



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 26TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V.HOSMANI

CIVIL REVISION PETITION NO. 100111 OF 2023

C/W

CIVIL REVISION PETITION NO. 100009 OF 2024

IN CRP NO.100111/2023:

BETWEEN:

1. VEERAYYA S/O GURUPADAYYA NANDIMATH,
AGE. 87 YEARS, OCC. RETD. GOVT. SERVANT,
R/O "TANDE" H.NO.26, RAVINDRANAGAR, UNAKAL,
HUBBALI-580031, DIST. DHARWAD.
2. PARVATHI W/O VEERAYA NANDIMATH,
AGE. 77 YEARS, OCC. RETD. GOVT. SERVANT,
R/O "TANDE" H.NO.26, RAVINDRANAGAR, UNAKAL,
HUBBALLI-580031, DIST. DHARWAD.

...PETITIONERS

(BY SRI SS BAWAKHAN, ADVOCATE)

AND:

1. SAWAMMA W/O JINAPPA VARUR,
AGE. 74 YEARS, OCC. HOUSE HOLD,
R/O NAVALUR, DHARWAD-580009.
 2. KALLAVVA W/O JINAPPA KAMATAR,
AGE. 72 YEARS, OCC. HOUSE HOLD,
R/O NAVALUR, DHARWAD-580009.
- MADIVALAPPA S/O BOMAPPA SANGOLLI,
SINCE DEAD BY LR'S
3. PADMAVVA W/O MADIVALAPPA SANGOLLI,
AGE. 64 YEARS, OCC. HOUSE HOLD,
R/O GARAG VILLAGE,
TQ. AND DIST. DHARWAD-580105.



NC: 2026:KHC-D:4762
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4. VASANTI D/O MADIVALAPPA SANGOLLI,
AGE. 50 YEARS, OCC. HOUSE HOLD,
R/O DEVALAPUR VILLAGE,
TQ. BAILHONGAL, DIST. BELAGAVI-591102.
5. PUSHPA D/O MADIVALAPPA SANGOLLI,
AGE. 46 YEARS, OCC. HOUSE HOLD,
R/O GARAG VILLAGE,
TQ. AND DIST. DHARWAD-580105.
6. SRIDEVI D/O MADIVALAPPA SANGOLLI,
AGE. 44 YEARS, OCC. HOUSE HOLD,
R/O GARAG VILLAGE,
TQ. AND DIST. DHARWAD-580105.
7. KUSUMA D/O MADIVALAPPA SANGOLLI,
AGE. 40 YEARS, OCC. HOUSE HOLD,
R/O GARAG VILLAGE,
TQ. AND DIST. DHARWAD-580105.
8. AJITH S/O MADIVALAPPA SANGOLLI,
AGE. 36 YEARS, OCC. HOUSE HOLD,
R/O GARAG VILLAGE,
TQ. AND DIST. DHARWAD-580105.

...RESPONDENTS

(BY SRI SH BALAGANNAVAR, ADVOCATE FOR R1 & R2;
NOTICE TO R3 TO R8 IS DISPENSED WITH)

THIS CRP IS FILED UNDER SECTION 115 OF CPC, PRAYING
TO CALL FOR LCR'S IN O.S.NO.326/2015, PENDING ON THE FILE
OF IIND ADDITIONAL SENIOR CIVIL JUDGE AND JMFC DHRAWAD
AND TO SET ASIDE THE IMPUGNED ORDER DATED 25.03.2023,
PASSED BY THE LEARNED II ADDITIONAL SENIOR CIVIL JUDGE
AND JMFC DHARWAD ON I.A.NO.XIII, IN O.S.NO.326/2015, AND
CONSEQUENTLY ALLOW IA NO.XIII BY REJECTING PLAINT
UNDER ORDER VII RULE 11 OF CPC & ETC.



IN CRP NO.100009/2024:

BETWEEN:

1. SMT.PADMAVVA
W/O LATE MADIVALAPPA SANGOLLI,
AGE. 66 YEARS, OCC. HOUSEHOLD,
R/O. GARAG, TQ. & DIST. DHARWAD-580105.
2. SMT.VASANTHI D/O LATE MADIVALAPPA SANGOLLI,
W/O JAYAPAL HANABARATTI,
AGE. 42 YEARS, OCC. HOUSEHOLD,
R/O. DYAVALAPUR, TQ. BAILHONGAL,
DIST. BELAGAVI-591102.
3. SMT.PUSHPA D/O MADIVALAPPA SANGOLLI
W/O KIRAN BIRADAR,
AGE. 38 YEARS, OCC. HOUSEHOLD,
R/O. KUSANAL, TQ. ATHANI,
DIST. BELAGAVI-683102.
4. SMT.SHRIDEVI
D/O MADIVALAPPA SANGOLLI,
W/O SRIPAL JAKKANNANAVAR,
AGE. 34 YEARS, OCC. HOUSEHOLD,
R/O. CHIKKABAGEWADI, TQ. BAILHONGAL,
DIST. BELAGAVI-591102.
5. SMT. KUSUMA D/O MADIVALAPPA SANGOLLI,
W/O SHAILESHKUMAR SHAHA,
AGE. 36 YEARS, OCC. HOUSEHOLD,
R/O. 504, SHAKESHWARA APARTMENT,
RAJMIN GAS, GIRIDHAR NAGAR,
SHAHIBAG, AHAMADABAD,
STATE. GUJARATH-320008.
6. AJITH S/O MADIVALAPPA SANGOLLI,
AGE. 40 YEARS, OCC. AGRICULTURE,
R/O. GARAG, TQ. & DIST. DHARWAD-580105.
P-1 TO 6 ARE THE LR'S DEFENDANT NO.1
MADIVALAPPA SANGOLLI,
PETITIONER NO.1 AND 5 ARE REPRESENTED BY
THEIR GPA HOLDER PETITIONER NO.6
AJIT S/O MADIVALAPPA SANGOLLI.

...PETITIONERS

(BY SRI PG MOGALI, ADVOCATE)



NC: 2026:KHC-D:4762
CRP No. 100111 of 2023
C/W CRP No. 100009 of 2024

AND:

1. SMT.SAVAMMA W/O JINNAPPA VARUR,
AGE. 74 YEARS, OCC. HOUSEHOLD AND COOLIE,
R/O. NAVALUR, TQ. & DIST. DHARWAD-580004.
2. SMT.KALLAVVA W/O JINNAPPA KAMATAR,
AGE. 70 YEARS, OCC. HOUSEHOLD AND COOLIE,
R/O. GARAG, TQ. & DIST. DHARWAD-580105.
3. VEERAYYA S/O GURUPADAYYA NANDIMATH,
AGE. 87 YEARS, OCC. RETIRED GOVT. SERVANT,
R/O. TANDE H.NO.26, RAVINDRA NAGAR,
UNKAL, HUBBALLI-580031,
TQ. HUBBALLI, DIST. DHARWAD.
4. SMT.PARVATHI W/O VEERAYYA NANDIMATH,
AGE. 77 YEARS, OCC. RETIRED GOVT. SERVANT,
R/O. "TANDIE" H.NO.26, RAVINDRA NAGAR,
UNKAL, HUBBALLI, TQ. HUBBALLI,
DIST. DHARWAD-580031.

...RESPONDENTS

(BY SRI SH BALAGANNAVAR, ADVOCATE FOR R1;
NOTICE TO R2 TO R4 IS SERVED)

THIS CRP IS FILED UNDER SECTION 115 OF CPC, PRAYING
TO SET ASIDE THE ORDER PASSED ON IA NO.XVII DATED
31.10.2023 IN OS NO.326/2015 BY THE HON'BLE II ADDITIONAL
CIVIL JUDGE AND JUDICIAL MAGISTRATE FIRST CLASS,
DHARWAD AND ALLOW THE I.A. NO.XVII DATED 19.09.2023
FILED BY THE PETITIONERS HEREIN ALONG WITH COST
THROUGHOUT IN THE INTEREST OF JUSTICE AND EQUITY.

THESE PETITIONS 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 25.03.2023 passed in OS.no.326/2015 on I.A.no.XIII by II Additional Senior Civil Judge and JMFC, Dharwad (**'Trial Court'**, for short), this revision petition is filed.

2. Sri S.S. Bawakhan, learned counsel for petitioners submitted that CRP.no.100111/2023 was by defendants no.2 and 3 in OS.no.326/2015 filed by plaintiffs - respondents no.1 and 2 herein seeking for decree of partition and separate possession of their 1/3rd share in suit schedule properties; declare bogus relinquishment deed got executed by defendants as not binding on plaintiffs and for permanent injunction restraining defendants from preventing plaintiffs' possession and enjoyment of suit schedule properties etc.

3. In said suit, defendants entered appearance and filed written statement and filed I.A.no.XIII for rejection of plaint under Order VII Rule 11 of Code of Civil Procedure, 1908 (**'IPC'**, for short). In affidavit filed in support of application, it was stated that plaintiffs had relinquished their right, title and interest over suit schedule properties in favour of defendant no.1



under registered relinquishment deed dated 07.07.2001 and thereby foreclosed their claims over suit properties. Having executed relinquishment deed, plaintiffs could not claim to have continued as coparceners to maintain suit for partition.

4. It was also contented, without challenging registered relinquishment deed, plaintiffs could not seek for partition. It was further stated even if as per plaintiffs, relinquishment deed were fraudulent, said fact had come to knowledge of plaintiffs when they filed OS.no.76/2011 earlier which came to be dismissed for non-prosecution. Misc.P.no.45/2012 filed for its restoration was dismissed at stage of hearing. Subsequent, Misc.P.no.40/2015 though filed, was got dismissed as withdrawn as it suffered inherent defects. Said assertion would imply knowledge of relinquishment deed and present suit filed on 02.07.2015 would be clearly barred by limitation under Article 58 of Limitation Act, 1963. Even, if date of accrual of cause of action is taken as date of said suit, instead of date of registration of relinquishment deed as per law.

5. However under impugned order, trial Court rejected application mainly on ground that plaintiffs had alleged fraud



with necessary particulars and same would require full-fledged trial. It was submitted, rejection of application on said ground would amount to refusal to exercise jurisdiction vested in Court as well as improper exercise. Therefore, sought for allowing revision petition.

6. In CRP.no.100009/2024, Sri P.G. Mogali, learned counsel for petitioners would submit that this revision petition was by legal representatives of deceased defendant no.1, who had challenge order dated 31.10.2023 passed by trial Court in OS.no.326/2015 on I.A.no.XVII filed by them under Order VII Rule 11 (a) and (d) of CPC. It was submitted, application under Order VII Rule 11 of CPC could be filed at any stage. It was submitted, I.A.no.XIII was earlier filed by defendants no. 2 and 3 and defendant no.1 had not joined them in that application and there was no bar for defendant no.1 filing an independent application.

7. It was submitted, legal representatives of defendant no.1 were also seeking for rejection of plaint on similar grounds/contentions as urged in I.A.no.XIII. Rejection of application on ground that an earlier application filed was



rejected would amount to abdication of jurisdiction vested and call for interference. On said ground sought for allowing revision petition.

8. There is no representation on behalf of respondents no.1 and 2 - plaintiffs.

9. By virtue of pendency of these revisions, progress of suit had been arrested. On previous date, no other counsel than Sri P.G. Mogali, learned counsel for petitioners in CRP.no.100009/2024 had appeared. Matter was re-listed today for providing opportunity to other counsel. Despite same, there is no representation on behalf of respondents - plaintiffs. Hence, this Court deems it proper to proceed with matter.

10. Heard learned counsel and perused impugned orders as well as record.

11. From above since defendants are in revision against dismissal of their respective applications for rejection of plaint, common point that would arise for consideration is:

“Whether trial Court was justified in dismissing
I.As.no.XIII and XVII filed in
OS.no.326/2015?”



12. Requirement of law while considering an application under Order VII Rule 11 of CPC are well settled. There would be no bar against consideration of application at any stage of suit. Secondly, while considering same, Court would require to confine its consideration to averments in plaint and documents appended thereto.

13. In instant case, both I.As.no.XIII and XVII filed by defendants no.2 and 3 and defendant no.1 respectively for rejection of plaint under Order VII Rule 11(a) i.e. absence of cause of action and 11(d) barred by limitation. Said contentions are primarily based on admission by plaintiffs about, plaintiffs having executed relinquishment deed in favour of defendant no.1 relinquishing their rights in respect of suit schedule properties. Though plaintiffs have stated in plaint that said relinquishment deed was got executed fraudulently impressing upon plaintiffs that it was necessary for obtaining loan for improvement of lands, in year 2001, plaintiffs have clearly stated that they were in joint possession and enjoyment of suit properties. If it were for obtaining loan for improvement, it would be hard to believe that they would not have noticed lack of any development and not having enquired about same. Besides, relinquishment deed



having been executed in year 2001 as per decision of Hon'ble Supreme Court in case of **Suraj Lamp Industries Pvt. Ltd. v. State of Haryana & Anr.¹**, reiterated case of **Smt.Uma Devi and Ors v. Sri Anand Kumar and Ors.²**, registration of a document would be notice to all, moreso, in instant case since plaintiffs were parties to said deed.

14. Apart from noticing that instead of seeking for declaration about said document being null and void, plaintiffs are merely seeking for declaration that it is not binding on them, which would indicate clever drafting to avoid period of limitation. In any case, final nail would be dismissal of earlier suit in OS.no.76/2011. Filing of suit in year 2011, in any case would be uncontroverted admission of accrual of cause of action. Said suit having been dismissed for non-prosecution, filing of present suit 4 years thereafter, would render present suit barred by limitation under Article 58.

15. Such being case, rejection of applications by Trial Court by merely stating that plaintiffs had pleaded fraud and with necessary minimum particulars ignoring suit being barred

¹ (2012) 1 SCC 656

² 2025 INSC 434



by limitation would amount to abdication of jurisdiction.
Especially when bar of limitation is specifically urged.

16. In view of above, impugned order would not sustain.
Point for consideration is answered accordingly.

17. Consequently, following:

ORDER

- i. Revision petitions are ***allowed***. Orders on I.As.no.XIII and XVII are reversed. Plaint is rejected as barred by limitation.
- ii. Pending applications, if any, do not survive for consideration and stand disposed of.

Sd/-
(RAVI V.HOSMANI)
JUDGE

GRD,EM, CT:VP
LIST NO.: 1 SL NO.: 53