

Narasi Bai vs B S Basavaiah

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Court : Karnataka

Decided On : Jun-13-2025

Judge : Anant Ramanath Hegde

Appeal No. : RSA/2028/2011

Appellant : Narasi Bai

Respondent : B S Basavaiah

Judgement :

-1-

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13TH DAY OF JUNE, 2025 BEFORE THE HON'BLE
MR JUSTICE ANANT RAMANATH HEGDE REGULAR SECOND
APPEAL NO. 2028 OF 2011 (PAR) BETWEEN:

1. NARASI BAI D/O NARASINGH, AGED ABOUT 70 YEARS R/O
NARASIPURA.

2. SEETHA BAI (SINCE DEAD BY LRS) 2(a) JAYALAKSHMIBAI AGED
ABOUT 58 YEARS W/O JAYARAMSINGH POST AT: THADANGAM
TALUKA HALLAMPALLI,. BISTRIC; Digitally signed by C

DHARMAPURI TAMILNADU-636 705. HONNUR SAB

Location: 2(b) YASHODABAIHIGH COURT

W/O SHIVASINGH

2(c) ANNAPURNA W/O CHANDRAKUMARSINGH AGED ABOUT 56 YEARS, NO. 96/3, 6TH CROSS, 6TH MAIN ROAD, KASTRIBANAGAR, BENGALURU-560 026 -2- 2(d) ARJUNSINGH S/O SEETHABAI AGED ABOUT 50 YEARS, IIND YEAR, SHESHADRIPURAM BENGALURU-560 020. 2(e) DURGABAI D/O SEETHABAI NO. 7/8, IIND CROSS, SHESHADRIPURAM, BENGALURU-560 020.

3. RAMABAI (SINCE DEAD BY HER LRS) 3(a) LAXMIBAI W/O MAHINDRASINGH AGED ABOUT 50 YEARS R/O SIDDARAMESHWARA EXTENSION, 5TH MAIN, 10TH CROSS, BATAWADI, TUMAKURU-572 101. 3(b) SHANKARAI AH S/O RAMBAI, AGED ABOUT 44 YEARS, NO. 64, CHUNCHAGATTA, BENGALURU-560 052. 4 LAKSHMI BAI D/O LATE NARASINGH AGED ABOUT 60 YEARS R/A BYLALKERE, KASABA HOBLI, MAGADI TALUKA RAMANAGARA DISTRICT - 560 072. APPELLANTS (BY SRI. JAGADISH D HIEMATH., ADVOCATE) -3- AND:

1. B S BASAVAI AH SINCE DEAD BY LRS 1(a). HONNASWAMIAH S/O LATE CHENNAPPA AGED ABOUT 65 YEARS NO.187, 7TH CROSS BAPUJI EXTENSION, VIJAYANAGAR BENGALURU -560 060

1(b). SRI SIDDAPPA SINCE DEAD BY LRS 1(b) (a) MAHADEVAMMA W/O LATE SIDDAPPA, AGED ABOUT 55 YEARS KARUR ROAD, MAGADI ROAD RAMNAGAR DISTRICT - 562 120. 1(b)(b) BHARATHI W/O RAJKUMAR KARAU ROAD, MAGADI TALUK RAMANAGAR DISTRICT - 562 120. RESPONDENTS (BY SRI.P.H. VIRUPAKSHAIAH.,ADVOCATE FOR R1(a)(b)) THIS RSA IS FILED UNDER SEC.100 OF CPC., AGAINST

THE JUDGMENT AND DECREE DATED 22.01.2011 PASSED IN R.A.NO.22/2007 ON THE FILE OF THE PRESIDING OFFICER, FAST TRACT COURT AT RAMANAGARA DISMISSING THE APPEAL AND CONFIRMING THE JUDGMENT AND DECREE DATED 11/4/2007 PASSED IN O.S.NO.122/2003 ON

THE FILE OF THE ADDL CIVIL JUDGE (SR.DN) RAMANAGARA. THIS APPEAL, COMING ON FOR ADMISSION, THIS DAY,

JUDGMENT WAS DELIVERED THEREIN AS UNDER:

-4- CORAM: HON'BLE MR JUSTICE ANANT RAMANATH HEGDE

JUDGMENT

This regular second appeal is arising from the judgment

and decree in O.S.No.122/2003 on the file of the Additional Civil Judge (Sr.Dn), Ramanagar and the judgment and decree in R.A.No.22/2007 on the file of the Presiding Officer, Fast Tract Court at Ramanagar.

2. The suit filed by four daughters of Bhavani

Bayamma and Narasingh seeking partition, is dismissed. The plaintiffs' appeal is also dismissed. Being aggrieved by the said judgment and decree, plaintiffs are before this Court.

3. The admitted genealogy would mention that one

Narasingh was the propositus and his wife was Bhavani Bayamma. They had five children. However, the suit is filed by four daughters of Bhavani Bayamma. The daughter by name Savitri Bai who is the fourth daughter of Bhavana Bayamma is not made party to the suit. -5-

4. The suit is filed on the premise that the property

originally belonged to Narasingh and his brothers and in the family partition, the suit properties are allotted to the share of Narasingh and on demise of Narasingh, the properties devolved on plaintiffs and plaintiffs' mother-Bhavani Bayamma.

5. The plaintiffs has sought 1/5th share in the suit

properties on the premise that there is no partition in the family in respect of the suit properties. The defendant who is the purchaser of the suit property from plaintiffs' mother contested the suit contending that the suit property sold on 26.09.1963 under a registered sale deed. It is further contended that Narasingh was in arrears of loan which he had borrowed for the benefit of family and the loan was not repaid during his lifetime and to repay the said loan, the property was sold by Narasingh's wife Bhavani Bayamma. The defendant took the contention that plaintiffs were aware of the sale deed. The defendant prayed for dismissal of the said suit on the ground of limitation as well. -6-

6. Trial Court accepted defendant's contention and dismissed the suit on the premise that suit is time barred.

7. The First Appellate Court also concurrent that the suit is time barred and dismissed the appeal.

8. Learned counsel for the appellants would contend

that both Courts have erred in holding that the suit is time barred. It is further contended that plaintiffs' mother had no right to alienate the properties, as such, the Court ought to have granted decree holding that the sale deed does not bind the interest of the plaintiffs.

9. Learned counsel appearing for the defendant-

purchaser would contend that plaintiffs cannot have any right over the property and mother of the plaintiffs has sold the property for family necessity as her husband Narasing could not repay the loan amount which he had raised for the benefit of the family during his lifetime. After demise of Narasingh, the mother of the plaintiffs has sold the property for family necessity and the said sale deed was within the -7- knowledge of the plaintiffs Nos.1 and 2 and plaintiff Nos.3 and 4 were not born when property was sold.

10. This Court has considered that contentions raised by Bar and perused the records.

11. When the suit was filed, age of the plaintiff No.3

is shown as 45 years and age of the plaintiff No.4 was shown as 36 years. The suit is filed in the year 2003. The sale deed is of the year 1963. Thus, it is apparent that when the suit was filed, plaintiff No.4 was not born. Thus, plaintiff No.4 had no right over the property as the property was sold before the birth of plaintiff No.4.

12. It is also noticed that pursuant to the sale deed

dated 26.09.1963, property records were changed and name of the defendant was entered in the property records. It is further pertinent to note that plaintiff Nos. 1 to 3 were born when the property was sold and they have not led the evidence. It is only plaintiff No.4 was not born when sale took place in the year 1963, who has led evidence. -8-

13. This being the proposition, this Court is of the view that the evidence of plaintiff No.4 who is PW.1 cannot be taken as a valid evidence to substantiate the contention of plaintiff Nos.1 to 3.

14. It is also noticed that the plaintiffs have not

produced any records to establish their contention that they are in possession of the suit property. On the other hand, the records produced by the defendants would clearly demonstrate that the defendant was in possession of the property ever since the property was sold. This would clearly establish that the plaintiffs were aware that defendant is in possession of the property pursuant to the sale deed.

This being the position, both the Courts have rightly held

that suit of the plaintiffs is time barred and have dismissed the suit.

15. After going through the reasons assigned by the

Trial Court and the First Appellate Court, this Court does not find any reason to interfere with the said reasoning when -9- exercising the jurisdiction under Section 100 of CPC. No substantial question of law would arise.

16. Accordingly, appeal is dismissed. Sd/- (ANANT RAMANATH HEGDE) JUDGE
RU, List No.: 1 Sl No.: 19

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