

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF JUNE, 2026

PRESENT

THE HON'BLE MRS. JUSTICE ANU SIVARAMAN

AND

THE HON'BLE MR. JUSTICE VENKATESH NAIK T

REGULAR FIRST APPEAL NO.315 OF 2026 (PAR)

BETWEEN:

1. SRI MANJUNATH C. M.
AGED ABOUT 37 YEARS,
S/O MUNIKRISHNA C.M.
2. SMT. TEJASWINI S.
AGED ABOUT 27 YEARS,
W/O MANJUNATH C.M.

BOTH ARE RESIDING AT NO.74, GROUND FLOOR,
SHAMBHULINGESHWARA LAYOUT,
C.N. HALLI, HEBBAL,
R.T. NAGAR, BENGALURU NORTH,
BENGALURU-560 032.

...APPELLANTS

(BY SRI P. NARAYANAPPA, ADVOCATE)

AND:

1. SMT. RASHMI N.
AGED ABOUT 28 YEARS,
C/O ANJANMURTHY C.M.,
RESIDING AT NO.4, 1ST CROSS,
SUNRISE COLONY,
CHOLANAYAKANAHALLI,
R.T. NAGAR,
BENGALURU-560 032.



2. SMT. GOWRAMMA
AGED ABOUT 58 YEARS,
W/O C.M. MUNIKRISHNA,
RESIDING AT NO.7/66, MATHRU NILAYA,
SRI SHAMBHULINGESHWARA LAYOUT,
1ST MAIN ROAD, R.T. NAGAR,
BENGALURU-560 032.
3. MR. C.M. MUNIKRISHNA
AGED ABOUT 62 YEARS,
S/O MUNIYAPPA,
RESIDING AT NO.7/66, MATHRU NILAYA,
SRI SHAMBHULINGESHWARA LAYOUT,
1ST MAIN ROAD, R.T. NAGAR,
BENGALURU-560 032.
4. MR. MOHAN KUMAR
AGED ABOUT 41 YEARS,
S/O C.M. MUNIKRISHNA,
RESIDING AT NO.7/66, MATHRU NILAYA,
SRI SHAMBHULINGESHWARA LAYOUT,
1ST MAIN ROAD, R.T. NAGAR,
BENGALURU-560 032.
5. SMT. HEMA
AGED ABOUT 30 YEARS,
W/O MOHAN KUMAR,
RESIDING AT NO.7/66, MATHRU NILAYA,
SRI SHAMBHULINGESHWARA LAYOUT,
1ST MAIN ROAD, R.T. NAGAR,
BENGALURU-560 032.
6. MR. ANJANAMURTHY
AGED ABOUT 38 YEARS,
S/O C.M. MUNIKRISHNA,
RESIDING AT NO.4, 1ST CROSS,
SUNRISE COLONY, CHOLANAYAKANAHALLI,
R.T. NAGAR,
BENGALURU-560 032.

7. THE BANGALORE CITY CO-OPERATIVE BANK
OFFICE LOCATED AT
NO.3, PAMPAMAHAKAVI ROAD,
CHAMRAJPET, BENGALURU-560 018,
REPRESENTED BY ITS
ASSISTANT GENERAL MANAGER.

...RESPONDENTS

(BY SRI K. VIJAYA KUMAR, ADVOCATE, FOR R-1,
SMT. H.R. UMADEVI, ADVOCATE, FOR R-7, &
VIDE ORDER DATED 08.06.2026, NOTICE TO R-2 TO
R6 ARE DISPENSED WITH)

* * *

THIS REGULAR FIRST APPEAL IS FILED UNDER SECTION 96 OF CPC, AGAINST THE JUDGMENT AND DECREE DATED 12.01.2026 PASSED ON I.A. NO.3 FILED UNDER ORDER VII, RULE 11 READ WITH SECTION 151 OF CPC AND ON I.A. NO.4 FILED UNDER ORDER VII, RULE 11(a) AND (d) READ WITH SECTION 151 OF CPC IN O.S. NO.4389 OF 2025 ON THE FILE OF THE XI ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU CITY, (CCH-8).

THIS REGULAR FIRST APPEAL HAVING BEEN HEARD AND RESERVED ON 08-06-2026, COMING ON FOR PRONOUNCEMENT, THIS DAY, THE **VENKATESH NAIK T. J.**, PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MRS. JUSTICE ANU SIVARAMAN
and
HON'BLE MR. JUSTICE VENKATESH NAIK T

CAV JUDGMENT

(PER: HON'BLE MR. JUSTICE VENKATESH NAIK T)

The present appeal is filed challenging the judgment and decree dated 12.01.2026 in Original Suit No.4389 of 2025 passed by the XI Additional City Civil and Sessions Judge, Bengaluru City (CCH-8) and consequently, to set-aside the orders passed on I.A. Nos.3 and 4 filed by defendant Nos.1 and 7, respectively, under Order VII, Rule 11 read with Section 151 of the Code of Civil Procedure, 1908 (for short, 'CPC') and to restore the plaint and continue the trial proceedings in the suit. By impugned judgment, the suit filed for partition and separate possession of the suit schedule property was dismissed by the trial Court holding that, there is no cause of action for the suit and the suit is barred by law of limitation.

2. For the sake of convenience, the parties herein are referred to as per their rankings before the trial Court. The appellants are plaintiff Nos.1 and 2 and the respondents are defendants Nos.1 to 7.

3. Briefly, the facts of the case are that, the plaintiffs and defendant Nos.2 to 4 and 6 are the joint owners in possession of the property bearing Municipal Site No.66/7, Khaneshumari Old No.73/173/2, Present No.73/66-7, PID No.96-239-66/7, morefully described in the Schedule (hereinafter referred to as 'suit schedule property'). The suit schedule property is the ancestral property of the plaintiffs and defendant Nos.2 to 4 and 6 as referred to in *Jubane Vibhaga Patra* dated 09.02.1980, as such, the plaintiffs and defendant Nos.2 to 4 and 6 formed Hindu Undivided Joint Family. On 20.11.1999, Sri C.M. Munikrishna (defendant No.3) got registered release deed in his favour from other family members. On 22.09.2010, Sri C.M. Munikrishna (defendant No.3) along with his wife, Smt. Gowramma (defendant No.2) and their children, namely, Sri Mohan Kumar (defendant No.4), Anjanamurthy (defendant No.6) and Sri Manjunath (plaintiff No.1) entered into registered partition deed. In terms of the said partition deed, the suit schedule property was allotted towards the share of Smt. Gowramma

(defendant No.2). On 21.12.2012, 03.05.2019 and 19.03.2021, Smt. Gowramma mortgaged the suit schedule property in favour of defendant No.7 by executing registered equitable mortgage by deposit of title deeds. Plaintiffs and defendant Nos.2 to 4 and 6 had affixed their signature as consenting witnesses to the mortgage deeds. On 16.05.2025, Smt. Gowramma sold the suit schedule property in favour of Smt. Rashmi N. (defendant No.1) under registered sale deed. On the same day, defendant No.1 mortgaged the suit schedule property in favour of The Bangalore City Co-operative Bank (defendant No.7) by executing registered equitable mortgage by deposit of title deeds. Later, defendant No.1 committed default in payment of loan installments. Hence, defendant No.7 proceeded under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'SARFAESI Act') and took possession of the suit schedule property. Hence, the plaintiffs have brought the suit for partition and separate possession contending that the suit schedule property is the joint family property

of themselves and defendant Nos.2 to 4 and 6. However, in order to knock off the suit schedule property, the defendants created a registered partition deed and the plaintiffs had no knowledge of the said transactions. In fact, plaintiff No.1 affixed his signature on the documents on assurance of other family members that, in order to raise loan on the suit schedule property, all the defendants obtained his consent and created a registered deed. Thus, said partition is not binding on the plaintiffs. Further, the defendants have created sale deed in favour of defendant No.1 and on the same day, she mortgaged the suit schedule property to defendant No.7. However, the plaintiffs are not aware of these transactions. Those transactions stated to be name sake and created documents. Hence, the plaintiffs orally requested the defendants to make partition in the suit schedule property, i.e. in the last week of May-2025. Thus, the cause of action arose to suit on 21.06.2025, when the plaintiffs approached the defendants and the defendants denied to

make partition. Hence, the plaintiffs brought the suit for partition.

4. Soon after institution of the suit, defendant No.1-Smt. Rashmi N. and defendant No.7-Bank appeared through their counsel and filed I.A. Nos.3 and 4, respectively, under Order VII, Rule 11(a) and (d) read with Section 151 of CPC contending that the plaint does not disclose any cause of action and the suit is barred by law of limitation, as the contents of the plaint itself discloses that there was registered partition deed executed on 22.09.2010 to which Sri Manjunath C.M (plaintiff No.1) is an executant/signatory. Sri C.M. Munikrishna (defendant No.3) along with his wife Smt. Gowramma (defendant No.2) and their children, namely, Sri Mohan Kumar (defendant No.4), Sri Anjanamurthy (defendant No.6) and Sri C.M. Manjunath (plaintiff No.1) had entered into registered partition deed. In terms of the said partition deed, the suit schedule property was allotted towards the share of Smt. Gowramma (defendant No.2). On 21.12.2012, 03.05.2019 and 19.03.2021,

Smt. Gowamma mortgaged the suit schedule property by executing registered equitable mortgage by deposit of title deeds with The Bangalore City Co-operative Bank (defendant No.7) and the plaintiffs and defendant Nos.2 to 4 and 6 had signed as consenting witnesses to the registered equitable mortgage.

5. Smt. Gowamma got released the suit schedule property from defendant No.7 and sold the same to defendant No.1 under registered sale deed dated 16.05.2025 and on the same day, defendant No.1 again mortgaged the suit schedule property by executing registered equitable mortgage by deposit of title deeds with defendant No.7. Since defendant No.1 failed to pay monthly installments towards loan, defendant No.7 initiated the SARFAESI proceedings in Civil Miscellaneous No.3620 of 2026 before the VIII Additional Chief Judicial Magistrate, Bengaluru, to take physical possession of the property and on 30.04.2026, defendant No.7 took possession of the suit schedule property.

6. Now, plaintiff No.1 has taken the contention that he signed the documents under misrepresentation believing it was for raising loan and not for partition deed. The plaintiffs have not sought any reliefs to set-aside or to cancel the registered partition deed. In the pleadings, there are no specific particulars as to fraud, undue influence, misrepresentation, mistake, etc. have been pleaded in terms of Order VI, Rule 4 of CPC. The plaintiffs have cleverly drafted the plaint and simply sought the prayer as to the registered instruments, viz. registered partition deed, mortgage deeds and sale deed are not binding on them. The suit was filed in the year 2025 and more than fifteen years have been elapsed from the date of execution of partition deed, which was registered in the year 2010. Subsequent transactions including mortgage and sale deed have taken place on the basis of the partition deed. Therefore, there is no cause of action for the suit and the suit is barred by law of limitation. Accordingly, the defendants prayed to reject the plaint.

7. The trial Court, considering the contents of the plaint and prayer sought for, has allowed I.A. Nos.3 and 4 filed by defendant Nos.1 and 7, respectively, under Order VII, Rule 11(a) and (d) of CPC and consequently, rejected the plaint.

8. We have heard the learned counsel for the appellants/plaintiffs and the learned counsel for the respondents/defendants and after examining the contentions of the parties, the following issues arise for our consideration in this appeal:-

- i. *Whether the suit of the plaintiffs has no cause of action and the suit is barred by law of limitation?*
- ii. *Whether the judgment and decree passed by the trial Court requires to be interfered with?*

9. In this case, defendant No.1 has taken the contention that there was family partition between the plaintiffs and defendant Nos.2 to 4 and 6 and plaintiff No.1 was the signatory to registered partition deed dated 22.09.2010. In terms of the said partition deed, the suit

schedule property was allotted towards the share of Smt. Gowamma. Thereafter, Smt. Gowamma mortgaged the suit schedule property to defendant No.7 on 21.12.2012, 03.05.2019, and 19.03.2021. Later, i.e., on 16.05.2025, Smt. Gowamma got released the schedule property from defendant No.7 and on the same day, she sold the suit schedule property in favour of defendant No.1, who in turn, mortgaged the suit schedule property in favour of defendant No.7. Therefore, the plaintiffs and defendant Nos.2 to 4 and 6 are not the owners of the suit schedule property. As per the plaint averments, as on the date of the suit, Smt. Gowamma (defendant No.2), mother of plaintiff No.1, was alive. She has not challenged the sale deed in favour of defendant No.1. As on the date of filing of the suit, the plaintiffs and defendant Nos.2 to 4 and 6 were not the owners and were not in possession of the suit schedule property. Therefore, they cannot challenge the sale deed as well as the mortgage deeds.

10. In I.A. No.4, defendant No.7-The Bangalore City Co-operative Bank has taken the contention that the plaint does not disclose any cause of action as against defendant No.7, as defendant No.7 is neither a family member, nor a party to any alleged joint family arrangements, or partition. In fact, on 16.05.2025, defendant No.1 has validly executed an equitable mortgage by deposit of title deeds in favour of defendant No.7 and the mortgage is admitted in the plaint. It is contention of defendant No.7 that plaintiff No.1 is a literate person, signed as a consenting witness to the mortgaged document and therefore, the transaction is bonafide in nature. The allegation of fraud is an afterthought and there are no material particulars in this regard. The plaint does not disclose when the alleged fraud was discovered, or does not plead the manner in which defendant Nos.1 to 7 committed any fraud on the plaintiffs. In fact, due to default payment towards loan by defendant No.1, defendant No.7 initiated the proceedings under the SARFAESI Act and therefore, the jurisdiction of Civil Court

is expressly barred under Section 34 of the SARFAESI Act and continuation of the suit would amount to abuse of process of the Court.

11. The relationship of the plaintiffs and defendant Nos.2 to 4 and 6, the nature of the suit schedule property and location of the property are not disputed. In the plaint, it is asserted that the suit schedule property is a joint family property and the plaintiffs have joint rights, title, and interest and they are in possession of ground floor portion to the larger extent.

12. The plaint averments clearly disclose that the suit schedule property originally acquired through release deed dated 20.11.1999 and on 22.09.2010, a registered partition was executed among family members including plaintiff No.1. He admits that, he signed the documents as an executant/signatory, but claims that it was under misrepresentation on the pretext that, it was for raising loan. A perusal of the prayer in the plaint, no prayer is sought for cancellation or declaration that the partition

deed dated 22.09.2010 is void, voidable, created or not binding on him, but the plaintiffs have sought the relief for partition and separate possession, treating the suit schedule property as if it is joint family property.

13. Hence, it is just and necessary to analyse Order VII, Rule 11 (a) and (d) of CPC:

"11. Rejection of plaint.-

The plaint shall be rejected in the following cases:

a) where it does not disclose a cause of action;

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(d) where the suit appears from the statement in the plaint to be barred by any law;"

14. A perusal of the cause of action pleaded by the plaintiffs in the light of Order VII, Rule 11(a) of CPC, plaintiff No.1 was signatory/executant of the registered partition deed. He must have necessarily and specifically pray for cancellation of the deed or declaration that it is not binding upon him. In the absence of such relief, no cause of action is disclosed for a suit for partition.

Further, there is no allegation of fraud against defendant No.1 and defendant No.7. The allegations of fraud are vague, omnibus, and bald. The manner of discovery of fraud also not pleaded in the plaint.

15. In so far as the limitation point is concerned, the family members of the plaintiffs, defendant Nos.2 to 4 and 6 entered into registered partition deed dated 22.09.2010. In order to challenge the registered instrument on the ground of fraud/misrepresentation, the limitation period is three years from the date when the facts entitling the plaintiffs to have the instrument cancelled first, become known to them under Article 59 of the Limitation Act, 1963. Plaintiff No.1 is an executant, who signed the registered partition deed before the Sub-Registrar, which shows that plaintiff No.1 had knowledge of the registered instrument. Admittedly, the suit was filed in the year 2025 after expiry of fifteen years. Thus, on the face of the record, it is barred by limitation.

16. The relief sought in the plaint, in so far as to nullify the registered mortgage and other enforcement proceedings, admittedly, it would fall within the domain of the Debts Recovery Tribunal. Therefore, the plaint does not disclose any relief that can be granted against defendant No.7 without directly interfering with the SARFAESI proceedings. The plaintiffs have vaguely alleged fraud and in the absence of pleadings on limitation and knowledge, indirect challenge to statutory proceedings is not permissible under the law and the suit brought by the plaintiffs appears to be barred by law.

17. Learned counsel for the appellants/plaintiffs has relied on the decision reported in **(2025) 4 SCC 38** in the case of **CENTRAL BANK OF INDIA AND ANOTHER v. PRABHA JAIN AND OTHERS**, wherein the Hon'ble Apex Court at paragraph Nos.23 and 24 has held as under:

"23. Even if we would have been persuaded to take the view that the third relief is barred by Section 17(3) of the SARFAESI Act, still the plaint must survive because there cannot be a partial rejection of the plaint under Order 7 Rule 11 CPC. Hence,

even if one relief survives, the plaint cannot be rejected under Order 7 Rule 11 CPC. In the case on hand, the first and second reliefs as prayed for are clearly not barred by Section 34 of the SARFAESI Act and are within the civil court's jurisdiction. Hence, the plaint cannot be rejected under Order 7 Rule 11 CPC.

24. If the civil court is of the view that one relief (say relief A) is not barred by law but is of the view that relief B is barred by law, the civil court must not make any observations to the effect that relief B is barred by law and must leave that issue undecided in an Order 7 Rule 11 application. This is because if the civil court cannot reject a plaint partially, then by the same logic, it ought not to make any adverse observations against relief B."

18. Learned counsel for the respondents/defendant Nos.1 and 7 has relied on the decision reported in **(2025) 5 SCC 198** in the case of **UMA DEVI AND OTHERS v. ANAND KUMAR AND OTHERS**, wherein the Hon'ble Apex Court at paragraph Nos.14 and 17 to 19 has held as under:

"14. Applying this settled principle of law, it can safely be assumed that the predecessors of the plaintiffs had notice of the registered sale deeds (executed in 1978), flowing from the partition that took place way back in 1968, by virtue of them being registered documents.

In the lifetime of Mangalamma, these sale deeds have not been challenged, neither has partition been sought. Thus, the suit (filed in the year 2023) of the plaintiffs was prima facie barred by law. The plaintiffs cannot reignite their rights after sleeping on them for 45 years.

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17. *In Dahiben v. Arvinbhai Kalyanji Bhanusali, it is stated as under:*

"23. ... 23.3. The underlying object of Order 7 Rule 11(a) is that if in a suit, no cause of action is disclosed, or the suit is barred by limitation under Rule 11(d), the Court would not permit the plaintiff to unnecessarily protract the proceedings in the suit. In such a case, it would be necessary to put an end to the sham litigation, so that further judicial time is not wasted."

18. *In our considered opinion, the trial court had rightly allowed the application of the appellant-defendants under Order 7 Rule 11 CPC, holding that the suit filed by the plaintiffs was a meaningless litigation, that it did not disclose a proper cause of action and was barred by limitation. There were thus no justifiable reasons for the appellate court to have remanded the matter to the trial court.*

19. *The suit was indeed barred by limitation. Consequently, the impugned order dated 8-1-2025 [Anand Kumar v. Chandrashekhar P.M., 2025 SCC*

OnLine Kar 8] passed by the High Court is set aside, and both these appeals are hereby allowed."

19. Further, the learned counsel for defendant Nos.1 and 7 relied on the judgment dated 22.04.2026 passed by this Court in Regular First Appeal No.862 of 2023, wherein on similar set of facts and circumstances, this Court confirmed the judgment and decree passed by the trial Court, rejecting the plaint under Order VII, Rule 11 (a) and (d) of CPC.

20. In the instant case, the plaint contents clearly demonstrate that registered partition had taken place long ago, i.e. 22.09.2010, and in terms of the said partition deed, the suit schedule property was allotted towards the share of Smt. Gowamma (defendant No.2). Later, the suit schedule property was mortgaged to defendant No.7 on three different occasions by Smt. Gowamma and plaintiff No.1 was the signatory to the mortgage transactions. Thereafter, Smt. Gowamma, being owner of the suit schedule property, got released the mortgage deed and sold the same to defendant No.1, who in turn, mortgaged

the suit schedule property to defendant No.7. Since defendant No.7 committed default in payment, defendant No.7 initiated the SARFAESI proceedings against defendant No.1 and took possession of the suit schedule property from defendant No.1. The family members had disposed off the property by registered sale deed and the suit was filed in the year 2025, i.e. after fifteen years of the partition. Since plaintiff No.1 was a signatory or party in the partition deed as well as in the mortgage deeds, he had knowledge about all the transactions, but he has not brought the suit within three years.

21. The applications filed by defendant Nos.1 and 7 under Order VII, Rule 11(a) and (d) of CPC sets out that there is no cause of action for the suit and the suit is barred by limitation.

22. The Hon'ble Supreme Court in the case of **DAHIBEN v. ARVINDBHAI KALYANJI BHANUSALI** reported in **AIR 2020 SC 3310**, while discussing the law in deciding an application filed under Order VII, Rule

11(d) of CPC has held that this remedy is a special remedy empowering the Courts to dismiss the matters at the threshold. It has further been held that the reason for such a remedy is that the Court would not permit the plaintiff to unnecessarily protract the proceedings in sham litigation and to waste judicial time. Although the power under Order VII, Rule 11 of CPC is a drastic one, it requires the conditions enumerated to be strictly adhered to. The plea taken by the respondents/defendants cannot be examined at this stage and for testing the provision, the averments made in the plaint have to be read in their entirety, and if on a meaningful reading of the plaint, if it is found that the plaint is vexatious, then the Court will be justified in the use of this provision and the said provision is mandatory in nature. It has further held that where a suit appears from the averments of the plaint, to be barred by any law, it shall be rejected in terms of Order VII, Rule 11(d) of CPC. Thus, a suit which is barred by limitation would also come within this definition. It was further held that where the plaintiff files a case with a

clever drafting to make out an illusory 'cause of action' to bring the suit within the period of limitation, the provisions of Order VII, Rule 11 of CPC would come into play and where a plaintiff deliberately did not mention the date of registration of the sale deed, since it would be evident that the suit was barred by limitation, the omission was such that, so as to mislead the Court on this issue, the suit was thus held to be barred by limitation.

23. A Co-ordinate Bench of this Court in the case of **SRI NARASIMHA MURTHY AND OTHERS v. SRI MALLESH AND OTHERS** reported in **2026 SCC OnLine KAR 2580 (referred supra)** (REGULAR FIRST APPEAL NO.862 OF 2023 DISPOSED OF ON 22.04.2026) was of the same view and held that, if the suit is barred by limitation and the plaintiffs failed to challenge the initial sale deed and mortgage deeds, under such circumstances, the suit cannot be maintained, unless such registered instruments in respect of the suit schedule property are challenged.

24. In view of the foregoing discussions, we uphold the order passed by the trial Court. Accordingly, this Court is not inclined to interfere with the findings of the trial Court that there was no cause of action for the suit and the suit is barred by limitation. Hence, we find no merit. Accordingly, we pass the following

ORDER

- i. The appeal is ***dismissed***.
- ii. No order as to costs.

Pending interlocutory applications, if any, shall stand dismissed.

**Sd/-
(ANU SIVARAMAN)
JUDGE**

**Sd/-
(VENKATESH NAIK T)
JUDGE**

KVK