

Smt. Uma Devi and Ors.

v.

Sri. Anand Kumar and Ors.

(Civil Appeal No. 4718 of 2025)

02 April 2025

[Sudhanshu Dhulia* and K. Vinod Chandran, JJ.]

Issue for Consideration

Whether the High Court was correct in remanding the matter back to the trial court, when trial court had allowed the application of the defendants/appellants u/Or.7 r.11 CPC, and dismissed the suit for partition filed by the plaintiffs in 2023, holding that the suit did not disclose proper cause of action and was barred by limitation.

Headnotes[†]

Code of Civil Procedure, 1908 – Or.7 r.11 – Return of plaint – Limitation – Plaintiffs-respondents, grandchildren of the original owner filed suit for partition in 2023 seeking partition of the ancestral joint immovable property – Defendants-appellants, remaining family members filed application u/o.7 r.11 seeking return of plaint as suit was barred by limitation – Case of the appellants that the property had already been partitioned in 1968 amongst the sons and had been mutated, and family members including aunt of the respondents had disposed their property through registered sale deeds in 1978 – Trial court allowed the application and dismissed the suit finding no cause of action – High Court holding that there were triable issues allowed the appeal of the respondents and remanded the matter back to the trial court:

Held: Plaintiff failed to address the crucial question of when they became aware of the registered sale deeds – Pleadings suggest suppression of essential facts by the plaintiffs – Partition took place way back in 1968 and suit is filed in 2023, after a period of 55 years – Many of the family members had executed registered sale deeds in 1978 which have been attached – Registered document provides a complete account of a transaction to any party interested in the property – Predecessors of the plaintiffs had notice of the

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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 plaintiff's father, these sale deeds were not challenged, nor partition was sought – Thus, the suit filed in 2023 by the plaintiffs was *prima facie* barred by law – Plaintiffs cannot reignite their rights after sleeping on them for 45 years – Trial court rightly allowed the application of the appellants u/or.7 r.11 holding that the suit filed by the plaintiffs was a meaningless litigation, it did not disclose a proper cause of action and was barred by limitation – No justifiable reasons for the appellate court to have remanded the matter to the trial court – Impugned judgment set aside – Or.41 r.1. [Paras 11-13, 17, 18]

Case Law Cited

Suraj Lamp Industries Pvt. Ltd. v. State of Haryana & Anr. [2011] 11 SCR 848 : (2012) 1 SCC 656; Shri Mukund Bhavan Trust & Ors. v. Shrimant Chhatrapati Udayan Raje Pratapsinh Maharaj Bhonsle & Anr., 2024 SCC OnLine SC 3844; Madanuri Sri Rama Chandra Murthy v. Syed Jalal [2017] 5 SCR 294 : (2017) 13 SCC 174; Dahiben v. Arvindbhai Kalyanji Bhanusali [2020] 5 SCR 694 : (2020) 7 SCC 366 – referred to.

List of Acts

Code of Civil Procedure, 1908.

List of Keywords

Return of plaint; Suit barred by limitation; Suit for partition; Ancestral joint immovable property; Oral partition; Registered sale deed; Sleeping on rights; Remand of the matter; Cause of action; Limitation; Mutation; Suppression of essential facts; Meaningless litigation.

Case Arising From

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 4718 of 2025

From the Judgment and Order dated 08.01.2025 of the High Court of Karnataka at Bengaluru in RFA No. 2374 of 2024

With

Civil Appeal No. 4719 of 2025

Smt. Uma Devi and Ors. v. Sri. Anand Kumar and Ors.**Appearances for Parties***Advs. for the Appellants:*

C.A. Sundaram, Shailesh Madiyal, Sr. Advs., Abhishek Gupta, Ms. Roshini Musa, Dashrath T. M., Zafar Inayat, Praful Shukla, Nikhil Kumar Singh, Sudhanshu Prakash, Ms. Anisha Agarwal, Ms. Divija Mahajan, Kanishk Sinha.

Advs. for the Respondents:

Ms. Akhila Wali, Nanda Kumar K B, Abhishek Singh, Ms. Sunayna Agarwal, Santhosh N, M/s. Nuli & Nuli, Saket Gogia, Ms. Gauri Pande, Ms. Sheetal Maggon, Mansingh, Dhawesh Pahuja, Mrs. Vandana Gupta, Rahul Gupta.

Judgment / Order of the Supreme Court**Judgment****Sudhanshu Dhulia, J.**

1. Leave granted.
2. The appellants before this Court are defendants in a suit for partition filed by the plaintiffs (respondent nos. 1 to 5 herein) in the year 2023 under O.S. No. 6768/2023. The parties will be referred to as their position in the Trial Court.
3. The defendants moved an application under Order 7 Rule 11 of the Code of Civil Procedure (hereinafter 'CPC'), seeking return of the plaint on the grounds that the suit was not maintainable as it was barred by limitation as well as on other grounds. The Trial Court allowed the application and dismissed the suit.
4. Thereafter, plaintiffs (Respondent Nos. 1-5 before us) filed an appeal before High Court under Order 41 Rule 1 of CPC where High Court (hereinafter 'appellate court') vide order dated 08.01.2025 held that there were triable issues in the case and it could not be dismissed merely on an application under Order 7 Rule 11 CPC and consequently allowed the appeal, remanding the matter back to the Trial Court.
5. This case pertains to a civil dispute concerning an immovable property situated at Pattangere Village, Kengeri, Hobli, Bengaluru South Taluk. The plaintiffs and defendants belong to the same larger family.

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6. The original owner of the property was Boranna, who passed away leaving behind four sons: Nanjundappa, Siddappa, Basappa, and Shivanna. The suit for partition was filed by the grandchildren of Shivanna on 16.10.2023, alleging that the family owned ancestral joint immovable property and that their legitimate share had been denied. Consequently, they sought partition, separate possession and allotment of their legitimate share.
7. The four sons of Boranna, namely Nanjundappa, Siddappa, Basappa and Shivanna, had their respective families. Shivanna had five children namely, Mangalamma, Maribasamma, Drakshayanamma, Shadaksharaiah and Varaprasada. While Basappa had six children namely, Ganganna, Panchaksharaiah, Mandevappa, Shanthappa, Nagarju and Prakash. Nanjundappa and Siddappa also had a family of their own. The plaintiffs are the children of Mangalamma. The Defendants in the suit represent the remaining family (the appellants herein are the representatives of Shanthappa).
8. The defendants raised a primary objection, asserting that the property, originally owned by Boranna, had already been partitioned by way of an oral partition in the year 1968 amongst his four sons, through a family settlement. We have gone through the revenue records, as placed before us, and it is evident that this settlement was indeed acted upon. The revenue records indicate the names of each of Boranna's four sons and also that the property had been mutated in their respective names, the reason assigned for the change in the revenue records is the family partition of the year 1968. Additionally, the defendants contended that, based on the terms of the family settlement, the daughter in law of Shivanna and other family members had disposed their property through registered sale deeds executed as far back as 1978. It is therefore clear that the plaintiffs had full knowledge of this transaction.
9. The defendants further argued that the plaintiffs were effectively challenging a sale deed executed by their own aunt. Since the suit for partition was filed without contesting the sale deed, that itself was legally untenable. Moreover, a registered sale deed constitutes constructive notice to the world unless it is a case of fraud, coercion, or minority and therefore there has to be a presumption in law that the plaintiffs had knowledge of the sale deed.

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10. The Trial Court, considering these facts, allowed the application under Order 7 Rule 11 CPC and dismissed the suit, finding no cause of action for filing the suit. However, the appellate court found that there were triable issues that required consideration. The appellate court was of the opinion that the plaintiffs had a legitimate claim over the joint family properties, and in the absence of any notice to the plaintiffs regarding the partition, the suit was remanded back to the Trial Court for fresh consideration.
11. The sole argument advanced by the respondents/plaintiffs is that the suit was only for partition, filed in the year 2023 and was within the limitation period as the limitation will be counted from the date of their knowledge of the sale deed. However, upon examining the pleadings before the Trial Court and appellate court, it is evident that the plaintiff failed to address the crucial question of when they became aware of the registered sale deeds. If they had prior knowledge of the sale deeds, they failed to specify the exact date of such knowledge. Additionally, the pleadings suggest suppression of essential facts by the plaintiffs.
12. In the case at hand, partition took place way back in the year 1968, which is evident from the revenue record entries. The suit is filed in the year 2023, i.e. after a period of 55 years. Further, many of the family members had executed registered sale deeds in the year 1978. These sale deeds have been attached, and on perusal it is observed that these were in fact registered sale deeds. A registered document provides a complete account of a transaction to any party interested in the property. This Court in the case of ***Suraj Lamp Industries Pvt. Ltd. v. State of Haryana & Anr. (2012) 1 SCC 656*** held as under:

“Registration of a document gives notice to the world that such a document has been executed. Registration provides safety and security to transactions relating to immovable property, even if the document is lost or destroyed. It gives publicity and public exposure to documents thereby preventing forgeries and frauds in regard to transactions and execution of documents. Registration provides information to people who may deal with a property, as to the nature and extent of the rights which persons may have, affecting that property. In other words, it enables people to find out whether

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any particular property with which they are concerned, has been subjected to any legal obligation or liability and who is or are the person(s) presently having right, title, and interest in the property. It gives solemnity of form and perpetuate documents which are of legal importance or relevance by recording them, where people may see the record and enquire and ascertain what the particulars are and as far as land is concerned what obligations exist with regard to them. It ensures that every person dealing with immovable property can rely with confidence upon the statements contained in the registers (maintained under the said Act) as a full and complete account of all transactions by which the title to the property may be affected and secure extracts/copies duly certified".

13. 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.
14. The learned senior counsel for the defendants/appellants, Mr. Sundaram, relied upon the decision of this Court in ***Shri Mukund Bhavan Trust & Ors. v. Shrimant Chhatrapati Udayan Raje Pratapsinh Maharaj Bhonsle & Anr. (2024 SCC OnLine SC 3844)*** to substantiate the contention that the suit was barred by limitation. It was observed as follows:

"16. When a portion of the property has been conveyed by court auction and registered in the first instance and when another portion has been conveyed by a registered sale deed in 1952, there is a constructive notice from the date of registration and the presumption under Section 3 of the Transfer of Property Act, comes into operation. The possession, in the present case, also has been rested with the appellant before several decades, which operates as notice of title.

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17. XXX

18. Continuing further with the plea of limitation, the Courts below have held that 23 (1977) 4 SCC 467 the question of the suit being barred by limitation can be decided at the time of trial as the question of limitation is a mixed question of law and facts. Though the question of limitation generally is mixed question of law and facts, when upon meaningful reading of the plaint, the court can come to a conclusion that under the given circumstances, after dissecting the vices of clever drafting creating an illusion of cause of action, the suit is hopelessly barred and the plaint can be rejected under Order VII Rule 11".

15. In **Madanuri Sri Rama Chandra Murthy v. Syed Jalal (2017) 13 SCC 174**, this court laid down the scope of Order 7 Rule 11 CPC :

"The plaint can be rejected under Order VII Rule 11 if conditions enumerated in the said provision are fulfilled. It is needless to observe that the power under Order VII Rule 11, CPC can be exercised by the Court at any stage of the suit. The relevant facts which need to be looked into for deciding the application are the averments of the plaint only. If on an entire and meaningful reading of the plaint, it is found that the suit is manifestly vexatious and meritless in the sense of not disclosing any right to sue, the court should exercise power under Order VII Rule 11, CPC. Since the power conferred on the Court to terminate civil action at the threshold is drastic, the conditions enumerated under Order VII Rule 11 of CPC to the exercise of power of rejection of plaint have to be strictly adhered to. The averments of the plaint have to be read as a whole to find out whether the averments disclose a cause of action or whether the suit is barred by any law. It is needless to observe that the question as to whether the suit is barred by any law, would always depend upon the facts and circumstances of each case. The averments in the written statement as well as the contentions of the defendant are wholly immaterial while considering the prayer of the defendant for rejection of the plaint. Even when, the allegations made in the plaint are

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taken to be correct as a whole on their face value, if they show that the suit is barred by any law, or do not disclose cause of action, the application for rejection of plaint can be entertained and the power under Order V11 Rule 11 of CPC can be exercised. If clever drafting of the plaint has created the illusion of a cause of action, the court will nip it in the bud at the earliest so that bogus litigation will end at the earlier stage".

16. In **Dahiben v. Arvindbhai Kalyanji Bhanusali (2020) 7 SCC 366**, it is stated as under –

"The underlying object of Order VII 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".

17. In our considered opinion, the Trial Court had rightly allowed the application of the defendants/appellants 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.
18. The suit was indeed barred by limitation. Consequently, the impugned order dated 08.01.2025 passed by the High Court is set aside, and both these appeals are hereby allowed.
19. Pending application(s), if any, stand(s) disposed of.

Result of the case: Appeals allowed.

[†]Headnotes prepared by: Nidhi Jain