application was filed on three grounds. Firstly, lack of cause of action. Secondly, suit being barred by limitation and thirdly, claim being barred under proviso to amended Section 6 of Hindu Succession Act. Contention is based on assertion that there was a registered partition between family members on 30.06.1997.

6. It is settled well settled that while considering an application under Order VII Rule 11 of CPC, Courts would require to confine their examination to contents of plaint and documents furnished along with plaint and to examine whether on a complete and meaningful reading of plaint, whether any of grounds mentioned in Order VII Rule 11(a) to (d) as invoked were established.

7. On a complete and meaningful reading of plaint herein, it is seen that there is no reference to register partition deed or earlier partition of year 1997. Fact of prior partition is an assertion by defendant in written statement which cannot be looked into. Even document produced by defendant to



substantiate same cannot be looked into. Plaintiff has stated that on demand for partition of share and its refusal gave rise to cause of action for filing suit. Same would be sufficient and there would be no justification for invocation of Order VII Rule 11(a) CPC. Insofar as Order VII Rule 11(d), trial Court observed that bar of limitation would be a mixed question of law and fact would require trial.

8. But, while passing impugned order, trial Court stated that on going through certified copy of partition deed of 30.06.1997, it noted that plaintiffs were not parties and therefore, said partition would not bind them and bar under proviso to Section 6 of Hindu Succession Act would not apply. Such observations at stage of consideration of application under Order VII Rule 11 of CPC, which would be virtually on merits of case, would not be justified. Besides said observation is by erroneous reference to document relied upon by defendant which would also not be justified. Consequently on ground that trial Court has committed a material irregularity, matter would require interference.



9. However insofar as rejection of application with observation that matter would require trial would be justified. Therefore, **revision petition is disposed of** by diluting observation by trial Court insofar as bar under Section 6 and holding said observation not to come in way of parties demonstrating same in trial.

10. In view of disposal revision petition, IA no.1/2025 is dismissed.

Sd/-
(RAVI V.HOSMANI)
JUDGE

CLK
CT:VP
LIST NO.: 1 SL NO.: 3