



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 5TH DAY OF DECEMBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

CIVIL REVISION PETITION NO. 346 OF 2019 (RES)

R

BETWEEN:

SRI. NAGARAJU.C @
SINCE DEAD BY LEGAL HEIRS

- 1(A) PUTTAMMANI
W/O LATE NAGARAJU
- 1(B) MAHALAKSHMI M. N.
D/O LATE NAGARAJU C.
- 1(C) NAGENDRA KUMAR N.
S/O LATE NAGARAJU C.
- 1(D) JAGADEESHA N.
S/O LATE NAGARAJU C.
- 1(E) SARASWATHI N.
D/O LATE NAGARAJU C.
- 1(F) VIJAYA KUMAR N.
S/O LATE NAGARAJU C.

ALL ARE R/AT NO.2133,
1ST CROSS, OUT HOUSE,
BASAWESHWARA ROAD,
MYSORE-570 004.

...PETITIONERS

(BY SRI. SHRIHARI K, ADVOCATE)





AND:

SMT. LAKSHMAMMA
W/O LATE CHIKKARANGAIAH
SINCE DECEASED REPRESENTED BY
D2 TO D5 & D 13 TO D14
AS HER LEGAL HEIRS

1. C. RANGAIAH
S/O LATE CHIKKARANGAIAH
85 YEARS,
2. C PUTTANNA
S/O LATE CHIKKARANGAIAH
83 YEARS,
D2 AND D3 ARE R/AT NO.2133
BASAVESHWARA ROAD,
I CROSS, K.R. MOHALLA
MYSURU - 570 004.
3. C. GOPAL
S/O LATE CHIKKARANGAIAH
74 YEARS,
R/AT NO.A & B
NO.75, 6TH CROSS, NAVILU ROAD,
KUVEMPUNAGAR, MYSURU - 570 023.
4. C. KRISHNAMURTHY
S/O LATE CHIKKARANGAIAH
72 YEARS,
R/AT NO.884 4/7TH MAIN ROAD
RAMAKRISHNANAGAR
MYSURU - 570 022.
5. VENKATACHALA
6. DAKSHYINI
7. RAVI



8. INDRESH

RESPONDENT NO.6 TO 9 ARE
R/AT NO.352 RAJAPUTGALLI
WEST CROSS 23, ASHOKA ROAD,
MYSURU - 570 001.

9. MURUGAN

PROPRIETOR TEA SHOP
NO.352, ASHOKA ROAD
VEERANAGERE, MYSURU - 570 001.

10. M/S. GEETHA WINES

NO.352, ASHOKA ROAD,
VEERANAGERE , MYSURU - 570 001.

11. M/S. GURU SWEETS

NO.352, ASHOKA ROAD,
VEERANAGERE , MYSURU - 570 001.

SMT. LEELA SUNDARAMMA
W/O LATE JAVARASHETTY, 76 YEARS,
R/AT NO.2195, 3RD FLOOR,
BASAVESHWARA ROAD,
K.R. MOHALLA, MYSURU - 570 001
LEGAL REPRESENTATIVE
(THE PETITIONER AND THE RESPONDENTS NO.1
TO 5 ARE ALREADY ON RECORD)

12. SMT. MANGALAGOWRI

W/O LATE T.L. ANAND KUMAR
71 YEARS,
R/AT NO.2133
BASAVESHWARA ROAD,
K.R. MOHALLA
MYSURU - 570 004.

...RESPONDENTS

(VIDE ORDER DATED 18.11.2019, NOTICE TO HELD
SUFFICIENT IN RESPECT OF R1 - C RANGAIAH, R2 - C
PUTTANNA, R5 - VENKATACHALA, R6 - DAKSHYINI, R7 - RAVI,
R8 - INDRESH, R12 - MANGALAGOWRI, R10 - M/S. GEETHA
WINES, MYSURU - SERVED)



THIS CRP IS FILED UNDER SEC.115 OF CPC., AGAINST THE JUDGMENT AND DECREE DATED 08.07.2019 PASSED IN OS.NO.362/2006 ON THE FILE OF THE PRINCIPAL COURT OF SMALL CAUSES, MYSURU, PARTLY DECREERING THE SUIT FOR PARTITION AND SEPARATE POSSESSION.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:
CORAM: HON'BLE MR. JUSTICE V SRISHANANDA

ORAL ORDER

Heard Sri.Shrihari K., learned counsel for the legal representatives of the revision petitioner. Respondents are served and unrepresented.

2. It is noticed that the original suit for partition which was earlier pending before the jurisdictional Civil Judge was transferred to the Court of Small Causes as per the notification issued on the administrative side by the learned Principal District Judge, Mysuru.

3. The notification is culled out hereunder for ready reference:



"As per the order No.ADMN/A/8766/11, dated 29.06.2011 of the Hon'ble Prl. District and Sessions Judge, this case is withdrawn and made over to the file of the Judge, Court of Small Causes, Mysore for disposal."

4. Thereafter, the matter was proceeded before the Small Causes Court and the suit came to be partly decreed.

5. Being aggrieved by the same, in the absence of any appeal against the judgment of the Small Causes Court, plaintiff has filed the present revision petition.

6. On hearing the learned counsel for the revision petitioners, this Court noticed that a decree passed by a Court which is incompetent to try a suit would amount to nullity.

7. As such, even though there is no scope for filing a revision petition against the decreeing of the suit for partition, by exercising the power under Article 227 of Constitution of India, wherein this Court can exercise the



supervisory power, impugned order needs to be set aside as the same is an order passed without jurisdiction and nonest.

8. Admittedly, suit was filed before the competent Civil Court having jurisdiction to try the suit for partition.

9. However, without noticing that rights of immovable properties are to be adjudicated in the suit, by administrative order as referred to supra, learned Principal District Judge has withdrawn the suit from the jurisdictional Civil Court and made over to the Court of Small Causes.

10. Based on such an administrative order, suit was adjudicated and disposed of.

11. Pertinently, none of the parties also raised the objection with regard to maintainability of the suit for partition before the Small Causes Court and proceeded with the case.



12. Admittedly, when the Court has no jurisdiction, Doctrine of Acquiescence and Waiver would not operate as the Court of Small Causes inherently has no jurisdiction to try suit for partition in respect of immovable property in view of Section 8 of Karnataka Small Causes Courts Act.

13. For ready reference, Schedule and Section 8 of the Karnataka Small Causes Courts Act, 1964 is culled out hereunder:

"8. Cognizance of suits by Courts of Small Causes.—(1) A Court of Small Causes shall not take cognizance of the suits specified in the Schedule as suits excepted from the cognizance of a Court of Small Causes.

[(2) Subject to the exception specified in the schedule and to the provisions of any law for the time being in force, all suits of civil nature of which the value does not exceed ["two lakh rupees"] in Bangalore City, ["one lakh rupees"] in other places, shall be cognizable by a court of small causes.]

Provided that the State Government, in consultation with the High Court, may by notification, direct that all suits of which the value



does not exceed (twenty five thousand rupees) shall be cognizable by a Court of Small Causes mentioned in the notification.

SCHEDULE
SUITS EXCEPTED FROM THE COGNIZANCE OF COURT
OF SMALL CAUSES
(See Section 8).

(1) A suit concerning any act done or purporting to be done by or by order of the Central Government or the State Government;

(2) a suit concerning an act purporting to be done by any person in pursuance of the judgment or order of a Court or of a Judicial Officer acting in the execution of his office;

(3) a suit concerning an act or order purporting to be done or made by any other officer of the Government in his official capacity, or by a Court of Wards, or by an Officer of a Court of Wards in the execution of his office;

(4) a suit for the possession of immovable property or for the recovery of an interest in such property but not including a suit for ejectment where,—

(a) the property has been let under a lease or permitted to be occupied, by a written instrument or orally, and

(b) the Court of Small Causes would be competent to take cognizance of a suit for the rent of the property, and

(c) the only substantial issue arising for the decision is as to whether the lease has been determined by efflux of the time limited thereby or has been determined by a notice



in accordance with the law for the time being in force in respect of such lease, or the permission to occupy has been withdrawn;

(5) a suit for the partition of immovable property;

(6) a suit by a mortgagee of immovable property for the foreclosure of the mortgage or for the sale of the property, or by a mortgagor of immovable property for the redemption of the mortgage;

(7) a suit for the assessment, enhancement, abatement, or apportionment of the rent of immovable property;

(8) a suit concerning the liability of land to be assessed to land revenue;

(9) a suit to restrain waste;

(10) a suit for the determination or enforcement of any other right to or interest in immovable property;

(11) a suit for the possession of a hereditary office or of an interest in such office including a suit to establish an exclusive periodically recurring right to discharge the functions of an office;

(12) a suit to enforce payment of the allowance or fees respectively called "malikana" and "huq" or of cesses or other dues when the cesses or dues are payable to a person by reason of his interest in immovable property or in a hereditary office or in a shrine or other religious institution, but not including a suit to enforce such payment when the right is based on a contract in writing;

(13) a suit to recover from a person to whom compensation has been paid under the Land



Acquisition Act, 1894 (Act 1 of 1894), the whole or any part of the compensation;

(14) a suit for the specific performance or rescission of a contract;

(15) a suit for the rectification or cancellation of an instrument;

(16) a suit to obtain an injunction;

(17) a suit to enforce a trust including a suit to make good out of the general estate of a deceased trustee, the loss occasioned by a breach of trust, and a suit by a co-trustee to enforce against the estate of a deceased trustee a claim for contribution;

(18) a suit for a declaratory decree not being a suit instituted under Rule 63 or Rule 103 of Order XXI of the Code;

(19) a suit instituted under Rule 63 or Rule 103 of Order XXI of the Code;

(20) a suit to set aside an attachment of any property by a Court or a revenue authority, or a sale, mortgage, lease or other transfer of such property by a Court or a revenue authority or by a guardian;

(21) a suit for property which the plaintiff has conveyed while insane;

(22) a suit to alter or set aside a decision, decree or order of a Court or of a person acting in a judicial capacity;

(23) a suit to contest an award;

(24) a suit under Section 360 or Section 361 of the Indian Succession Act, 1925, (Act 39 of 1925), to



compel a refund by a person to whom an executor or administrator has paid a legacy or distributed assets;

(25) a suit for a legacy or for the whole or a share of a residue bequeathed by a testator, or for the whole or a share of the property of an intestate;

(26) a suit,—

(a) for a dissolution of partnership or for the winding up of a business of a partnership after its dissolution;

(b) for an account of partnership transaction, or

(c) for a balance of partnership account unless the balance has been struck by the parties or other agents;

(27) a suit for an account of property and for its due administration under decree;

(28) any other suit for an account, including a suit by a mortgagor after the mortgage has been satisfied, to recover surplus collections received by the mortgagee but not including a suit for mesne profits;

(29) a suit for a general average loss or for salvage;

(30) a suit for compensation in respect of collision between ships:

(31) a suit on a policy of insurance or for the recovery of any premium paid under any such policy;

(32) a suit for compensation,—

(a) for loss occasioned by the death of a person, caused by actionable wrong;



(b) for wrongful arrest, restraint or confinement;

(c) for malicious prosecution;

(d) for libel;

(e) for slander;

(f) for adultery or seduction;

(g) for breach of contract of betrothal or promise of marriage;

(h) for inducing a person to break a contract made with plaintiff;

(i) for obstruction of an easement or diversion of a water-course;

(j) for an act, which is or, save for the provisions of Chapter IV of the Indian Penal Code, would be an offence punishable under Chapter XVII of the said Code;

(k) for illegal, improper or excessive distress, attachment or search or for trespass committed in or damage caused by the illegal or improper execution of any distress, search or legal process;

(l) for improper arrest under Order XXXVIII of the First Schedule to the Code or in respect of the issue of an injunction wrongfully obtained under order XXXIX of the First Schedule to the Code; or

(m) for injury to the person in any case not specified in the foregoing sub-clauses of this clause;



(33) a suit by a Mohammedan for exigible (mujjal) or deferred (muwajjal) dower;

(34) a suit for restitution of conjugal rights, for the custody of a minor or for divorce;

(35) a suit relating to maintenance, but not one based on a contract in writing;

(36) a suit for contribution by a sharer in joint property in respect of a payment made by him of money due from a co-sharer, or by a manager of a joint property or a member of an undivided family in respect of the payment made by him on account of the property or family;

(37) a suit by one of several joint mortgagors of immovable property or contribution in respect of money paid by him for the redemption of the mortgaged property;

(38) a suit against Government to recover money paid under protest in satisfaction of a claim made by a revenue authority on account of an arrear of land revenue or of a demand recoverable as an arrear of land revenue;

(39) a suit to recover property obtained by an act which is or, save for the provisions of Chapter IV of the Indian Penal Code, would be an offence punishable under Chapter XVII of the said Code; and

(40) a suit the cognizance whereof by a Court of Small Causes is barred by any law for the time being in force.



14. As such, entire proceedings culminating in the impugned judgment and decree before the Small Causes Court stood vitiated for want of jurisdiction and nonest.

15. Hence, following:

ORDER

- i. Revision petition stands ***disposed of.***
- ii. Impugned judgment and decree passed in O.S.No.362/2006 dated 08.07.2019 on the file of Principal Small Causes and Senior Civil Judge, Mysuru is hereby set aside.
- iii. Learned Principal District and Sessions Judge, Mysuru is hereby directed to make over O.S.No.362/2006 before the competent Civil Court having jurisdiction to try the suit and thereafter, such Court shall proceed with the case in accordance with law from the stage the case was



transferred to the Small Causes Court by the aforesaid administrative order.

- iv. In view of the disposal of the main matter, pending applications are disposed of and revision petitioner is permitted to file necessary application to implead legal representatives of deceased respondent No.1 on record in the main suit in accordance with law.

**Sd/-
(V SRISHANANDA)
JUDGE**

KAV
List No.: 1 Sl No.: 3