



IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 21ST DAY OF APRIL, 2026

PRESENT

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

AND

THE HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA

REGULAR FIRST APPEAL NO. 200150 OF 2023 (DEC/INJ)

BETWEEN:

HANAMANTHREDDY
S/O CHANDRAREDDY PATIL,
AGE : 53 YEARS,
OCC: AGRICULTURE,
R/O: LOHADA, TQ: SEDAM,
DIST: KALABURAGI.
AND ALSO AT HABAL(T) TQ: SEDAM,
DIST: KALABURAGI – 585 222.

...APPELLANT

(BY SRI. CHAITANYAKUMAR CHANDRIKI, ADVOCATE)

AND:

1. PRATAPREDDY
S/O CHANDRAREDDY PATIL,
AGE : 46 YEARS,
OCC: AGRICULTURE,
R/O: LOHADA, TQ: SEDAM,
DISTRICT : KALABURAGI – 585 222.
2. CHANNABASAWAREDDY MARAMKAL
S/O MALLINATHREDDY MARAMKAL,
AGE : 35 YEARS,
OCC: AGRICULTURE,
R/O: HABAL (T), TQ: SEDAM,
DISTRICT : KALABURAGI – 585 222.

...RESPONDENTS

(BY SRI. KADLOOR SATYANARAYANACHARYA, ADVOCATE)





THIS RFA IS FILED UNDER SECTION 96 OF CIVIL PROCEDURE CODE, PRAYING TO SET ASIDE THE IMPUGNED ORDER DATED 09.11.2023 PASSED BY THE LEARNED SENIOR CIVIL JUDGE AND JMFC, AT SEDAM IN O.S.NO.35/2022 AND CONSEQUENTLY BE PLEASED TO REMAND THE MATTER BACK TO THE TRIAL COURT WITH A DIRECTION TO CONSIDER AFRESH IN ACCORDANCE WITH LAW, IN THE INTEREST OF JUSTICE AND EQUITY.

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

CORAM: HON'BLE MR. JUSTICE SURAJ GOVINDARAJ
and
HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA

ORAL JUDGMENT

(PER: HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA)

1. Heard Sri Chaitanya Kumar Chandriki, learned counsel for the appellant, as well as Sri Kadloor Satyanarayaacharya, learned counsel for the respondents.
2. Being aggrieved by the order that is rendered by the Court of the Senior Civil Judge, Sedam, on I.A No.IV in O.S No.35/2022, dated 09.01.2023, the petitioner/plaintiff filed this appeal. Appellant/plaintiff sought for a decree, declaring him to be owner and possessor of the suit schedule property, restraining respondents/defendants from



interfering with his possession over the suit land, to declare the sale deed vide document No.2094/2320-21 dated 04.11.2020 as null and void, a decree for correction of relevant records and for other consequential reliefs. Defendant No.1/respondent No.1, resisted the suit claim by a written statement. He also filed an interlocutory application vide I.A No. IV under Order VII Rule 11(d) of CPC, seeking to reject the plaint. Entertaining the said application, Trial Court passed the impugned order holding that the suit is not maintainable. The Trial Court, thereby rejected the plaint.

3. Arguing the matter, learned counsel for the appellant contends that, subject matter of the suit is the land admeasuring 11 acres 11 guntas in Sy No.17/2 of Habal(T), Sedam Taluk, Kalaburagi District. Originally one Chandra Reddy was the owner and the possessor of the suit land. Chandra Reddy died leaving behind his wife Mallamma. As Chandra Reddy



and Mallamma were issueless, initially property devolved upon Mallamma. Chandrareddy had got a brother by name Irareddy. Irareddy died leaving behind his son Kapalreddy. Kapalreddy has a daughter by name Gowramma. Mallamma, who is the wife of Chandrareddy, is the sister of the father of the plaintiff. Mallamma brought up plaintiff and gave her husband's brother's granddaughter Gowramma in marriage to the plaintiff. Mallamma orally gifted the suit land to the plaintiff. Thereby, appellant/plaintiff became the owner and possessor of the suit land. Respondent No.1/defendant No.1 is the younger brother of appellant/plaintiff. Suit land was subjected to land reforms and thereafter, suit land was mutated in the name of the appellant/plaintiff. However, respondent No.1/defendant No.1 colluded with revenue officials, got created illegal records and without knowledge and behind the back of appellant/plaintiff, got



mutated the suit land in his name. Appellant/plaintiff never gave consent for such mutation. When respondent No.2/defendant No.2 tried to dispossess appellant/plaintiff from the suit land, appellant/plaintiff got to know about the mutation of the suit land by respondent No.1/defendant No.1 and thereafter, sold the said land to respondent No.2/defendant No.2. Learned counsel submits that, thus appellant/plaintiff filed a suit for declaratory relief and consequential permanent injunction. However, trial Court, taking into consideration defence raised by respondent No.1/defendant No.1, rejected the plaint. Learned counsel, thereby, seeks to allow the appeal.

4. *Per contra*, learned counsel for the respondents submits that the suit is not maintainable, as the suit land fell to the share of respondent No.1/defendant No.1 in an oral partition. That apart, based on the declaration given by appellant/plaintiff, the suit



schedule land was transferred in the name of respondent No.1/defendant No.1. Respondent No.1/defendant No.1 therefore became the absolute owner and the lawful possessor of the land. Respondent No.1/defendant No.1 sold the suit schedule property to respondent No.2/defendant No.2 and executed a registered sale deed dated 04.11.2020. Appellant/plaintiff filed the suit with an intention to knock away the suit schedule property. When the mutation was effected, way back in the year 2016, appellant/plaintiff filed the suit in the year 2022, that is after lapse of 6 years. Thus, the suit is badly hit by law of limitation and thus, suit is not maintainable. Trial Court, therefore, rightly rejected the plaint and thus, appeal is devoid of merits.

5. A perusal of the impugned order reveals that the Trial Court though did not mention specifically so, has placed much reliance upon the contents of the written statement. For the purpose of deciding the



aspect of limitation and the cause of action, the averments of the plaint alone are required to be looked into. When appellant/plaintiff disputed the fact regarding giving consent for mutation and the declaration before the revenue authorities, without putting the matter on trial, receiving the evidence, the said aspect cannot be decided and therefore, the Court ought not to have held that the plaint is barred by law of limitation and that there is no cause of action as contemplated under the Code of Civil Procedure. Therefore, having considered the facts of the case, we are of the view that the aspect of limitation is required to be decided after due trial, as the said aspect is a mixed question of facts and law. The trial court ought not to have rejected the plaint. Hence, the appeal is disposed of with the following:

ORDER

- I) Appeal is allowed.



- II) The order that is rendered by the Court of Senior Civil Judge, Sedam, on I.A No.IV, in O.S No.35/2022, dated 09.01.2023 is set aside.
- III) Consequently, trial Court is directed to restore the suit on file and to proceed from the stage at which the plaint was rejected.

**Sd/-
(SURAJ GOVINDARAJ)
JUDGE**

**Sd/-
(DR.CHILLAKUR SUMALATHA)
JUDGE**