



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.100146 OF 2025

BETWEEN:

1. SHRI ANWARHUSEN
S/O MOHAMMAD GOUS MUJAWAR,
AGE: 43 YEARS, OCC: AGRICULTURE AND BUSINESS,
R/O: MALAPUR, DHARWAD-580 008,
TQ. & DIST. DHARWAD.
2. SHRI SHRISHAIL
S/O MALLESHAPPA MALAPUR,
AGE: 59 YEARS,
OCC: AGRICULTURE AND BUSINESS,
R/O: NEAR BUS STAND,
GARAG- 581 105, TQ: & DIST: DHARWAD.
3. SMT. ASMA W/O SAYADDADASAB PEERJADE
AGE: 38 YEARS, OCC: AGRICULTURE AND BUSINESS,
R/O: GARAG, TQ: & DIST: DHARWAD - 581 105.
4. SHRI JAINULABDIN
S/O KHALANDAR PEERJADE,
AGE: 39 YEARS, OCC: AGRICULTURE AND BUSINESS,
R/O: GARAG, TQ: & DIST: DHARWAD - 581 105.

...PETITIONERS

(BY SRI AS PATIL, ADVOCATE FOR
SRI SUHAS K. HOSAMANI, ADVOCATE)

AND:

1. SHRI BALASAHEB
S/O PARASHURAM SHEDAKE,
AGE: 76 YEARS, OCC. RID GOVT SERVANT.
R/O LAXMISHINGANKERE ROAD,
DHARWAD-580007.



2. SHRI KALLAPPA
S/O GUNDU SHARABIDRI,
AGE: 66 YEARS, OCC. RTD GOVT SERVANT,
R/O KURABAR QNI,
NOW AT SUGAR FACTORY LINE ROAD,
BELLADABAGEWADI 591 305,
TQ. HUKKERI DIST. BELAGAVI.
3. SMT. KAMAL W/O SADASHIV SHETAKE,
AGE: 57 YEARS, OCC: HOUSE HOLD,
R/O MULLA ONI, RAYABAG 591 317,
TQ. RAYABAG, DIST. BELAGAVI.
4. SHRI RAJARAM
S/O GUNDU SHARABIDRI URF SHARABIDRE,
AGE. 55 YEARS, OCC: LABOUR
SUGAR FACTORY BELLADABAGEWADI,
R/O KURUBAR ONI, BELLADABAGEWADI - 591 305,
TQ. HUKKERI, DIST. BELAGAVI.
5. SHRI RAVI
S/O CHANDRASHEKHAR ARAGANNAVAR,
AGE: 51 YEARS, OCC: AGRICULTURE,
R/O GARAG, TQ: & DIST: DHARWAD-580 105.
6. SHRI SAIYADDADASAB
S/O KHALADAR PEERAJADE,
AGE: 43 YEARS, OCC: AGRICULTURE,
R/O GARAG, TQ. & DIST. DHARWAD-580 105.
7. SHRI SACHIN S/O KALLAPPA SHAHARABIDRE,
AGE: 31 YEARS, OCC: POLICE CONSTABLE,
R/O HASAN, TQ. & DIST. HASAN-573 201.
8. SMT. ANASUYYA W/O KALLAPPA SHAHARABIDRE,
AGE: 58 YEARS, OCC: HOUSE HOLD,
R/O BELLAD BAGEWADI -591 305,
TQ: HUKKERI, DIST: BELAGAVI.
9. SHRI PRAVEEN S/O RAJARAM SHAHARABIDRE,
AGE: 27 YEARS, OCC: NIL,



R/O BELLAD BAGEWADI -591 305,
TQ: HUKKERI, DIST: BELAGAVI.

10. SHRI PRATHAMESH
S/O RAJARAM SHAHARABIDRE,
AGE: 24 YEARS, OCC: NIL,
R/O BELLAD BAGEWADI -591 305,
TQ: HUKKERI, DIST: BELAGAVI.
11. SMT. NIKHITA
W/O SIDDAPPA GODAKE,
AGE: 33 YEARS, OCC: HOUSE HOLD,
R/O BELLAD BAGEWADI 591 305,
TQ: HUKKERI, DIST: BELAGAVI.
12. SMT. CHAYA
W/O RAJU SHARABIDRE,
AGE: 55 YEARS, OCC: HOUSE HOLD,
R/O BELLAD BAGEWADI,
TQ: HUKKERI, DIST: BELAGAVI.
13. SHRI PRASHANT
S/O SADASHIV SHETAKE,
AGE: 28 YEARS, OCC: BUSINESS,
R/O MULLA ONI, RAYABAG 591 317,
TQ: RAYABAG DIST: BELAGAVI.
14. SHRI VITTAL
S/O KALLAPPA KANTENNAVAR,
AGE: 33 YEARS, OCC: PRIVET SERVICE,
R/O GARAG, TQ. & DIST. DHARWAD-580 105.
15. SHRI VINAYAKA S/O KALLAPAP SHARABIDRE,
AGE: 32 YEARS, OCC: POLICE,
R/O: BELLADABAGEVADI - 591 305,
TQ: HUKKERI DIST: BELAGAVI
NOW AT: HASSAN, TQ: DIST: HASSAN.

...RESPONDENTS

(BY SRI YR JOGI, ADVOCATE FOR R1;
NOTICE TO R2 TO R15-DISPENSED WITH)



THIS CRP IS FILED UNDER SECTION 115 OF CPC, PRAYING TO CALL FOR THE RECORDS IN O.S.NO.354/2022 PENDING ON THE FILE OF THE HON'BLE PRINCIPAL SENIOR CIVIL JUDGE AND CJM, DHARWAD AND SET ASIDE THE IMPUGNED ORDER DATED 05.11.2025 PASSED ON I.A.NO.XVII BY HON'BLE PRINCIPAL SENIOR CIVIL JUDGE AND CJM, DHARWAD IN O.S.NO.354/2022 AS PER ANNEXURE-F AND ALLOW THE APPLICATION FILED IN I.A.NO.XVII AS PRAYER FOR BY THE PETITIONERS, IN THE INTEREST OF JUSTICE AND EQUITY.

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 05.11.2025 passed by Principal Senior Civil Judge and CJM, Dharwad, in OS.no.354/2022 on I.A.no.XVII filed under Order VII Rule 11 (a) to (d) read with Section 151 of Code of Civil Procedure, 1908 ('**CPC**', for short), this revision petition is filed.

2. Sri A.S. Patil, learned counsel appearing for Sri Suhas K. Hosamani, advocate for petitioners submitted that revision petition was by defendants no.14 to 17 challenging rejection of I.A.no.XVII filed by them under Order VII Rule 11 (a) to (d) of CPC. It was submitted, plaintiff - respondent no.1 herein had



filed OS.no.354/2022 seeking for relief of declaration of his title and possession in respect of suit property bearing Sy.no.510 measuring 3 Acres 1 guntas of Garag village, Dharwad; for declaration about MR.no.H-64/21-22 dated 07.01.2022 passed by Tahsildar and order dated 25.07.2022 passed by Assistant Commissioner, Dharwad, in RTS/AP/ID/109/2022 and for declaration that Sale Deed dated 10.06.2024 executed by defendants no.1 to 3 in favour of defendants no.4 and 5 as well as defendants no.14 to 17 as null and void and not binding on them etc.

3. On entering appearance, defendants filed written statement and I.A.no.XVII. Though it was pointed out that plaintiff's prayer for declaration of title was based on *Will* dated 09.02.2008, which was brought into daylight after unexplained delay of 14 years, rendering suit beyond period of limitation prescribed under Article-58 of Limitation Act, 1963. As well as fact that plaintiff failed to disclose clear cause of action, trial Court under impugned order rejected application without proper consideration and thereby committed error of failure to exercise



jurisdiction vested with it and exercise suffering from material irregularity. On said ground sought for allowing revision petition.

4. On other hand, Sri Y.R. Jogi, learned counsel for respondent no.1 - plaintiff opposed petition.

5. Heard learned counsel, perused impugned order and material on record.

6. Law regarding consideration of application under Order VII Rule 11 of CPC are well entrenched. Court considering application would require to examine only averments in plaint and documents appended thereto and nothing else. If on a complete and meaningful reading of entire plaint, any of grounds in Rule 11 (a) to (d) of Order VII were to be established, plaint has to be rejected.

7. First ground for rejection urged herein is under Order VII Rule 11 (d) of CPC namely suit being barred by limitation. Learned counsel submitted that as per plaintiff, *Will* was executed on 09.02.2008 and testator died on 03.03.2008. However suit for declaration of title based on said *Will* was filed



only on 25.08.2022 and therefore would be beyond period of 3 years from date of accrual of cause of action.

8. But same would not impress this Court. Normally, starting point of cause of action for relief of declaration of title would be date of denial of title. Parties herein being Hindus and it being not mandatory for Hindu *Will* to be probated, cause of action for declaration based on *Will* would not begin from date of execution or date of death of testator for that matter.

9. Insofar as date of accrual of cause of action for filign suit, plaintiff stated that plaintiff's wife was one of children of testator, had contributed money for purchase of bequeathed property and had looked after testator during his end days and therefore, testator had bequeathed property exclusively in favour of plaintiff's wife virtually disinheriting other children. And denial or obstruction against plaintiff's claim was entry of name of defendants in mutation records in respect of bequeathed property. And again when appeal filed by plaintiff against such entry was dismissed by Assistant Commissioner on contest by defendants. From said dates, suit appears to be filed within 3



years. Therefore, *prima facie* there is no error or material irregularity in finding of trial Court.

10. Even insofar as absence of clear cause of action, plaintiff's assertion that entry of names of other children of testator in mutation records and their opposition of plaintiff's claim under *Will* by contesting appeal was cause of action for filing suit. Same would suffice at this stage. Trial Court would not be justified in testing legality of said assertion at stage of consideration of application under Order VII Rule 11 of CPC, when question of bar of limitation would be a mixed question of law and fact. In case defendants intend to contest suit on said ground, they would be at liberty to seek for framing of a specific issue on limitation and lead evidence to establish same. With above observation and holding, no ground for interference are made out, revision petition is ***dismissed***.

Sd/-
(RAVI V.HOSMANI)
JUDGE

GRD, CT:VP
LIST NO.: 1 SL NO.: 54