NC: 2024:KHC:43688
CRP No. 466 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF OCTOBER, 2024

BEFORE

THE HON'BLE MR JUSTICE HEMANT CHANDANGOUDAR

CIVIL REVISION PETITION NO. 466 OF 2023 (IO)

BETWEEN:

SRI VENKATASWAMY
S/O LATE SRI MUNISWAMAPPA,
AGED ABOUT 65 YEARS,
R/O NAGENAHALLI VILLAGE,
SINGANAYANAHALLI POST,
YELAHANKA TALUK,
BENGALURU - 560 064.

…PETITIONER

(BY SRI. VEERAYYA HIREMATH, ADVOCATE)

AND:

1. SMT. ANJINAMMA
D/O LATE SRI. KAPANNA,
AGED ABOUT 66 YEARS,
R/O. BYADARAHALLI VILLAGE,
KUNDANA HOBLI,
DEVANAHALLI TALUK,
BENGALURU RURAL DISTRICT - 562 110.

2. SMT. CHIKKAANJINAMMA,
D/O LATE SRI KAPANNA,
AGED ABOUT 64 YEARS,
R/O. BYDARAHALLI VILLAGE,
KUNDANA HOBLI,
DEVANAHALLI TALUK,
BENGALURU RURAL DISTRICT - 562 110.

3. SMT. MUNIYAMMA
W/O. LATE SRI DODDAMUNIYAPPA,
AGED ABOUT 73 YEARS,
R/O. BYADARAHALLI VILLAGE,
KUNDANA HOBLI,

Digitally signed by B K MAHENDRAKUMAR
Location: HIGH COURT OF KARNATAKA

DEVANAHALLI TALUK,
BENGALURU RURAL DISTRICT - 562 110.

4. SRI. KRISHANAPPA,
S/O LATE SRI CHIKKONAPPA,
AGED ABOUT 53 YEARS,
R/O. BYADARAHALLI VILLAGE,
KUNDANA HOBLI,
DEVANAHALLI TALUK,
BENGALURU RURAL DISTRICT - 562 110.

5. SMT. ANJINAMMA,
W/O. LATE. SRI. CHIKKONAPPA,
AGED ABOUT 62 YEARS,
R/O. BYADARAHALLI VILLAGE,
KUNDANA HOBLI,
DEVANAHALLI TALUK,
BENGALURU RURAL DISTRICT - 562 110.

6. SRI. KARIYAPPA,
S/O. LATE SRI. CHIKKONAPPA,
AGED ABOUT 43 YEARS,
R/O. BYADARAHALLI VILLAGE,
KUNDANA HOBLI,
DEVANAHALLI TALUK,
BENGALURU RURAL DISTRICT - 562 110.

7. SMT. SOWMYA,
D/O. LATE SRI. CHIKKONAPPA,
AGED ABOUT 30 YEARS,
R/O. BYADARAHALLI VILLAGE,
KUNDANA HOBLI,
DEVANAHALLI TALUK,
BENGALURU RURAL DISTRICT - 562 110.

…RESPONDENTS

(BY SRI. NAGARAJU M., ADVOCATE FOR R1 & R2;
V/O DATED 12.09.2023, NOTICE TO R3 TO R7 IS D/W)

THIS CRP IS FILED UNDER SECTION 115 OF CPC, AGAINST THE ORDER DATED 28.11.2022 PASSED ON I.A. NO.III IN OS.NO.601/2022 ON THE FILE OF THE III ADDITIONAL SENIOR CIVIL JUDGE AND JMFC, DEVANAHALLI, C/C II ADDITIONAL SENIOR CIVIL JUDGE

AND JMFC, DEVANAHALLI, REJECTING THE I.A.NO.III FILED UNDER ORDER VII RULE 11(a) AND (d) R/W SEC.151 OF CPC FOR REJECTION OF PLAINT.

THIS PETITION, COMING ON FOR ADMISSION, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR JUSTICE HEMANT CHANDANGOUDAR

ORAL ORDER

The petitioner challenges the impugned order passed by the Trial Court, wherein, the application filed by the defendant No.6 under Order 7 Rule 11(a) & (d) of CPC came to be rejected.

2. A suit was filed by the plaintiffs for partition and possession of their legitimate share in the suit schedule item No.1 property. It is further averred in the plaint that the plaintiffs who are the daughters of the late Kappanna, and during his lifetime he conveyed the suit schedule item No.1 property to the defendant No.6 by executing the registered sale deed dated 2.12.1988.

3. The defendant No. 6, upon entering appearance, filed an application asserting that the suit schedule item No. 1 property, which was conveyed to defendant No. 6 by the father of the plaintiffs, is protected under the provisions of Section 6 of the relevant Act (likely the Partition Act or another property-related statute). The defendant further contended that items No. 2 and 3 of the suit schedule pertain to a partition by metes and bounds, which took place

between the plaintiffs and defendants No. 1 to 5, as per an unregistered partition deed dated 9th October 2014. Following the partition and sale, the plaintiffs' names were duly mutated in the revenue records to reflect the shares allotted to them under the partition deed.

4. Suppressing the partition deed executed in the year 2014, the suit was filed and the same is malicious and vexatious. Therefore, the plaint requires to be rejected.

5. The Trial Court after considering the arguments addressed by the learned counsel for the parties, passed an impugned order which prompted the petitioner-defendant No.6 to file the present petition.

6. Heard the learned counsel for the parties and perused the plaint.

7. Perusal of the plaint indicated that the suit schedule property originally belongs to one Doddamuniga who is the grand father of the plaintiff and he died leaving behind two children Kariyappa and Kappanna. The 1st son of Doddamugina i.e., Kariyappa is no more. The plaintiffs claims to be the legal representatives of the deceased Kariyappa who is the son of Dodda Muniga, the propositor. It is further averred that, the deceased sons Kariyappa and Kappanna executed a registered sale deed in favour of the defendant No.6 dated 2.12.1988 conveying item No.1 property in the suit schedule property. Plaintiff further averred that Item No.2 and 3 suit schedule properties are the

joint family properties and therefore, they are entitled for their legitimate share in the said item Nos.2 and 3 schedule properties.

8. Defendant No.6, along with the application, produced a copy of the partition deed dated 9.10.2014, by which Item Nos. 2 and 3 in the suit schedule properties were partitioned by metes and bounds. Under this partition, the plaintiffs were allotted their respective shares, and their names were entered into the revenue records, as confirmed by the order dated 15.10.2014 at Annexure-G, issued by the Tahsildar, Devanahalli Taluk. By suppressing the material fact that they had already been allotted shares in Item Nos. 2 and 3, the plaintiffs filed the suit.

9. The Hon'ble Supreme Court in the case of **T.Arivandandam Vs. T.V.Satyapal and another reported in (1977) 4 SCC 467** at para 5 has held as follows:

> "5. We have not the slightest hesitation in condemning the petitioner for the gross abuse of the process of the court repeatedly and unrepentently resorted to. From the statement of the facts found in the judgment of the High Court, it is perfectly plain that the suit now pending before the First Munsif's Court, Bangalore, is a flagrant misuse of the mercies of the law in receiving plaints. The learned Munsif must remember that if on a meaningful - not formal - reading of the plaint it is manifestly vexatious, and meritless, in the sense of not disclosing a clear right to sue, he should exercise his power under Order VII, Rule 11, C.P.C. taking care to see that the ground mentioned therein is fulfilled. And, if clever drafting has created the illusion of a cause of action, nip it in the bud at the first hearing by examining the party searchingly under Order X, C.P.C. An activist

> Judge is the answer to irresponsible law suits. The trial Courts would insist imperatively on examining the party at the first hearing so that bogus litigation can be shot down at the earliest stage. The Penal Code is also resourceful enough to meet such men, (Cr. XI) and must be triggered against them. In this case, the learned Judge to his cost realised what George Bernard Shaw remarked on the assassination of Mahatma Gandhi".

10. Order 6 Rule 2(1) CPC clearly stipulates that the pleading should contain the material facts. The Apex Court in the case of **Sopan Sukhdeo Sable Vs. Assistant Charity Commissioner, (2004 (3) SCC 137: AIR 2004 SC 1801 as held that:**

> "omission of a single material fact leads to an incomplete cause of action and the statement or plaint becomes bad. Order 7, Rule 11 of the Code of Civil Procedure lays down an independent remedy made available to the defendant to challenge the maintainability of the suit itself, irrespective of his right to contest the same on merits. The real object of Order 7, Rule 11 of the Code of Civil Procedure is to keep out of Courts irresponsible lawsuits and in case Court is prima facie persuaded of the view that the suit is an abuse of the process of the Court, in the sense that it is a bogus and irresponsible litigation, the jurisdiction under Order 7, Rule 11 of the Code of Civil Procedure can be exercised."

11. The legal principles established in the cited decisions, **T. Arivandandam v. T.V. Satyapal and Sopan Sukhdeo Sable v. Assistant Charity Commissioner**, provide guidance on the courts' authority to dismiss frivolous or vexatious suits at an early stage to prevent misuse of judicial resources.

i. In **T. Arivandandam v. T.V. Satyapal**, the Supreme Court emphasized that courts must prevent abuse of process when a suit is manifestly meritless or vexatious, which does not disclose a legitimate cause of action. Judges are encouraged to act as “activist judges” to curb frivolous litigation, examining the merits of a case meaningfully rather than formally. They should use their powers under Order VII, Rule 11 of the CPC to reject the plaint if it is evident that the suit is an abuse of legal process, even if it is cleverly drafted to give the appearance of a valid claim.

ii. Order VI, Rule 2(1) of the CPC requires that pleadings contain all material facts necessary to establish a cause of action. The Supreme Court in **Sopan Sukhdeo Sable v. Assistant Charity Commissioner** held that if a plaint omits even a single material fact, it leads to an incomplete cause of action, making the plaint defective. Order VII, Rule 11 provides defendants with a remedy to challenge the maintainability of such a suit, independent of contesting it on the merits.

iii. The objective of Order VII, Rule 11 is to dismiss irresponsible lawsuits and prevent the judicial system from being burdened by bogus or unwarranted cases. If a court, upon initial review, determines that a suit is a prima facie abuse of process—i.e., devoid of merit or merely intended to harass—it has the jurisdiction to reject the plaint outright to prevent such cases from proceeding.

12. The plaintiff admits that the item No.1 was conveyed to Defendant No.*6* by the propositus through a registered sale deed dated Accordingly, the petition is allowed

13. The impugned order dated 28.11.2022 passed by the III Additional Senior Civil Judge & JMFC, Devanahalli, C/C, II Additional Senior Civil Judge, Devanahalli in O.S.No.601/2022 on I.A.No.III filed under Order VII Rule 11 (a) and (d) of CPC is hereby set aside, and the application is allowed and consequently the plaint stands rejected.

Sd/-
(HEMANT CHANDANGOUDAR)
JUDGE

HR

* corrected vide chamber order dated 21.11.2024