



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 24TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V.HOSMANI

CIVIL REVISION PETITION NO. 100105 OF 2023

BETWEEN:

1. SMT. HANAMAVVA W/O AVINALAPPA BELAVINAL,
AGE. 64 YEARS, OCC. AGRICULTURE,
R/O. KUNKERI 583228, TQ./DIST. KOPPAL.
2. RAMAPPA S/O AVINALAPPA BELAVINAL,
AGE. 45 YEARS, OCC. AGRICULTURE,
R/O. KUNKERI 583228, TQ./DIST. KOPPAL.

...PETITIONERS

(BY SRI SHRIHARSH A. NEELOPANT, ADVOCATE)

AND:

1. SMT. YANKAMMA @ YANKAVVA,
W/O YANKAPPA DAMBRAHALLI,
AGE. 71 YEARS, OCC. AGRICULTURE,
R/O. KUNAKERI 583228, TQ./DIST. KOPPAL.
2. VENKATESH S/O YANKAPPA DAMBRAHALLI,
AGE. 41 YEARS, OCC. AGRICULTURE,
R/O. KUNAKERI 583228, TQ./DIST. KOPPAL.
3. RAMESH S/O YANKAPPA DAMBRAHALLI,
AGE. 38 YEARS, OCC. AGRICULTURE,
R/O. KUNKERI 583228, TQ./DIST. KOPPAL.

...RESPONDENTS

(BY SRI MALLIKARJUNSWAMY B. HIEMATH, ADVOCATE FOR R1 & R2;
NOTICE TO R3 IS DISPENSED WITH)

THIS CRP IS FILED UNDER SECTION 115 OF CPC, PRAYING TO SET ASIDE THE IMPUGNED ORDER DATED 22.06.2023 PASSED BY THE SENIOR CIVIL JUDGE AND CHIEF JUDICIAL MAGISTRATE, KOPPAL IN OS NO.17/2017 ON I.A. NO.VII FILED UNDER ORDER VII RULE 11 (A) AND (D) R/W SECTION 151 OF CPC AND ALLOW THE I.A. NO.VII FILED UNDER ORDER VII RULE 11(A) AND (D) R/W SECTION 151 OF CPC SEEKING REJECTION OF THE PLAINT IN THE INTEREST OF JUSTICE AND EQUITY & ETC.



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

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

ORAL ORDER

Challenging order dated 22.06.2023 passed by Senior Civil Judge and CJM, Koppal¹ in OS no.17/2017 on IA no.VII, this revision petition is filed.

2. Sri Shriharsh A. Neelopant, learned counsel for petitioners submitted that revision by defendants no.1 and 2 in suit for declaration of title and possession filed by respondents no.1 and 2 herein/plaintiffs. It was submitted that in said suit after appearance, defendant no.2 had filed IA no.VII for rejection of plaint under Order VII Rule 11(a) of Code of Civil Procedure, 1908².

3. In affidavit filed in support of application, it was stated that plaintiffs had averred in plaint that one Ningappa S/o. Thimmappa Dambralli had filed suit in OS no.210/2009 against defendants for relief of declaration and permanent injunction on file of Civil Judge and JMFC, Koppal. Said suit was dismissed. Even R.A. no.40/2011 was dismissed on 08.11.2011 and

¹ For short, 'Trial Court'

² For short, 'CPC'



confirmed by this Court in RSA no.5134/2012, produced as Annexure-C to revision petition. It was submitted said judgment had attained finality.

4. It was submitted that Ningappa Dambralli's father was Timmappa and plaintiff's father-in-law namely Fakeerappa S/o. Hanumappa Dambralli were brothers. Ningappa Dambralli, his sons, plaintiff no.1's husband-Yankappa, plaintiff no.1 and her sons i.e. plaintiff no.2-Venkatesh and defendant no.3-Ramesh were close to each other. Thus, plaintiffs were aware of judgment and decree passed in O.S. no.210/2009 and also appeals. Though they were permanent residents of Kunikere village, they had for purposes of suit and overcome limitation, claimed to be residents of Kavaloor Village and by showing imaginary cause of action filed suit.

5. It was submitted, I.A.no.VII was therefore filed for rejection of plaint. Same was opposed and though petitioners established justification for rejection of plaint under Order-VII to Rule 11(a) and (d) of CPC, under impugned order trial Court dismissed said application. On ground that order of rejection suffered from material irregularity, this revision was filed.



6. Relying upon decision of Hon'ble Supreme Court in case of ***State of U.P. v. Nawab Hussain***³, it was submitted that, admitted knowledge of earlier litigation between parties would estopp plaintiffs from filing present suit. It was submitted after having contested earlier suit for 4 years, they could not be subjected to fresh round of litigation in present proceedings. Therefore, rejection of application by trial Court was not justified and sought for allowing revision.

7. On other hand, Sri MB Hiremath, learned counsel for respondent-plaintiffs opposed petition and submitted, Trial Court had on appreciation of contentions urged in application had arrived at a conclusion that contentions urged were matter for trial and rightly rejected application. Same did not call for any interference.

8. Heard learned counsels, perused impugned order and material placed on record.

9. This revision is by defendants no.1 and 2 against order, dismissing I.A.no.VII filed for rejection of plaint under Order-VII Rule 11(a) and (d) of CPC. The first contention urged

³ 1977 (2) SCC 806



is absence of cause of action on ground that rights of parties stood adjudicated in earlier proceedings from O.S. no.210/2009 till RSA no.5134/2012 before this Court. Though, copy of judgment and decree in suit or second appeal were not appended to plaint, but were referred in plaint. Perused judgment and decree passed in RSA no.5134/2012 appended to this petition. It is seen claim adjudication in said proceedings appears to be claim for declaration of title in respect of suit properties by plaintiffs therein, ending with following observations in RSA no.5134/2012:

"21. From the evidence on record, it is clear, that the plaintiffs have not produced anything to show that there was oral partition between Hanamappa and Bhimappa and the suit property fell to the share of Hanamappa. There is nothing on record to show that suit property fell to the share of Hanamappa. The claim of the plaintiffs that the property was standing in the name of Hanamappa S/o.Fakirappa and after his demise, they have succeeded to the property cannot be accepted, for the reason, the plaintiffs do not belong to the branch of Hanamappa S/o.Fakirappa. The evidence on record shows that Avinalappa and after his death his LRs are in possession and enjoyment of the suit property. Therefore, the Courts below were justified in dismissing the suit. The impugned judgment and decrees do not call for



interference. No substantial question of law arises for consideration in this appeal. Therefore, the appeal is liable to be dismissed."

10. Though declaration of title sought was in respect of portion of same property, it ended in dismissal. Admittedly, plaintiffs herein hail from branch of Haumappa @ Kavaloorappa S/o.Fakeerappa, whereas, plaintiffs in earlier suit were Ningappa S/o.Timmappa Dambralli and Jambappa @ Jambanna S/o.Hanumappa Dambralli, who had filed suit against Smt.Huligewwa D/o.Timmappa wife of Bheemappa Belavinal, Smt.Hanamawwa W/o. Avinalappa Belavinal, Ramanna S/o.Avinalappa Belavinal as well as Siddappa S/o.Avinalappa Belavinal. Amongst them, Avinalappa S/o. Huligeppa was given in adoption to Hanumappa @ Lobanappa S/o. Bheemappa Dambralli, hailing from other branch of children of propositus Yankappa.

11. Consequently, not only on ground that *prima facie* adjudication was not between any of parties under whom plaintiffs would be claiming as well as that same was rejected with observation that claim for declaration could not be granted in absence of proof of partition between Hanamappa and



Bheemappa sons of propositus-Yankappa. Thus clear ground of barred by law is not established. Thus, rejection of application is by observing that plaintiffs had shown sufficient cause of action for filing of suit, which cannot be stated to be suffering from any material irregularity at this stage. Especially, when Court would be confined to examining plaint averments only.

12. In case petitioners herein intend to establish bar of *res judicata* or constructive *res judicata*, they may file an application for framing of specific issue to that effect and pursue same. Insofar as rejection of application under Order-VII Rule-11(d) of CPC, learned counsel for petitioners submitted that same is not pressed in this revision petition.

In view of above, no grounds to interfere, revision petition is dismissed, however, with above observation.

**Sd/-
(RAVI V.HOSMANI)
JUDGE**