



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD
DATED THIS THE 8TH DAY OF APRIL, 2026
BEFORE
THE HON'BLE MR. JUSTICE RAVI V.HOSMANI
CIVIL REVISION PETITION NO.100019 OF 2025



BETWEEN:

SRI ISHWAR GUNDOJIRAO GENJE @ MUCHANDI,
AGE 85 YEARS, OCC. AGRICULTURE,
R/O MAHADWAR ROAD,
BELAGAVI- 590001.

...PETITIONER

(BY SRI SOURABH HEGDE, ADVOCATE)

AND:

SMT.NEMABAI @ PARVATI PEERAJIMASEKAR.
(SINCE DECEASED BY HER LEGAL HEIRS)

1. SRI ASHOK S/O PEERAJI MASEKAR,
AGE 73 YEARS, OCC. PRIVATE SERVICE,
R/O H.NO.1235/A BASAVAN GALLI,
SHAHAPUR, BELAGAVI-590003.
2. SMT.PRABHAVATI W/O MOHAN GHEVADE,
AGE 63 YEARS, OCC. HOUSEHOLD,
R/O HNO.2343 HATTIHOLI GALLI,
SHAHAPUR, BELAGAVI-590001.
3. SRI MADHU S/O PEERAJIMASEKAR,
AGE 69 YEARS, OCC. PRIVATE SERVICE,
R/O R.S. NO.66, PLOT NO.1,
MALLIKARJUN NAGAR (SAMARTH NAGAR),
3RD CROSS, BELAGAVI- 590001.

SMT.MANJULA NAGOJIKANGRAKAR,
(SINCE DECEASED BY HER LEGAL HEIRS)

4. SMT.SUNANDA W/O NARAYAN PATIL,
AGE 70 YEARS, OCC. HOUSEHOLD,
R/O H.NO.244/67-D, FULBAG GALLI,
BELAGAVI- 590001.





5. SMT.UMA W/O. MAHESH KANGRALKAR,
AGE 53 YEARS, OCC. HOUSEHOLD,
R/O H.NO.244/67-D, FULBAGGALLI,
BELAGAVI – 590001.
6. SHRI GAJANAN
S/O MAHESH KANGRALKAR,
AGE 31 YEARS, OCC. AGRICULTURE,
R/O H.NO.244/67-D, FULBAGGALLI,
BELAGAVI- 590001.
7. SHRI JATEEN
S/O MAHESH KANGRALKAR,
AGE 27 YEARS, OCC. AGRICULTURE,
R/O H.NO.244/67-D, FULBAGGALLI,
BELAGAVI- 590001.
8. SHRI RAJU NAGOJI KANGRALKAR,
AGE 61 YEARS, OCC. AGRICULTURE,
R/O H.NO.244/67-D, FULBAGGALLI,
BELAGAVI- 590001.
9. SHRI SUBHASH LAXMAN DESURKAR,
AGE 63 YEARS, OCC. AGRICULTURE,
R/O PLOT NO.22, R.S. NO.171/A,
OMKAR NAGAR, HINDALAGA,
BELAGAVI- 590005.
10. SMT.KASTURI @ SHANTABAI
W/O SADASHIV TARIHALKAR,
AGE 69 YEARS, OCC. AGRICULTURE,
R/O GADE MARG, SHAHAPUR,
BELAGAVI-590003.
11. SMT.VAIJAYANTI VIJAY JADHAV,
AGE 68 YEARS, OCC. HOUSEHOLD,
R/O PLOT NO.102, RAM UDYAN MIRAJ,
MAHARASHTRA- 416410.
12. SMT.VIMAL SHIVAJI KOLAMBASKAR,
AGE 73 YEARS, OCC. HOUSEHOLD,
R/O H.NO.257/A, BHANDUR GALLI,
BELAGAVI- 590001.



13. SRI MAHADEV S/O YALLAPPA APTEKAR,
AGE 63 YEARS, OCC. PRIVATE SERVICE,
R/O H.NO.1340, KHADAKGALLI,
BELAGAVI- 590001.
14. SMT.ANJANA D/O YALLAPPA APTEKAR,
AGE 56 YEARS, OCC. HOUSEHOLD,
R/O H.NO.1340, KHADAKGALLI,
BELAGAVI- 590001.
15. SMT.KUSUM IRAPPA HALAGEKAR,
AGE 58 YEARS, OCC. HOUSEHOLD,
R/O H.NO.1340, KHADAKGALLI,
BELAGAVI- 590001.
16. SRI SAMPAT GUNDOJIRAO GENJI @ MUNCHANDI,
AGE 68 YEARS, OCC. AGRICULTURE,
R/O MAHADWAR ROAD, BELAGAVI- 590001.
17. SRI VIJAY KHIRAPPA GENJI @ MUNCHANDI,
AGE 63 YEARS, OCC. AGRICULTURE,
R/O H.NO.148, BHANDURGALLI,
BELAGAVI- 590001.
18. SRI KISHOR KHIRAPPA GENJI @ MUNCHANDI,
AGE 64 YEARS, OCC. AGRICULTURE,
R/O H.NO.148, BHANDURGALLI,
BELAGAVI- 590001.
19. SRI NITIN KHIRAPPA GENJI @ MUNCHANDI,
AGE 58 YEARS, OCC. AGRICULTURE,
R/O H.NO.148, BHANDURGALLI,
BELAGAVI- 590001.
- SRI ROHAN GURUNATHGENJI @ MUNCHANDI,
(SINCE DECEASED BY HIS LEGAL HEIRS)
20. SMT.GEETA
W/O. ROHAN @ RAHUL GENJI @ MUCHANDI,
AGE 43 YEARS, OCC. HOUSEHOLD,
R/O KARLE VILLAGE,
TALUKA BELAGAVI- 590014.



21. SRI SOMANATH
S/O ROHAN @ RAHUL GENJI @ MUCHANDI
AGE 23 YEARS, OCC. STUDENT,
R/O KARLE VILLAGE,
TALUKA BELAGAVI- 590014.
22. SRI SUBHAM
S/O ROHAN @ RAHUALGENJI @ MUCHANDI,
AGE 23 YEARS, OCC. STUDENT,
R/O KARLE VILLAGE,
TALUKA BELAGAVI- 590014.
23. SRI SUDHIN MARUTI GENJI @ MUNCHANDI,
AGE 56 YEARS, OCC. AGRICULTURE,
R/O H.NO.148, BHANDUR GALLI,
BELAGAVI- 590001.
24. SRI ABHAYA MARUTI GENJI @ MUNCHANDI,
AGE 35 YEARS, OCC. AGRICULTURE,
R/O H.NO.148, BHANDUR GALLI,
BELAGAVI – 590001.
25. SMT.SUREKHA JAYAVANT GENJI @ MUNCHANDI,
AGE 66 YEARS, OCC. AGRICULTURE,
R/O H.NO.148, BHANDUR GALLI,
BELAGAVI- 590001.
26. SRI KAPIL JAYAVANT GENJI @ MUNCHANDI,
AGE 63 YEARS, OCC. AGRICULTURE,
R/O H.NO.148, BHANDURGALLI,
BELAGAVI- 590001.
27. SRI. RAHUL JAYAVANT GENJI @ MUNCHANDI,
AGE 58 YEARS, OCC. AGRICULTURE,
R/O H.NO.148, BHANDURGALLI,
BELAGAVI- 590001.
28. SRI ARAVIND S/O MEENAJISAINUCHE,
AGE 27 YEARS, OCC. AGRICULTURE,
R/O KUNTI NAGAR, TEACHERS' COLONY,
KHASABAG, BELAGAVI- 590003.



29. SRI RAJU S/O MEENAJI SAINUCHE,
AGE 25 YEARS, OCC. AGRICULTURE,
R/O GAYATRI NAGAR, KHASABAG,
BELAGAVI- 590003.

...RESPONDENTS

(BY SRI RAMESH I. ZIRALI, ADVOCATE FOR R1-R5, R8 to 10;
NOTICE TO R6 & R7- HELD SUFFICIENT;
NOTICE TO R11 TO R14-SERVED;
NOTICE TO R15 TO R29 IS DISPENSED WITH)

THIS CRP IS FILED UNDER SECTION 115 OF CPC, PRAYING
TO SET ASIDE THE IMPUGNED ORDER DATED 20.11.2024 (ON
I.A.NO.IV) PASSED BY II ADDL. SENIOR CIVIL JUDGE AND CJM
BELAGAVI, AT BELAGAVI IN OS NO.262/2022 VIDE ANNEXURE-A
AND ALLOW THE SAME AND ETC.

THIS CRP HAVING BEEN HEARD AND RESERVED FOR
ORDERS ON 23.03.2026 AND COMING FOR PRONOUNCEMENT THIS
DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: THE HON'BLE MR. JUSTICE RAVI V.HOSMANI

CAV ORDER

Challenging order dated 20.11.2024 passed by II Additional
Senior Civil Judge and CJM, Belagavi, (**'Trial Court'**, for short)
on IA no.III in OS no.262/2022, this petition is filed.

2. Sri Sourabh Hegde, learned counsel for petitioner
submitted that petitioner was defendant no.1 in OS no.262/2022
filed by respondents herein (Plaintiffs no.1A to 1C) for partition
and separate possession. After appearance in suit, defendant



no.1 filed IA no.III under Order VII Rule 11 (d) read with Section 151 of Code of Civil Procedure, 1908 (**'CPC'**, for short) for rejection of plaint.

3. It was contended that on 03.09.2014, plaintiffs herein along with defendants filed OS no.300/2014 on file of II Addl. Senior Civil Judge and CJM, Belagavi, for partition and separate possession in respect of lands bearing Sy.nos.504/5, 408/1, 511/4 and 408/4 (**'suit properties'**). On 16.12.2017, said suit was referred to Lok Adalat and ended in compromise decree, wherein properties were divided amongst plaintiffs and defendants. Despite same, in respect of very same properties, plaintiffs got one Smt.Geeta Aptekar to file OS no.156/2019 for partition and separate possession of her 1/60th share in suit properties and for holding compromise decree as void etc. But, on 11.01.2021, she withdrew suit making allegations against present plaintiffs for forcing her to file suit. Thereafter, on 15.02.2022, plaintiffs herein (against whom allegations were made) filed application for transposition as plaintiffs, which was dismissed. Thereafter, plaintiffs challenged compromise decree in WP no.102854/2022 before this Court. And when this Court did not grant interim order, they filed OS no.262/2022 by adding



two more properties to suit properties and arraying Smt.Geeta Aptekar as defendant, with sole intention of overcoming preliminary objections about maintainability.

4. Therefore, after appearing, defendant no.1 filed written statement and also filed IA no.III for rejection of plaint urging above grounds. But, under impugned order, trial Court rejected application leading to this revision petition.

5. It was submitted, above narration established that present suit was an apparent abuse of process of Court and not maintainable in view of bar under Order XXIII Rule 3A of CPC. When few of plaintiffs were parties to compromise decree and also signed it, separate suit for seeking setting aside compromise decree would not be maintainable. Further, cause of action shown in plaint was rejection of application for transposition, with liberty to file fresh suit. It was submitted, grant of liberty, would not overcome bar under Order XXIII Rule 3A of CPC. It was submitted if permitted, there would be no end to litigation. Therefore, duty was cast on Courts to nip frivolous suits in bud and not allow them to clog Courts. In support of submissions, learned counsel relied on following decisions.



- i. **Sree Surya Developers and Promoters v. N. Sailesh Prasad and Ors.**, reported in **(2022) 5 SCC 736**, for proposition that an independent suit for challenging compromise decree would be barred under Order XXIII Rule 3A of CPC and aggrieved party at best was required to approach same Court that had recorded compromise, in case compromise decree was fraudulent etc.*
- ii. **Dilip Mehta v. Rakesh Gupta and Ors.**, reported in **2025 SCC Online SC 2737**, for proposition that award passed in Lok Adalath was final and could not be reopened in Suit and only recognized avenue was to challenge it in writ petition.*
- iii. **Nikhila Divyang Mehta & Anr v. Hitesh P. Sanghvi & Ors.** [**2025 INSC 485**] for proposition that whether suit was barred by limitation, could be examined while considering application for rejection of plaint.*
- iv. **Sri Channaveerappa Gowda v. Sri Renukappa Gowda and Ors.**, reported in **2014 (3) KCCR 2214**, for proposition that based on same preliminary decree, there was no bar against drawing of multiple final decrees and there was no bar against addition of parties and properties in final decree proceedings.*
- v. **Smt.Shantawwa v. Shri Hanamant Bhimappa Bhajantri**, reported in **2024 (3) KLJ 502**, for proposition that only remedy against compromise decree was by filing a writ petition and not in separate suit.*

6. On other hand, Sri Ramesh I. Zirali, learned counsel for respondents no.1 to 5 and 8 to 10 opposed petition. It was submitted, while passing impugned order, trial Court had examined all aspects in proper perspective. Therefore, it did not suffer from any legal infirmity. It was submitted, plaintiffs stated



in plaint that at time of filing OS no.300/2014, they were not aware of other left out properties. Plaintiffs stated that they did not know English and by misrepresentation, defendants played fraud on them. After realizing same, they filed application before ADLR, Belagavi not to effect changes in revenue records. When defendants began developing suit properties and change nature of suit properties, suit was filed. Insofar as suit filed by Smt.Geeta Aptekar, it was stated, she along with her children filed suit stating that OS no.300/2014 was filed without making her as party and therefore compromise decree was obtained behind her back. In said suit an order restraining changing nature suit properties was granted. Upset by same, defendants had managed to have said suit withdrawn by managing plaintiff no.1 through Advocate Sudhir Kadolkar. Therefore, plaintiffs had filed application for transposition as plaintiffs by stating that there were other joint family properties. Said application was rejected, but by permitting filing of separate suit.

7. It was further submitted, one Smt.Narmada @ Manjula Sainuche daughter of propositus had died during pendency of OS no.156/2019. She was arrayed as defendant no.12 in said suit was survived by her two sons i.e. defendants



no.12 and 13 in present suit. Thus, there was specific allegation of earlier compromise decree being obtained by fraud. It was contended allegations of fraud required trial. Therefore, trial Court was justified in rejecting application. It was submitted, Hon'ble Supreme Court in case of ***Karam Singh v. Amarjit Singh & Ors.***, reported in ***2025 SCC OnLine SC 2240***, had held, application under Order VII Rule 11 of CPC had to be considered on basis of only plaint averments and documents appended to it and not defence set up. It was also relied on for proposition that where there are several reliefs sought in plaint, even if one of them were tenable, plaint could not be rejected.

8. Heard learned counsel, perused material on record as well as impugned order.

9. From above, point that arises for consideration is:

"Whether trial Court was justified in rejecting IA no.III filed by defendant no.1 under Order VII Rule 11 (d) of CPC?"

10. This revision petition is by defendant no.1 against rejection of IA no.III filed under Order VII Rule 11 (d) read with Section 151 of CPC, mainly on ground that suit was barred under



Order XXIII Rule 3A of CPC as it was filed challenging earlier compromise decree.

11. At outset, there cannot be any exception to settled legal principle that while considering application under VII Rule 11 of CPC, Courts would confine to plaint averments and documents appended to it and reference to defence set up or documents of defendant would not be relevant. Likewise, it is also settled that there cannot be partial rejection of suit by considering application under Order VII Rule 11 of CPC.

12. While passing impugned order, trial Court noted contentions urged by defendant no.1, especially assertion about earlier proceedings as well as ratio of decisions relied. It observed that plaintiffs were not challenging compromise decree in OS no.300/2014, but pleaded that in said suit, some properties were not included and alleged it to be obtained by fraud and misrepresentation. Referring to ratio laid down in case of **In matter of Tapeshwar Misra, Contemner** reported in **[AIR 1972 Pat 16]**, by High Court of Patna held, if any decree was not binding against any one of co-sharers, it would not bind even those who gave their consent. It also relied on **Ruby Sales**



and Services Pvt. Ltd., and Anr. v. State of Maharashtra and Ors., reported in **(1994) 1 SCC 531**, that consent decree could be challenged on any one of grounds available for challenge against an agreement, held present suit was tenable and rejected application.

13. From above, *prima facie* there is no dispute between parties about compromise decree for partition passed in OS no.300/2014. While defendants contend compromise decree before Lok Adalath cannot be in separate suit, plaintiffs have stated para-4 of plaint that in OS no.300/2014, they were not aware of about items no.5 to 7 of present suit properties being left out and about non-arraying Smt.Geeta Aptekar and her children as parties. Therefore, they contend that earlier decree was illegal and outcome of fraud and misrepresentation.

14. As per ratio in **Dilip Mehta** and in **Smt.Shantawwa's** cases, only avenue for challenging compromise recorded before Lok Adalath was in writ petition. In case compromise was contended to be fraudulent, only remedy was to approach Court that recorded compromise. *In either case, separate suit would not be maintainable.* Hon'ble Supreme Court



in case of ***K. Srinivasappa & Ors. v. M. Mallamma & Ors.,***
reported in ***2022 SCC OnLine SC 636***, referring to decision in
Ruby Sales' case (supra) has held:

"39. This Court in Ruby Sales and Services Pvt. Ltd. vs. State of Maharashtra- [(1994) 1 SCC 531] observed that a consent decree is a creature of an agreement and is liable to be set aside on any of the grounds which will invalidate an agreement. Therefore, it would follow that the level of circumspection, which a Court of law ought to exercise while setting aside a consent decree or a decree based on a memo of compromise, would be atleast of the same degree, which is to be observed while declaring an agreement as invalid.

*40. In Pushpa Devi Bhagat (dead) through LR. Sadhna Rai vs. Rajinder Singh and Ors. – [(2006) 5 SCC 566], this Court held that since no appeal would lie against a compromise decree, the only option available to a party seeking to avoid such a decree would be to challenge the consent decree before the Court that passed the same and to prove that the agreement forming the basis for the decree was invalid. **It is therefore imperative that a party seeking to avoid the terms of a consent decree has to establish, before the Court that passed the same, that the agreement on which the consent decree is based, is invalid or illegal.***

41. It is a settled position of law that where an allegation of fraud is made against a party to an agreement, the said allegation would have to be proved strictly, in order to avoid the agreement on the ground that fraud was practiced on a party in order to induce such party to enter into the agreement. Similarly, the terms of a compromise decree, cannot be avoided, unless the allegation of fraud has been proved. In the absence of any conclusive proof as to fraud on the part of the



objectors, the High Court could not have set aside the compromise decree in the instant case."

(emphasis supplied)

15. And as per ratio in ***K. Srinivasappa***'s case (supra), party aggrieved by compromise decree passed by Lok Adalath would require to approach same and establish agreement on basis of which compromise was entered into was invalid.

16. In instant case, plaintiffs who were parties to OS no.300/2014 have filed WP no.102854/2022 challenging compromise decree and same is pending. Though, fraud and misrepresentation is alleged against said compromise decree, it is apparent, none of present plaintiffs have approached same Court (i.e. Lok Adalath) where compromise was recorded and sought for its recalling by establishing that agreement on basis of which compromise was entered into was invalid. Thus, at cost of repetition and re-iteration, it has to be held that separate suit to avoid compromise decree would be maintainable.

17. And grant of liberty to file fresh suit would not confer jurisdiction on Civil Court to entertain fresh suit, especially in



light of specific admission about plaintiffs' contention in present suit being same as in OS no.156/2019.

18. Though this Court in case of **Ramakrishna Math v. YOGA [2025:KHC:11176]**, has held, bar under Order XXIII Rule 3A of CPC applies only to persons who were parties to earlier suit/compromise and not to strangers to proceedings, when such strangers join hands with persons who were parties to compromise decree, all of them would require to follow ratio laid in **K. Srinivasappa's** case (supra) and approach same Court. Plaintiff, who were parties to earlier compromise and signed it cannot by clever means of joining some more properties and parties, avail remedy, which could not have otherwise availed. During pendency of WP no.102854/2022 challenging compromise decree before this Court, plaintiffs joining some more properties and parties and filing separate suit amounts to clever drafting.

19. Yet another reason going against plaintiffs would be ratio in **Sri Channaveerappa Gowda's** case (supra), that there is no bar against adding of properties and persons in final decree proceedings in suit for partition.



20. For aforesaid point for consideration is answered in negative. Consequently, following:

ORDER

Revision petition is ***allowed***, order dated 20.11.2024 passed by trial Court rejecting IA no.III filed by defendant no.1 in OS no.262/2022 is set aside and reversed allowing said application and consequently, rejecting plaint, with liberty to avail appropriate remedy as per law.

**Sd/-
(RAVI V.HOSMANI)
JUDGE**

CLK, CT:VP
LIST NO.: 1 SL NO.: 62