

Somappa and Others Vs. Mahadevappa and Others

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Court : Karnataka Dharwad

Decided On : Sep-04-2015

Judge : B. Veerappa

Appeal No. : RS.A.No. 5448 of 2013

Appellant : Somappa and Others

Respondent : Mahadevappa and Others

Advocate for Pet/Ap. : Shri. F.V. Patil

Judgement :

(Prayer: This RSA is filed under Section 100 of the Code of Civil Procedure against the judgment and decree dated 15.02.2013 passed in R.A. No. 267/2011 on the file of the IV ADDL. district and sessions judge, at Belgaum, dismissing the appeal, filed against the judgment and decree dated 30.07.2011 and the decree passed in O.S. No. 78/2007 on the file of the addl. Senior Civil judge, Saundatti, dismissing the suit filed for cancellation of sale deed, specific performance of contract and for consequential relief of permanent injunction.)

1. This is an unsuccessful plaintiffs' regular second appeal against the judgment and decree dated 15.02.2013 made in R.A. No.267/2011 on the file of the IV Addl. District and Sessions Judge, Belgaum, confirming the judgment and decree dated 30.07.2011 made in O.S. No.78/2007 on the file of the Addl. Senior Civil Judge, Saundatti, dismissing the suit of the plaintiffs for specific performance, cancellation

of sale deed and consequential relief of permanent injunction.

2. This is a very interesting case filed by the plaintiffs to enforce the agreement dated 17.04.1963 and suit filed on 01.06.2007, after lapse of more than four decades to enforce the agreement and suit came to be dismissed.

3. It is the specific case of the plaintiffs that the property bearing block No.87 measuring 2 acres 12 guntas, situated at Aladakatti Village, Saundatti Taluk was belonged to Mallappa, Sannafakkirappa and Adivappa Mai lappa Pavadeppanavar. Out of the said property, the said Mallappa and Balappa Sannafakkirappa executed an agreement of sale in favour of the father of the plaintiffs by name Padeppa Shivarayappa Pavadeppanavar for a valuable consideration of Rs.3,320/-. Out of the said consideration, the father of the plaintiffs paid earnest money of Rs. 1,000/-to the owners of the property. The said agreement of sale was registered before the Sub-Registrar. It was agreed between the parties in the said document that since consolidation scheme was applying to the Village, after obtaining permission to sell the property from the concerned authority, the owners would execute registered sale deed in favour of the plaintiffs. On the date of agreement itself the possession of 2/3rd share was handed over to the father of the plaintiffs and it is further case of the plaintiffs that during the lifetime of the father of the plaintiffs, he was in possession and enjoyment of the property, on the basis of the agreement of sale till his death and during his lifetime he was requesting the owners of the property to obtain the permission early and execute the registered sale deed in his favour. However, the owners of the property postponed the execution of the sale deed till the death of the father of the plaintiffs. After the death of the original owners, the defendant Nos.1 and 2 being the legal heirs of Mallappa were asked by the plaintiffs to accept the balance sale consideration and execute the sale deed in favour of the plaintiffs. However, defendant Nos.1 and 2 and also the LRs. of Adivappa Mallappa Pavadeppanavar and Balappa Sannafakkirappa postponed the execution of the sale deed in favour of the plaintiffs and in the month of February 2007 when the plaintiffs requested the legal heirs of the original owners, they started giving false reply and therefore, the plaintiffs came to know that behind the back of the plaintiffs, the defendant Nos.1 and 2 sold the suit schedule property in

favour of defendant Nos.3 and 4 for sale consideration of Rs.1,11,000/- under the registered sale deed dated 08.03.2007. The defendant Nos.1 and 2 had no absolute right to alienate the property in favour of the defendant Nos.3 and 4, since the LRs. of Balappa and Adivappa are also the owners of the said property along with defendant Nos.1 and 2. Therefore, the sale deed is not in accordance with law and it is null and void and not at all binding on the plaintiffs. Defendant Nos. 5 to 8 have got 1/3rd share in the suit property. Therefore, they are only formal parties etc. Therefore, they tiled the suit.

4. Defendant Nos.3 and 6 filed the written statement. Defendant Nos. 1, 2, 4, 7 and 8 adopted the written statement made by the 6th defendant. 5th defendant died and his LRs. arebrought on record as defendant Nos.5A to 5C and they have not filed any written statement. The plaintiffs got impleaded defendant Nos.9 to 22 and they have not filed any written statement nor contested the matter.

5. The 3rd defendant adopted the statement of the 6th defendant and the 3rd and 4th defendants contended that they verified the records and mutation entries and they have purchased the property and they are in lawful and possession of the same and they are bona fide purchasers and therefore sought for dismissal of the suit.

6. The 6th defendant filed written statement, denied the plaint averments and contended that the suit filed by the plaintiffs is barred by time. Once limitation starts, it cannot be stopped and therefore, suit of the plaintiffs is hopelessly barred by limitation and it was further contended that the 6th defendant that all the legal heirs of the Mallappa Adivappa Balappa and sons Sannafakkirappa have not been impleaded as parties to the above suit. The suit of the plaintiffs is not maintainable for non-joinder of necessary parties and also contended that during the lifetime of Mallappa S/o. Sannafakkirappa relinquished his rights in favour of the 2nd defendant as per M.E. No.1774 which was duly certified on 10.03.1997. The deceased Adivappa S/o. Mallappa Pavadeppanavar also relinquished his 1/3rd share in favour of Mallappa S/o. Sannafakkirappa Pavadeppanavar, as he obtained property at Chandaragi Village and accordingly, M.E. No.1369 came to be effected and certified by the Revenue Authorities on 12.05.1978. Accordingly,

the defendant Nos.1, 2 and 5 to 8 have got right title interest over suit property and they were in actual possession of the suit property till execution of the sale deed in favour of the defendant Nos.3 and 4. The father of the plaintiffs Padeppa Pavadeppanavar was not at all in possession and enjoyment of the property at any time in any capacity. The alleged agreement of sale is created and concocted document. No right title or interest would be created on the basis of the alleged agreement of sale. There was no cause or reason for the father of the plaintiffs to be in possession and enjoyment of the property in question. The defendant Nos.1, 2 and 5 to 8 executed the registered sale deed in favour of the defendant Nos.3 and 4 on 08.03.2007 for valuable consideration of Rs.1,11,000/- and subsequently mutation was also entered in the revenue records. Therefore, they sought for dismissal of the suit and contended that the defendants are entitled for compensatory costs of Rs.10,000/- from the plaintiffs etc.

7. Based on the pleadings, the Trial Court framed the following issues and subsequently re-casted the following issues:

"1. Whether the plaintiffs prove execution of agreement of sale dated 17.04.1963 said to have been executed by one Mallappa Balappa and Sannafakirappa in favour of the father of the plaintiff Sri. Padeppa Pavadeppanavar?

2. Whether the plaintiffs prove that they were ready and willing to perform their part of the contract?

3. Whether the plaintiffs prove that they are in possession and enjoyment of the suit schedule property from the date of agreement of sale dated 17.04.1963?

4. Whether the suit of the plaintiffs is bad for non-joinder of necessary parties?

5. Whether the suit is barred by Imitation?

6. Whether the defendants No.3 and 4 prove that they are the bona-fide purchasers of the suit schedule property for valuable consideration?

7. Whether the plaintiffs are entitled for the reliefs claimed in the above suit?

8. What decree or order?"

9. In order to establish plaintiffs' case, plaintiff examined as P.W.1 and witness as P.W.2 and marked documents Exs.P-1 to P-9 and the 1st defendant examined himself as D.W.1 and 3rd defendant examined as D.W.2 and marked documents Exs.D-1 to D-8.

10. After considering the entire material on record, the Trial Court recorded a finding that the plaintiffs failed to prove the execution of the agreement of sale dated 17.04.1963 by one Mallappa, Balappa Sannafakkirappa in favour of the father of the plaintiffs Shri Padeppa Shivarayappa Pawadeppanava and plaintiff failed to prove that he was ready and willing to perform their part of contract and further failed to prove that they are in possession and enjoyment of the suit property from the date of agreement of sale deed dated 17.04.1963 and the suit filed by the plaintiffs is bad for non-joinder of necessary parties and suit filed by the plaintiffs is barred by limitation and the defendant Nos.3 and 4 prove that they are bona fide purchasers of suit property for valuable consideration. Accordingly, suit came to be dismissed.

11. Aggrieved by the said judgment and decree, the plaintiffs filed R.A. No.267/2011 before the IV Addl. District and Sessions Judge at Belgaum, who after bearing both the parties by its impugned judgment and decree dated 15.02.2013 has dismissed the appeal and confirmed the judgment and decree of the Trial Court. Against the said judgment and decree of the Courts below, the present regular second appeal is filed.

12. Shri Vijayendra Bhimakkanavar on behalf of Shri F.V. Patil, learned counsel for the appellants contended that both the Courts below failed to notice that the agreement was marked without any objections and once the document is admitted in the witness, contents of the documents has to be considered and both the Courts below have not considered the same and also contended that the defendants have not raised any plea in the written statement with regard to limitation. Therefore, both the Courts below cannot dismiss the suit on the ground of barred by limitation and he further contended that after the death of the father of the plaintiffs, the plaintiffs were ready and willing to perform their part of the contract and in view of the consolidation scheme existing in the Village, it was

postponed by the defendants and therefore, the suit was filed within the time from the date of refusal by the defendants and the plaintiffs have complied the provisions as contemplated under Section 16(c) of the Specific Relief Act. Therefore, he sought to set aside the impugned judgment and decree of the Courts below.

13. I have given my anxious consideration to the arguments advanced by the learned counsel for the appellants and perused the entire material on record.

14. The plaintiffs filed the suit for specific performance mainly on the basis of the agreement dated 17.04.1963 to enforce the agreement contending that the defendant Nos.1 and 2 executed the agreement to sell their 2/3rd share in the suit schedule property. In support of their case, the plaintiffs adduced the evidence of P.Ws.1 and 2 and marked documents Exs.P-1 to P-9.

14. Considering the entire material on record, the Trial Court recorded a finding that P.W.1 claimed that in the year 1963 he was aged about 14 years and he had seen the agreement of sale. He has stated in the cross-examination that in the year 1965 he had seen the agreement of sale. According to P.W.1, he was born in the year 1953. If the year of 1958 is taken into account, in the year 1963, he must have been just five years old and possibility of his seeing the alleged agreement of sale and understanding the same is very remote. Admittedly, there was couple of witnesses to the alleged agreement of sale. In the certified copy of the alleged agreement of sale, the signatures of the witnesses or executants or purchasers cannot be seen. However, there will be reference as to the signing of the document by the executants, purchasers and witnesses. Admittedly, the executants and the purchaser are no more. It is not the case of the plaintiffs that even the witnesses are also no more. It is not the case of the plaintiffs that even the witnesses are also no more. Indeed in the cross-examination of D.W.1 at page 6 para 5, the learned counsel for the plaintiffs suggested to D.W.1 that whether he was aware of one Mahadevappa Chavadappanavar and Karjol and the witnesses states that Mahadevappa Chavadappanavar is from Haralakatti Village and he does not know about Karjol. According to plaintiffs, those two persons are the witnesses to the alleged agreement of sale. As aforesaid, it is not the case of the

plaintiffs that they are no more. Nothing prevented the plaintiffs to examine those two witnesses at least to establish prima facie the execution of alleged agreement of sale.

15. Plaintiffs ought to have summoned the witness and confronted the document in question. No attempt was made by the plaintiffs to examine independent witnesses to the alleged agreement of sale. The learned counsel for the plaintiffs vehemently contended that the agreement of sale is marked without any objection by the other side and therefore, there cannot be question as to the validity of the document. But it could be seen from the evidence of P.W.1 that while marking Ex.P-1, the counsel for the defendants raised objection and as such, subject to proof and objections, the document was marked as Ex.P-1 and mere marking of an exhibit does not dispense with the proof of document. The plaintiff failed to establish the valid execution of the alleged agreement of sale at Ex.P-1. The Trial Court also held that the Prevention of fragmentation and Consolidation of Holdings Act was abolished in the year 1980 itself and even thereafter, no attempt was made by the plaintiffs to get registered the sale deed, if 'at all they were having an agreement or sale as alleged by them. Till the filing of the suit, no notice was issued by the plaintiffs calling upon the defendants to execute the registered sale deed. The contention of the plaintiffs that they were ready and willing to perform their part of contract is only to make believe the Court. The plaintiffs were aware of the change of mutation in the names of family members of the defendants since 1963 and if at all there was any agreement of sale as alleged by the plaintiffs, nothing prevented them to approach the defendants in writing seeking execution of sale deed Exs.D-1 to D-7 which were mutation orders, since 1958 several transactions have taken place in respect of the property in question between family members of the defendants. Admittedly, plaintiffs were aware of these transactions and no steps have been taken by the plaintiffs at least to issue notice to the defendants to bring it to their notice as to the existence of the alleged agreement of sale said to have been executed by the father's of the defendants. In fact, several mutation entries reveal that the parties have divided the property in question amongst themselves on various occasions since 1958. Though P.W.1 was aware of the same, he took no pains to issue any notice to the legal heirs of the vendors to execute the registered sale deed in their favour. Admittedly, till the date

of the suit, no notice was issued to the defendants calling upon them to execute the registered sale deed. Though it is the evidence of P.W.1 that in the month of February 2007, he approached the defendants with balance sale consideration, nothing prevented the plaintiffs to send the balance of consideration at an earlier point of time and no material documents were produced to show before the Court. The Trial Court also recorded a finding that the plaintiffs have not proved that after the death of their father, the plaintiffs were and are always ready and willing to perform their part of the contract and also recorded a finding that the alleged agreement executed on 17.04.1963 and even after lift of the consolidation scheme, it is not their case that they have approached the defendants. Neither the father of the plaintiffs nor the plaintiffs have attempted to vindicate their rights before the appropriate Court of law. The plaintiffs slept over their rights for more than 4 decades, though they were aware of the various transactions which took place in the family of the defendants. Therefore, the suit filed by the plaintiffs was barred by limitation. Accordingly, the suit came to be dismissed.

16. On re-appreciation of the entire material on record, the lower Appellate Court has framed points for consideration as contemplated under Order 41 Rule 31 of the Code of Civil Procedure and answered issue Nos.1 to 3 in the negative and issue Nos.4 and 5 in the affirmative and issue No.6 in the negative and held that from 1963 to 2007 for 44 years no attempt has been made by the plaintiffs or their father to enforce the agreement. They have not issued any notice to show their readiness and willingness to perform their part of contract and also held that though limitation point is not raised in the written statement, but it was raised during the course of the arguments and since it is a question of law, no illegality is committed by the Trial Court by framing issues. The suit agreement was alleged to have been executed in the year 1963 and the provisions of Fragmentation and Consolidation Prohibition Act was abolished in the year 1980 itself and even if from 1980 it is taken into consideration, then the suit is hopelessly barred as it is filed after lapse of 27 years later. Accordingly, the lower Appellate Court dismissed the appeal.

17. The substance of plaintiffs' case is that the father of defendant Nos.1 and 2 executed a registered agreement of sale on 17.04.1963 in favour of father of the

plaintiffs and they are ready and willing to perform their part of contract. In view of the consolidation scheme existing in the Village, it was agreed between the parties that after abolition of the scheme defendants will execute the sale deed and it is not the case of the plaintiffs when the consolidation scheme was abolished and when the plaintiffs father or plaintiffs approached the defendants to execute the registered sale deed. It is also not the case of the plaintiffs that they were ready and willing to perform their part of contract by issuing statutory notice as contemplated. Though Ex.P-1 was marked, as contended by learned counsel for the appellants, it was marked subject to objection raised by the defendants before the Trial Court and mere marking of the document, it does not discharge the burden of the plaintiffs to proof of the document.

18. The Hon'ble Supreme Court in the case of Sait Tarajee Khimchand and others vs. Yelamarti Satyam and other reported in AIR 1971 SC 1865 held that:

"The plaintiffs wanted to rely on Ex.A12 and A.13 the day book and the ledger respectively. The plaintiff s did not prove these books. There is no reference to these books in the judgments. The mere marking of an exhibit does not dispense with the proof of documents"

19. In the present case, though to the plaintiff marked Ex.P-1 agreement, but it was subject to proof of the document. Admittedly, in the present case, no efforts were made by the plaintiffs or their father to prove the document. Admittedly, they slept the matter for more than 44 years and they filed the suit only on 01.06.2007 to enforce the agreement dated 17.04.1963. Absolutely no oral and documentary evidence is produced to prove the said document and the suit filed by the plaintiffs is clearly barred by limitation, in view of the provisions of Article 54 of the Limitation Act, 1963 which reads as under:

Description of suit	Period of limitation	Time from which period begins to run
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For specific performance of a contract	Three years	The date fixed for the performance, or, if no such date is fixed, when the plaintiff has notice that performance is refused.
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20. Therefore, the contention of learned counsel for the appellants that the objection was not raised when Ex.P-1 was marked and no defence was taken in the written statement with regard to limitation cannot be accepted. It is well settled, question of law, no pleadings or evidence is necessary. It is always open either for the party or the Courts to raise substantial questions of law. The law of limitation is a question of law and same has been considered by both the Coupes below and negated the contention of the plaintiffs. Therefore, the contention of the learned counsel for the appellants with regard to limitation cannot be accepted.

21. It is worthwhile to mention here that under the provisions of Section 16(c) of the Specific Relief Act, 1963 mandates that the "readiness and willingness" on the part of the plaintiff and it is a condition precedent for obtaining relief of grant of specific performance, plaintiff must allege and prove a continuous "readiness and willingness" to perform the contract on his part from the date of the contract till institution of the suit.

22. My view is fortified by the Hon'ble Supreme Court in the case of Mrs. Sandhya Rani Sarkar vs. Smt. Sudha Rani Debi and others reported in AIR 1978 SC 537 at para 12 which reads as under:

"12. Mr. Chatterjee contended that delay on the part of the plaintiff would not disentitle her to a decree for specific performance unless it can be shown that time was of the essence of the, contract or was made essence of the contract or delay on the part of the plaintiff amounted to abandonment of the contract. Our attention was drawn to Article 766, Halsbury's Laws of England, III Edition, Vol. 36, p. 322

where it is observed that delay by a plaintiff in performing his part of the contract is a bar to his enforcing specific performance; provided that (1) time was in equity originally of the essence of the contract; or (2) was made so by subsequent notice; or (3) the delay has been so great as to be evidence of an abandonment of the contract. It was then said that in view of the finding of the High Court that time was not of the essence of the contract or was not so made, the decree could not be refused on the ground of delay. The question whether relief of specific performance of the contract for the purchase of immoveable property should be granted or not always depends on the facts and circumstances of each case and the Court would not grant such a relief if it gives the plaintiff an unfair advantage over the defendant. A few relevant facts of the case would unmistakably show that if a decree for specific performance in this case is granted it would give the plaintiff an unfair advantage over the defendant. The defendant was obliged to sell the property because it was mortgaged with Hindustan Co-operative Insurance Society Ltd., and the mortgaged Company had filed Title Suit No.10/56 for realisation of mortgage dues. The vendor then had thus a compelling necessity to sell the property to save the property from being sold at a Court auction. It is in this background that we have to appreciate the conduct of the plaintiff. The stages within which the contract was to be completed were clearly demarcated and set out in the contract itself and by the end of April 1956 the transaction was to be completed. In her anxiety to see that the transaction was completed the defendant vendor put the plaintiff in possession of a substantial portion of the property even when the plaintiff had not paid a major part of the consideration. This would clearly evidence the anxiety of the defendant to successfully complete the contract within the stipulated time. To repel this submission on the flimsy ground that mortgage was not referred to in the contract for sale is to ignore the letter on behalf of the defendant dated 25th February 1956 in which it is specifically stated that the title deeds of the property in question were lying in the court of Sub-Judge at Alipore in which Hindustan Co-operative Insurance Society Ltd., had filed a suit for realisation of mortgage dues. And the procrastination on the part of the plaintiff put the defendant then in such a disadvantageous position that she was forced to sell the adjacent property 86A, Rash Behari Avenue to Hindu Maha Sabha to raise enough money to pay off the dues in respect of the property which the plaintiff

desired to purchase. If in this background the High Court took into consideration the fact that while the defendant did everything within her power to meet the requests made by the plaintiff, the latter avoided performing her part of the contract under one or the other pretext and, therefore, is disentitled to a decree for specific performance, no serious exception can be taken to this finding."

23. The Apex Court while considering the provisions of Sections 16(c) and 20 of the Specific Relief Act, 1963 in the case of N.P. Thirugnanam (dead) by LRs. vs. Dr. R. Jagmohanrao and others reported in AIR 1996 SC 116 has held that:

'It is settled law that remedy for specific performance is an equitable remedy and is in the discretion of the court, which discretion requires to be exercised according to settled principles of law and not arbitrarily as adumbrated under Section 20 of the Specific Relief Act 1963 (for short, 'the Act'). Under Section 20, the court is not bound to grant the relief just because there was valid agreement of sale. Section 16(c) of the Act envisages that plaintiff must plead and prove that he had performed or has always been ready and willing to perform the essential terms of the contract which are to be performed by him, other than those terms the performance of which has been prevented or waived by the defendant. The continuous readiness and willingness on the part of the plaintiff is a condition precedent to grant the relief of specific performance. This circumstance is material and relevant and is required to be considered by the court while granting or refusing to grant the relief. If the plaintiff fails to either aver or prove the same, he must fail. To adjudge whether the plaintiff is ready and willing to perform his part of the contract, the court must take into consideration the conduct of the plaintiff prior and subsequent to the filing of the suit along with other attending circumstances. The amount of consideration which he has to pay to the defendant must of necessity be proved to be available. Right from the date of the execution till date of the decree he must prove that he is ready and has always been willing to perform his part of the contract. As stated, the factum of his readiness and willingness to perform his part of the contract is to be adjudged with reference to the conduct of the party and the attending circumstances. The court may infer from the facts and circumstances whether the plaintiff was ready and was always ready and willing to perform his part of contract.

24. So also the Apex Court in the case of Misses Sugani vs. Rameshwar Das and another reported in (2006) 3 MLJ 131 (SC) has held that:

. Any person seeking benefit of specific performance of Contract must manifest that his conduct has been blemished throughout entitling him to the specific relief

..... Court has to grant relief on the basis of the conduct of the person seeking relief."

25. In another judgment, the Supreme Court in the case of Faquirchand and another vs. Sudesh Kumar reported in (2006) 12 SCC 146 while considering the provisions of Section 16(c) of the

Specific Relief Act has held that:

'The language under Section 16(c) of the Act, in our view, does not require any specific phraseology but only that the plaintiff must aver that he has performed or has always been ready and willing to perform his part of the contract. Therefore, the compliance with the readiness and willingness has to be in spirit and substance and not in letter and form. The continuous readiness willingness could very well be seen in the instant case from the conduct of the plaintiff as a whole."

26. The plaintiff wants to enforce agreement dated 17.04.1963. The limitation starts to run from the date or from the date fixed in the agreement of sale. If no date is fixed, the limitation starts from the date of refusal to execute the registered sale deed. The only contention was raised by the counsel for the plaintiff that the Karnataka Prevention of Fragmentation and Consolidation of Holdings Act was in force and therefore the agreement was not enforced. Admittedly the said Act came to be abolished in the year 1980 and till then no steps have been taken by deceased Pedappa, the father of the plaintiffs and even after death of their father, plaintiffs have not chosen to take any steps and suit filed only on 01.06.2007 after lapse of 44 years. Therefore, the suit is hopelessly barred by limitation as contemplated under Article 54 of the law of Limitation Act, 1963. While considering the provisions of Article 54 of the Limitation Act, 1963 the Hon'ble Supreme Court in the case of Venkappa Gurappa Hosur vs. Kasawwa C/o. Rangappa

Kulgodreported in(1997) 10 SCC 66held as follows:

"Once the Limitation has begun to run it runs its full course. Therefore, the suit having been filed after expiry of three years from the date of knowledge of denial by operation of Article 54 of the Schedule to the Limitation Act, 1963, the suit is hopelessly barred by Limitation."

27. The Courts below considering both the oral and documentary evidence on record, concurrently held that the plaintiffs failed to prove the execution of the sale agreement dated 17.04.1963 said to have been executed by the father of defendant Nos.1 and 2 in favour of father of the plaintiffs and failed to prove that they are ready and willing to perform their part of contract and further plaintiffs failed to prove that they are in possession of suit schedule property from the date of agreement and the Courts below recorded finding that the suit filed by the plaintiffs is bad for non-joinder of necessary parties, since the suit filed to enforce only 2/3rd undivided share from the joint family property and defendant Nos.3 and 4 are bona fide purchasers and suit filed by the plaintiffs is barred by limitation, based on the cogent legal evidence on record. The plaintiffs have not made out any case for interference by this Court exercising the powers under the provisions of Section 100 of the Code of Civil Procedure and no substantial question of law involved in the present case. Accordingly, the regular second appeal is dismissed at the stage of the admission without reference to the respondents.

Ordered accordingly.

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