



IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 7TH DAY OF APRIL, 2026

PRESENT

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

AND

THE HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA

REGULAR FIRST APPEAL NO.200094 OF 2024 (PAR/POS)

BETWEEN:

1. SMT. MARIYAM AYESHA
D/O LATE MD. MOAZZAM ALI,
AGE: 30 YEARS, OCC: HOUSEHOLD,
R/O: H.NO.1-114/B/12,
NEAR AIWAN-E-SHAHI MASJID, KALABURAGI,
NOW AT KWALITY SAPPHIRE, NIBM ROAD,
KUBERA GARDEN, KONDHWA PUNE-MS-410001.
2. SMT. MARIYA KHATIJA
D/O LATE MD. MOAZZAM ALI,
AGE: 27 YEARS, OCC: HOUSEHOLD,
R/O: H.NO.1-114/B/12,
NEAR AIWAN-E-SHAHI MASJID, KALABURAGI,
NOW AT MARIYA KHATIJA PREMIER INSPIRA ELITE 403,
5TH CROSS NRUPATHUNGA NAGAR, NAVODAYA NAGAR,
POORNIMA NAGAR, AREKERE BENGALURU,
THROUGH THEIR POWER OF ATTORNEY HOLDER,
SRI. TIRUPATI S/O GURANNA HATTIKATIGI,
AGE: 50 YEARS, RESIDENCE OF HOUSE NO.1-5,
MAIN ROAD BAZAR, MUNAYA BASHA DARGA,
SIDRE AREA SAGAR, TQ. SHAHAPUR, DIST. YADGIRI,
NOW AT OZA LAYOUT KALABURAGI-585101.

...APPELLANTS

(BY SRI. A. M. BIRADAR, ADVOCATE)





AND:

1. MOHAMMED YOUSUF ALI
S/O LATE MOHAMMED KHURSHEED ALI,
AGE: 62 YEARS,
2. SADIYA PARVEEN
D/O LATE MOHAMMED KHURSHEED ALI,
AGE: 60 YEARS,
3. KHUDDUSIYA JABEEN
D/O LATE MOHAMMED KHURSHEED ALI,
AGE: 58 YEARS,
4. SAFIYA YASHMIYAN
D/O LATE MOHAMMED KHURSHEED ALI,
AGE: 56 YEARS,
5. NAIDUNISA BEGUM
W/O LATE MOHAMMED KHURSHEED ALI,
AGE: 82 YEARS,
ALL ARE R/O: NEAR AIWAN-E-SHAHI MASJID,
PDA COLLEGE ROAD, STATION BAZAR WARD,
KALABURAGI-585101.
6. SHOUKAT PATEL S/O LATE MOHAMMED ALI PATEL,
AGE: 65 YEARS, OCC: BUSINESS,
R/O: SHAHABAZ COLONY,
OLD JEWARGI ROAD,
KALABURAGI-585101.
7. SAJIDA PATEL W/O SHOUKAT PATEL,
AGE: 60 YEARS, OCC: HOUSEHOLD,
R/O: SHAHABAZ COLONY,
OLD JEWARGI ROAD,
KALABURAGI-585101.
8. SRI. ABHIMANYA K.S. S/O KARNAPPA,
AGE: 55 YEARS, OCC: ASST. EXECUTIVE ENGINEER,
R/O: PRATAPA TOWER
NEAR RUDRAWADI HOSPITAL,
OLD JEWARGI ROAD,
KALABURAGI-585101.
9. BASANNA S/O MALLAPPA NAGARGUNDA,
AGE: 67 YEARS, OCC: AGRICULTURE,
R/O: KAKKERA, TQ. SHORAPUR, DIST. YADGIRI-584101.
10. SMT. SITABAI W/O KARNAPPA,
AGE: 75 YEARS, OCC: HOUSEHOLD,
R/O: PRATAPA TOWER
NEAR RUDRAWADI HOSPITAL,
OLD JEWARGI ROAD, KALABURAGI-584101.



11. SMT. VIJAYALAXMI G.V.
AGE: MAJOR, OCC: HOUSEHOLD,
R/O: 174 SHANTI NAGAR,
KALABURAGI,
NOW AT SANTOSH COLONY,
NEAR SHAKTI KIRANA STORE,
KALABURAGI-584101.
12. DR. GIRISH SWAMY S/O MAHANTAYYA SWAMY,
AGE: MAJOR, OCC: MEDICAL PRACTITIONER,
R/O: BASAWESHWAR COLONY,
KALABURAGI-584101.
13. SMT. SUNITA W/O BASAPPA HIRE,
AGE: MAJOR, OCC: HOUSEHOLD,
R/O: C/O H.NO.8-9301/27B,
HUMNABAD ROAD, KALABURAGI-584101.
14. DEVAKI W/O KEERTEPPA AGATEERTHA,
AGE: 50 YEARS,
15. KEERTEPPA S/O HANAMANTRAYA AGATEERTHA,
AGE: 60 YEARS,
BOTH R/O: SHARANA SIDD NILAYA,
H.NO.1814/6, VIDYA NAGAR,
KALABURAGI-584101.
16. SMT. SHOBHA W/O REVU JADHAV,
AGE: MAJOR, OCC: HOUSEHOLD,
R/O: H.NO.8-1545/201/18,
HUMNABAD ROAD,
NEAR PUTANI KARKHANA,
KALABURAGI-584101.

...RESPONDENTS

(BY SRI. LIYAQAT FAREED USTAD, ADVOCATE A/W
SRI. SHIVAKUMAR MALIPATIL., ADVOCATE FOR C/R6 & R7;
V/O DATED 04.07.2024 NOTICE TO R1 TO R5 &
R8 TO R16 ARE D/W)

THIS REGULAR FIRST APPEAL IS FILED UNDER SECTION 96 OF
CPC, PRAYING TO SET-ASIDE THE ORDER DATED 04.06.2024
PASSED BY THE PRL. SENIOR CIVIL JUDGE KALABURAGI, IN
O.S.NO.72/2024 BY ALLOWING THIS APPEAL WITH COST IN THE
INTEREST OF JUSTICE AND EQUITY.

THIS APPEAL, COMING ON FOR FINAL HEARING, 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 MR. JUSTICE SURAJ GOVINDARAJ)

1. The appellants are before this Court seeking the following reliefs:-

"To set-aside the order dated 04.06.2024 passed by the Prl. Senior Civil Judge Kalaburagi, in O.S.No.72/2024 by allowing this appeal with cost in the interest of justice and equity."

2. The appellants had filed a suit in O.S.No.72/2024 before the Principal Senior Civil Judge at Kalaburagi, seeking for the following reliefs:-

i. It is declaration that the plaintiffs entitled 1/3rd shares in the suit schedule – property and put them separate possession by division in the suit schedule property metes and bounds.

ii. It be declaration that the gift deeds, and sale deeds in respect of the suit plots are null and void and same is not binding on plaintiffs.

iii. The relief of permanent injunction restraining the defendants from alienating, creating any charge over the suit schedule property.

iv. Cost of the suit be awarded.

v. Any other relief to which the plaintiffs is entitled to be passed in the interest of justice.



3. In the said suit, an application came to be filed under clauses (a), (c) and (d) of Rule 11 of Order VII read with Section 151 of the Code of Civil Procedure and Section 35(1) of the Karnataka Court Fees and Suits Valuation Act, 1958, seeking rejection of the plaint. The Trial Court, by its order dated 04.06.2024, having allowed the said application and rejected the plaint, the appellants are before this Court.
4. Learned counsel for the appellants would contend that the Trial Court has erred in entertaining and allowing the application under Order VII Rule 11 CPC on grounds which are not legally sustainable within the framework of the said provision. It is submitted that the objections raised pertained to non-joinder of necessary parties, bar of limitation, and alleged insufficiency of court fee.
5. According to him, non-joinder of parties is not a ground falling within the ambit of Order VII Rule 11 CPC and would require adjudication in the course of trial. It is further submitted that the question of proper valuation and court fee is a mixed question of law and fact, and unless the same is conclusively determined, the plaint cannot be rejected at the threshold.



6. Elaborating further, it is contended that the suit being one for partition, the plaintiffs have rightly paid a fixed court fee of Rs.200/- under Section 35(2) of the Karnataka Court Fees and Suits Valuation Act. Insofar as the relief of declaration in respect of the gift deeds and sale deeds is concerned, the same has been valued at Rs.1,000/- each under Section 24(d) of the Act and court fee of Rs.25/- per document has been paid. The relief of injunction is also stated to have been properly valued under Section 26(c) of the Act.
7. It is lastly contended that the Trial Court has committed an error in considering the application under Order VII Rule 11 CPC without there being a written statement on record.
8. Per contra, learned counsel appearing for respondent Nos.6 and 7 would submit that a plain and meaningful reading of the plaint itself demonstrates that the suit is ex facie barred by limitation. It is pointed out that the plaintiffs' father had executed a registered General Power of Attorney in the year 1994, which, according to the plaintiffs themselves, was acted upon by defendant No.6 after the death of their father in the year 2000, resulting in execution



of gift deeds and sale deeds in or about the year 2002. Despite this, no action was taken by the plaintiffs for more than two decades and the suit has been filed only in the year 2024.

9. It is further contended that the plaintiffs have deliberately suppressed material particulars relating to the impugned transactions, including dates of execution and identities of purchasers, and have attempted to create an artificial cause of action by pleading that they came to know of the transactions only on 10.11.2023. Such pleading, it is submitted, is a classic instance of clever drafting intended to circumvent the law of limitation. It is also submitted that several third-party purchasers, who are necessary and proper parties, have not been impleaded, and the suit is therefore fundamentally defective. On these grounds, it is contended that the Trial Court has rightly rejected the plaint.
10. Having heard learned counsel for the parties and upon a careful perusal of the material on record, this Court is of the considered view that the impugned order does not warrant interference.
11. It is trite that while considering an application under Order VII Rule 11 CPC, the Court is required to



confine itself to the averments made in the plaint and the documents relied upon therein. Neither the defence nor any extraneous material can be taken into account. This principle also answers the contention of the appellants that the application could not have been considered in the absence of a written statement. The very scheme of Order VII Rule 11 makes it clear that the filing of a written statement is not a condition precedent for consideration of such an application, since the inquiry is confined to the plaint itself.

12. Order VII Rule 11(d) CPC mandates rejection of a plaint where, from the statements contained in the plaint, the suit appears to be barred by any law. The law of limitation squarely falls within the scope of this provision. Therefore, if on a meaningful reading of the plaint it is evident that the suit is barred by limitation, the Court is not only empowered but duty-bound to reject the plaint at the threshold.
13. In the present case, the plaint itself discloses that the father of the plaintiffs had executed a registered General Power of Attorney in the year 1994. It is further averred that after his death in the year 2000, defendant No.6 misused the said power of attorney



and executed gift deeds and sale deeds in respect of the suit property. Though the plaint is conspicuously silent as to the specific dates of such transactions, the plaintiffs have not denied that the transactions are of considerable antiquity. On the contrary, material placed on record, including mutation entries produced by the plaintiffs themselves, indicates that such transactions took place in or around the year 2002.

14. The plaintiffs seek to overcome the bar of limitation by pleading that they became aware of the said transactions only on 10.11.2023 and have treated the said date as the cause of action. This plea, in the considered view of this Court, is wholly untenable. Registered documents are matters of public record and constitute constructive notice to all concerned. Once such documents are registered and acted upon, and consequential mutation entries are effected in revenue records, the law imputes knowledge of such transactions to the parties concerned. A litigant cannot be permitted to plead ignorance of registered transactions for an indefinite period and thereby defeat the law of limitation.



15. In a suit seeking to challenge registered gift deeds and sale deeds, the right to sue accrues when such documents are executed and registered, or at the latest when they are acted upon. The limitation period cannot be postponed by pleading belated knowledge, particularly when the circumstances indicate that the plaintiffs, by exercising reasonable diligence, could and ought to have been aware of the transactions. The plea of knowledge as of 10.11.2023 is, therefore, nothing but a device to overcome the statutory bar.

16. The manner in which the plaint is drafted, by suppressing material particulars such as dates of execution and details of transactions, and by projecting a recent cause of action, is a clear instance of clever drafting and legal stratagem employed to create an illusion of a subsisting cause of action. Courts have consistently held that such drafting cannot be permitted to defeat substantive law, particularly the law of limitation. The Court is entitled to read the plaint meaningfully and to ascertain the real substance of the claim rather than being misled by the form in which it is presented.



17. The issue of non-joinder of necessary parties, though not by itself a ground under Order VII Rule 11 CPC, assumes significance in the present case in the context of the suppression of material facts. The plaintiffs themselves admit that several sale deeds have been executed in favour of third parties. During the course of arguments, it is submitted that more than sixty such transactions have taken place. Yet, the plaint is completely silent as to the particulars of these transactions and the identities of the purchasers. Such suppression is not incidental but deliberate, and is clearly intended to avoid the consequences that would flow from impleading such parties, including the exposure of the suit to the bar of limitation.
18. Even otherwise, the omission to implead such purchasers does not cure the fundamental defect of limitation. A suit which is barred by limitation cannot be revived or sustained by subsequently adding parties. Therefore, the issue of non-joinder, though relevant, does not alter the conclusion that the suit is not maintainable.
19. Insofar as the question of court fee is concerned, the stand taken by the plaintiffs that they are in joint



possession of the suit property is directly contradicted by their own pleadings. The plaintiffs categorically assert that the property has been alienated in favour of third parties and that such purchasers are in possession. They have also sought the relief of recovery of possession. These averments unequivocally establish that the plaintiffs are not in possession of the suit property.

20. In such circumstances, the valuation of the suit under Section 35(2) of the Karnataka Court Fees and Suits Valuation Act, on the footing of joint possession, is wholly misconceived. The suit ought to have been valued on the market value of the property, and ad valorem court fee paid accordingly. The undervaluation of the suit and insufficiency of court fee thus constitute an additional ground for rejection of the plaint under Order VII Rule 11(c) CPC.
21. On a cumulative consideration of the pleadings in the plaint, it is evident that the suit is ex facie barred by limitation, that material facts have been deliberately suppressed, and that the valuation of the suit is incorrect. The Trial Court has, therefore, rightly exercised its jurisdiction in rejecting the plaint.



22. No ground is made out for interference in appeal. Accordingly, the appeal stands dismissed.

23. For the aforesaid reasons and the reasons attributed by the Trial Court, we do not find any infirmities in the order impugned. As such, the appeal stands dismissed.

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

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

KJJ/NB
List No.: 2 SI No.: 46
CT:SI