

Basavaraj vs Girish

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Court : Karnataka

Decided On : Jan-27-2025

Judge : E.S.Indires

Appeal No. : CRP/100003/2025

Appellant : Basavaraj

Respondent : Girish

Judgement :

IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH DATED THIS THE 27TH DAY OF JANUARY, 2025 BEFORE THE HON'BLE MR. JUSTICE E.S.INDIRES CIVIL REVISION PETITION NO. 100003 OF 2025 (-) BETWEEN:

Petitioners

BASAPPA S/O. SIDALINGAPPA AINAPUR, AGE. 52 YEARS, OCC. AGRICULTURE, R/O. KANKANAWAD - 591222

Respondents

1. GIRISH

AGE. 35 YEARS, OCC. AGRICULTURE,

2. LAXMAN

MANJANNA S/O. GIREPPA BELAKUD, E
AGE. 70 YEARS, OCC. AGRICULTURE,

3. SMT.CHANDRAVVA

S/O. LAXMAN BELAKUD AGE. 62 YEARS, OCC. AGRICULTURE, AND
HOUSEHOLD WORK,

4. SMT. BASAVVA

S/O. TEJAGOUDA PATIL, AGE. 52 YEARS, OCC. AGRICULTURE,
AND HOUSE HOLD WORK, -2-

5. MALLAPPA

AGE. 50 YEARS, OCC. AGRICULTURE,

6. SMT. RAJASHREE

S/O. RAMAPPA BALIGAR, AGE. 40 YEARS, OCC. AGRICULTURE,
AND HOUSE HOLD WORK,

7. BASAVARAJ

AGE. 31 YEARS, OCC. AGRICULTURE, AND HOUSEHOLD WORK,

RESPONDENTS -----

THIS CRP IS FILED UNDER SEC.115 OF CPC, 1908, PRAYING
TO SET ASIDE THE IMPUGNED ORDER DATED 19.12.2024 PASSED
BY THE SENIOR CIVIL JUDGE AND JMFC, RAIBAG IN OS
NO.102/2020 ON IA NO.II FILED UNDER ORDER VII RULE 11(d) R/W
SEC.151 F CPC AND ALLOW THE INTERIM APPLICATION IN IA NO.II
FILED UNDER ORDER VII RULE 11(d) R/W SEC. 151 OF CPC
SEEKING REJECTION OF THE PLAINT IN THE ENDS OF JUSTICE
AND EQUITY.

COURT MADE THE FOLLOWING:

CORAM: THE HON'BLE MR. JUSTICE E.S.INDIRESH

PETITIONER (BY SRI. SHRIHARSH A. NEELOPANT, ADVOCATE)

THIS PETITION COMING ON FOR ADMISSION THIS DAY, THE

ORAL ORDER

1. This Revision petition is filed by defendant No.7 challenging the order dated 19.12.2024 in O.S.No.102/2020 on the file of the Senior Civil Judge and JMFC, Raibag1 dismissing the application.

2. The plaintiff has filed suit seeking relief of

partition and separate possession in respect of suit schedule property. Defendants entered appearance and contested the matter by filing written statement. In the

meanwhile, defendant No.7 has filed I.A.No.2 under Order

7 Rule 11(D) of CPC, seeking rejection of plaint on the ground that the suit is barred by limitation.

3. The said application was contested by the

plaintiff. The Trial Court after considering the material on record, by its order dated 19.12.2024 dismissed the application. Hence, defendant No.7 has preferred this revision petition.

hereinafter referred to as Trial Court -4-

4. Heard Sri.Shriharsh A Neelopant, learned counsel appearing for the petitioner.

5. It is contended by the learned counsel

appearing for the petitioner that, suit is filed in the year 2020 to question the sale deed dated 20.06.2005 after lapse of 16 years from the date of execution of the sale deed and therefore the suit is barred by limitation and accordingly, sought for interference of this Court.

6. Having heard the learned counsel appearing for

the petitioner, suit is filed seeking relief of partition and separate possession in respect of subject matter of the suit. It is settled principle of law that while considering the application under Order 7 Rule 11 of CPC, it is the duty of the Court to consider the averments made in the plaint alone. Though learned counsel

appearing for the petitioner has submitted that the sale deed sought to be challenged is of the year 2005, however, looking into the averments made in the plaint, mixed question of fact and law are involved in this petition as the plaintiff has sought for relief

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of partition and therefore I am of the view that an enquiry is required to be conducted in the matter. Accordingly, I do not find any merit in the revision petition. Hence, I pass the following:

ORDER

i. The revision petition is dismissed. ii. The impugned order passed by the Trial Court is hereby confirmed. Sd/- (E.S.INDIRESH) JUDGE SH CT:ANB List No.: 1
SI No.: 25

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