

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

THE HON'BLE SRI JUSTICE SUDDALA CHALAPATHI RAO

APPEAL SUIT No.191 of 2000
(CNR.No: HBHC010337272000)

Date. 01.10.2026

Reserved on : 02.07.2026

Pronounced on : 01.10.2026

Uploaded on : 01.10.2026

Between:

Yeddula Muthyalamma and others

...Appellants/Plaintiffs

AND

Yeddula Jaipal Reddy and another

...Defendants/Respondents

: JUDGMENT :

Heard Sri C.Kumar, learned counsel for the appellants and Sri L.Prabhakar Reddy, learned counsel representing Sri Ajay Kumar Kulkarni, learned counsel for the respondents.

2. The present appeal has been preferred by the appellants/defendant Nos.1 and 2, aggrieved by the Judgment and Decree dated 01.12.1999 passed in O.S.No.1 of 1994 by

the learned Senior Civil Judge, at Nagarkurnool (for short 'the trial Court')

3. The underlying suit was filed by the plaintiffs for partition of schedule properties and to grant separate possession, which was decreed by granting their respective shares in the Schedule-A,B,C,D properties. Aggrieved by the same, defendant Nos.1 and 2 have preferred the present appeal.

4. The parties are addressed herein, as they were arrayed in the suit before the trial Court for the sake of convenience.

5. The brief facts of the case are that the suit is filed by the plaintiffs for partition of schedule-A, B, C, D properties, claiming them to be ancestral and joint family properties. Plaintiff No.1 is the mother, plaintiff No.2 is youngest son and defendant No.1 is the eldest son, plaintiff No.3 is the daughter of plaintiff No.1 and one Sri Yeddula Yella Reddy, who died on 09.09.1989, plaintiff No.4 is the wife of plaintiff No.2 and defendant No.2 is the wife of defendant No.1.

6. It is the case of the plaintiffs that one, Sri Yeddula Yella Reddy who was the original pattedar and absolute owner of the schedule properties expired on 09.09.1989 intestate and the properties being ancestral and joint family properties, devolved upon the plaintiffs and the defendant No.1, being the only surviving legal heirs, as such they are entitled to claim respective shares over the suit schedule property. It is stated that plaintiff No.1 who is the mother, expired during the pendency of the suit on 17.03.1996, by executing a Will Deed, bearing Document No.16/95, dated 02.11.1995 in favour of younger son i.e., plaintiff No.2, as such, the share, which was accrued to in the schedule properties was bequeathed by the plaintiff No.1 by a registered Will Deed got devolved upon plaintiff No.2. It is further stated that the plaintiffs and defendants constituted the Hindu Mithakshara Joint Family, and the properties being ancestral, joint family properties, they have equal coparcenerary rights over the suit schedule lands.

7. It is the claim of the plaintiffs that plaintiff No.2 i.e., the youngest son, who was residing with the father during his life time, acted as the Kartha of the joint family nucleus on behalf

of the father and since, 1970 he was managing the affairs of the joint family, and during the said period neither the defendant No.1 being the eldest son, nor the defendant No.2-his wife have contributed any funds to the joint family nucleus, out of their personal needs and more so, the defendant No.1 lived away from Manthati Village, due to his employment. It is the specific case of the plaintiffs that defendant No.1 never contributed any personal income to the joint family, and was involved in the joint family affairs at any point of time and as such, he was not sharing the common mess of the joint family and all the schedules including B-schedule properties, though purchased on the name of defendant No.1(one of B property) and plaintiff No.4 and defendant No.2 (other B property) are purchased from joint family funds.

8. It is further contended that on the other hand, the plaintiff No.2 was doing Contract works since 1972 in Panchayat Raj Department, and as such, he contributed to purchase B and D schedule properties, and also got deepened one old well and erected 5-HP current motor and further

dugged two new wells and erected 5-HP current motors to them and also developed the agricultural source of income of joint family. It is further stated that the common ancestor i.e., late Sri Yeddula Yella Reddy was possessing ancestral property, fallen to his share during his partition among his brothers about 40 years ago, which is also shown in the schedule of properties. It is further contended that during the life time of late Yeddula Yella Reddy, father of plaintiff No.2 and defendant No.1 possessed one residential house, vacant place which is also joint family property.

9. It is further stated that the marriage of plaintiff No.3 i.e., the daughter of Yeddula Yella Reddy was performed during the period 1966-1967 by late Yeddula Yella Reddy with active assistance of plaintiff No.2 and marriage of the defendant No.1 was performed with the defendant No.2 in the year 1970 and due to continuous marriages in the family, their family became weak financially in the year 1970, and when the family was very badly in need of money, as the amounts were also necessary for employment of defendant No.1, a part of land in Sy.No.2 was sold to one Kummari Lingaiah and others for a

valid sale consideration. Though it was an oral sale, the said property was not included in the schedule of properties, since it was already under the possession of the said persons.

10. It is further stated that, since the properties were mutated in favour of plaintiff Nos.1 to 3 and defendant No.1 on which an Appeal was preferred before the RDO, Nagarkurnool, who in turn, remitted the matter to the Tahasildar for fresh disposal, and thereafter all properties were mutated in favour of plaintiff Nos.1 to 3 and defendant No.1 and in respect of B-schedule the Tahasildar has advised to approach the Civil Court, as such, the underlying suit was filed for partition of all the properties by metes and bounds.

11. It is also the case of the plaintiff that since the plaintiff No.1 expired during the pendency of the suit, as she executed Registered Will Deed in favour of plaintiff No.2, bequeathing her share in the schedule properties the respective share should be allotted to the share of plaintiff No.2 along with his respective share in A, B, C, D Schedule properties with metes and bounds, as all the schedule properties are joint family

properties which are in joint possession and enjoyment of the parties, which were not subject to any previous partition, during the life time of their father. Therefore, the present suit was filed for allotment of respective shares by partitioning the suit schedule properties i.e., A, B, C, D.

12. The defendant Nos.1 and 2 filed a common written statement admitting their relationship with the plaintiffs and the death of Yeddula Yella Reddy, who was their father. It is also admitted that their common ancestor of the parties, Sri Yella Reddy was in possession of ancestral properties including one residential house and a vacant site got in the partition among his brothers, and after his demise, the plaintiffs and defendants constituted a Hindu Mitakshara Joint Family and thus the family possessed ancestral coparcenary and joint family properties and that Sri Yeddula Yella Reddy also acquired. However, they specifically denied the claim that plaintiff No. 2 acted as the Manager/Kartha of the joint family since 1970. They also specifically denied that plaintiff No.2 had purchased Schedule-B and D properties through his own funds and efforts as claimed by him. On the contrary, it is

contended that the defendant No.1 worked as an Employee in Panchayat Raj Department since, 1970, he had sufficient funds to purchase B-schedule property, specifically stated that Schedule-B is self acquired property of defendant No.1 as the same was purchased through his personal funds and as such, got Registered Sale Deeds in his own name (one property in B-schedule) and also in favour of defendant No.2 and plaintiff No.4 (wife of plaintiff No.2-other property in B-schedule). They further denied that defendant No.1 has not contributed his personal income towards the joint family. It is alleged that the plaintiff No.2, in collusion with the vendees, caused wrongful loss to all the parties jointly. As such, defendant No.1 instituted suit in O.S.No.16 of 1993 for Recovery of Possession.

13. It is further case of the defendant Nos.1 and 2 that during the life time of their father-defendant No.1 himself obtained loans from the Agricultural Development Bank in the year 1986, for development of agriculture by duly obtaining signature of plaintiff No.2 as per Bank rules. It is contended that after death of their father Sri Yella Reddy, the plaintiff No.2 sold some trees and others belonged to joint family

properties and caused some wrongful loss to the joint family. It is specifically pleaded that the Schedule-B is not joint family property and it is exclusive self acquired property of defendant No.1, which is not liable for partition and thus, defendant No.1 was looking after the affairs of the joint family, whenever need arises.

14. Further, on 20.10.1998, the defendant No.1 filed additional written statement, admitting death of plaintiff No.1 on 17.03.1996, but specifically denied the execution of Registered Will Deed No.16/95, dated 02.11.1995 bequeathing her entire share in the suit schedule properties to the plaintiff No.2. In sum and substance, the defendant No.1 has specifically denied the right accrued to the plaintiff No.2 by virtue of Will Deed, executed by plaintiff No.1 (mother). Further, it is the case of the defendant Nos.1 and 2 that schedule B property is a self acquired property of defendant Nos.1 and 2, as the same is purchased out of his personal funds.

15. Basing on the above pleadings, the learned trial Court framed the following issues.

- “1. Whether the plaintiffs are entitled for partition of plaint A, B and C Schedule Properties and for possession of the same as prayed for?**
- 2. Whether the plaintiffs are entitled to decree with regard to plaint D Schedule property as prayed for?**
- 3. To what relief?”**

16. Subsequently, since amended plaint was filed consequent upon the death of plaintiff No.1 (mother), and additional written statement was filed on 24.10.1998 by defendant Nos.1 and 2. Therefore, the following additional issue was framed:

“Whether late Yeddula Muthyalamma had executed registered Will Deed dated 02-11-1995 during her life time bequeathing the entire her share in the suit schedule property to the 2nd plaintiff?”

17. The plaintiffs have examined PWs 1 to 5 and got marked Exs.A1 to A10. On behalf of the defendants, DW1 was examined and Exs.B1 to B8 were marked.

OBSERVATIONS AND FINDINGS OF TRIAL COURT:-

18. The learned trial Court Judge, after conducting a proper enquiry, hearing both sides, and considering the pleadings and evidence of both sides along with the cross examination, has

specifically held that the Schedule-A, C and D properties have been accepted to be ancestral properties by defendants Nos.1 and 2, and as such, has allowed the claim of the plaintiffs to that extent. In so far as the Schedule-B property, where the defendant No.1 has specifically pleaded that they are the self acquired properties of the defendant No.1, in the light of the Ex.B1(A4) and Ex.B2 (A5), since they are all registered in the name of defendant No.1 (one property in B-schedule), and jointly in the name of defendant No.2 and plaintiff No.4 (other property in B-schedule) as it is contended that those are the self acquired properties of defendants, the learned trial Court judge having appreciated the evidence of DW1 and his specific admission that till the death of their father Sri Yeddula Yella Reddy and the marriage of the plaintiff No.3 and till the filing of the suit, the joint family nucleus was in existence, and in the absence of any specific evidence to show the said property was purchased by self earnings of defendant No.1, and that since the defendant No.1 has only pleaded in respect of A-schedule property as ancestral property, but only disputed that it is only mentioned as Ac.0-18 guntas instead of total

extent of Ac.0-33 guntas and that plaintiff No.2 has wrongly sold an extent of Ac.0.15 guntas to third parties and caused loss to joint family and stated that he has no objection if Ac.0-33 guntas is also included in the partition as it would benefit all the parties, the learned trial Court has held the schedule-A property to be ancestral and joint family property.

19. As defendant No.1 specifically deposed that he has no objection for partition of plaintiff-A schedule inherited by their father and also in respect of Schedule-C and D he has no objection for partition of the said properties, by accepting them to be joint family properties, the learned trial Court basing the admissions of defendant No.1(DW1) has held that Schedule-A,C,D are joint family properties available for partition among the legal heirs of Sri Yeddula Yella Reddy. But however, when it came to Schedule-B property, as the defendant No.1 (DW1) has specifically claimed it as a self acquired property, the learned Judge by appreciating the evidence of DW1, who specifically deposed that their father got Acs.25.00 of ancestral land and the joint family, consisting of Yella Reddy, his two sons i.e., plaintiff No.2 and defendant No.1, only possessed

such land as joint family properties, and though Schedule-B property was registered in the name of defendant No.1 vide Ex.B1 (one property) and in favour of plaintiff No.4 and defendant No.2 (other part of schedule-B property) vide Ex.B2, as there was no proof of self acquisition or contribution of any amount from his earnings to the joint family, the learned trial Court Judge came to a conclusion as to the joint family having resources for purchasing the properties and more significantly in the light of assertion of DW1 as to the existence of the joint family till filing of the suit and held that, mere purchase of the lands on the name of defendant No.1 (Ex.B1) and defendant No.2 and plaintiff No.4 jointly (Ex.B2), cannot by itself be the self acquired property of the defendants.

20. The learned trial Court Judge has categorically opined that even the Schedule-B properties which were though purchased in the name of defendant No.1 and rest purchased in the name of defendant No.2 and plaintiff No.4 jointly, in view of the categorical assertion of PW2-Mr.Raghuramulu, who was the scribe of Exs.A4 to A6 and A8-Will Deed that the said schedule properties are the ancestral and joint family

properties of the plaintiffs and defendant Nos.1 and 2 and also the evidence of PW5- Mr.Balreddy, who is the agnate of the parties to the suit, has specifically deposed that late Yella Reddy has purchased nearly 14 acres of land at Manthathi from his agnate namely-Rama Laxmamma, Acs.10.00 of land from Patwari Ramarao and he has witnessed the said transaction., the learned trial Court has concluded the suit schedule properties to be joint family properties. Furthermore, as to the specific deposition of defendant No.1 (DW1-Jaipal Reddy), who admitted in the evidence that they all were in the joint family during the life time of their parents along with plaintiff No.3, who also continued to be a member of the joint family until her marriage in the year 1996, and as the joint family was still in existence until filing of the suit, and as the evidence on record clearly established the case of the plaintiffs that as the defendant No.1 joined the Government Service in the year 1970, and the property vide Exs.B1 and B2 i.e., Ex.A4 and A5 were only purchased in the year 1970 in the absence of substantive evidence, the learned trial Court that they were all joint family properties.

21. Therefore, the learned trial Court Judge after considering the evidence of DW1 along with the evidence of PWs 1 to PW8 has held that all the schedule properties A to D are the joint family properties. In so far as the execution of Will Deed by plaintiff No.1(mother) in favour of plaintiff No.2 bequeathing her share, the learned trial Court Judge has held that since the plaintiff No.1 being mother had a definite share as per Section 8 of the Hindu Succession Act, 1986 and the Will Deed executed by plaintiff No.1 bequeathing her undefined share to plaintiff No.2 was Registered and the scribe of the Will Deed, PW8 has supported the same and as there was no suspicious circumstances in execution of Will Deed, plaintiff No.2 who would succeed her share by virtue of the said Will Deed. Further on all counts, the suit was decreed as prayed for, directing the plaintiffs to file appropriate application for appointing an Advocate Commissioner to divide the suit schedule property by metes and bounds and for passing of final decree.

22. The said Judgment and Decree is now challenged by the defendant Nos.1 and 2 in the present Appeal.

SUBMISSIONS OF LEARNED COUNSEL FOR THE APPELLANTS/DEFENDANTS:-

23. The learned counsel appearing for the appellants would contend that, insofar as Schedule-A, C and D, since the defendant No.1(DW1) specifically admitted that the said properties are the ancestral properties, the said properties would be deemed to be joint family properties and the respective parties i.e., plaintiffs and the defendant No.1 shall be entitled for equal shares. But however, disputed the share of plaintiff No.2, being devolved upon by virtue of Will Deed vide Ex.A8. The learned counsel vehemently contended that the recitals of the Will Deed was very much cleverly drafted to the convenience of the plaintiff No.2, which would go to show that there exists suspicion on the execution of the Will Deed. As such, contended that the plaintiff No.2 cannot be entitled to any share by virtue of the said Will Deed and more so, it is stated that such suspicious Will Deed will not confer any right in favour of plaintiff No.2 and it is contended that though

scribe is examined to prove the same, such Will Deeds cannot supersede natural succession of her share to all the legal heirs.

24. The learned counsel places reliance on the judgment of the Hon'ble Supreme Court in the case of **Bhagath Ram and Another Vs. Suresh and Others**¹, wherein the Hon'ble Supreme Court held as follows:

“Registration of a document does not dispense with the need of proving the execution and attestation of a document which is required by law to be proved in the manner as provided in Section 68 of the Evidence Act. Under Section 58 of the registration Act the Registrar shall endorse the following particulars on every document admitted to registration:

- (1) the date, hour and place of presentation of the document for registration;***
- (2) the signature and addition of every person admitting the execution of the document, and, if such execution has been admitted by the representative, assign or agent of any person, the signature and addition of such representative, assign or agent;***
- (3) the signature and addition of every person examined in reference to such document under any or the provisions of this Act, and***

¹ (2003) 12 Supreme Court Cases 35

(4) any payment of money or delivery of goods made in the presence of the registering officer in reference to the execution of the document, and any admission of receipt of consideration, in whole or in part, made in his presence in reference to such execution.”

25. By drawing a clue from the Judgment, the learned counsel would contend that mere registration of a Will Deed is not a proof of execution of the same and peculiarly the language used in the said Will Deed is cleverly drafted with all requisite conditions which would for itself throws doubt on it and cannot be believed as genuineness and, therefore, the same cannot be relied upon and the learned trial Court Judge has not considered the same in proper perspective.

26. The learned counsel vehemently opposed the partition of the Schedule-B property as per the Decree passed by the learned trial Court Judge and contended that the Judgment and Decree is not sustainable in law, and prayed to allow of the appeal.

27. Learned counsel for defendant Nos.1 and 2 vehemently opposed the Judgment and Decree in respect of schedule-B properties and contended that the schedule-B properties have

been specifically registered in favour of defendant No.1 (one part of B-schedule) and jointly in favour of defendant No.2 and plaintiff No.4 (other part in B-schedule) jointly and defendant No.1 has got sufficient means to purchase Schedule-B property being an employee in Government, and thus it is claimed as self acquired property. It is contended that he was employed in Panchayat Raj Department in the year 1970, much less the property was purchased in the year 1976 and since he has all means to purchase the same, the learned trial Court Judge erroneously came for a conclusion that defendant Nos.1 and 2 have not placed any evidence to show that the said Schedule-B property was self acquired, as such it is contended that the said findings are not proper and are liable to be set-aside.

SUBMISSIONS OF LEARNED COUNSEL FOR THE RESPONDENTS/PLAINTIFFS:-

28. The learned counsel for the respondents-plaintiffs has contended that the learned trial court Judge by considering the pleadings of the plaintiffs and their evidence i.e., PWs 1 to 5 along with Exs.A1 to A10, and also the specific contention of defendants in the written statement and specific admission

made by DW1 vide Exs.B1 to B8, the trial Court by giving cogent reasons and categorical findings on all issues, granted preliminary decree in favour of the respondents, as such, there is no impediment or any flaw in the said judgment.

29. The learned counsel would also contend that the categorical admission of DW1 in his cross examination, dated 21.06.1999 that schedule A and D properties are the ancestral properties and further admission that joint family continued till the filing of the suit and their father Yella Reddy died on 09.09.1989, as a member of joint family and since there was no earlier partition and more so, in the cross examination, DW1 i.e., defendant No.1 has specifically admitted that he has no objection for partition of A, C and D schedule properties and admitted disputes started from the 11th day death ceremony of his father, who has no talking terms with his mother and with his brother i.e., plaintiff No.2 and also with sister-plaintiff No.3.

30. It is contended that defendant No.1(DW1) categorically admitted that though he was present in the village on the

death of his mother, he did not see the dead body and not attended the death ceremony of his mother, as he was not happy over the Will Deed executed by deceased-mother in favour of plaintiff No.2. It is contended that DW1 has also admitted that he has no objection to divide land under Exs.B2 and B1, which has also its original vide Ex.A4, as per law to be decided by the Court. It is stated that such categorical admissions proved the case of the plaintiffs. Further, it is also contended that the deposition of PW5 clearly establishes the part of the schedule property, which are in the name of plaintiff No.4 and defendant No.2 jointly (B-schedule property) and defendant No.1, and there is no material placed by the defendants to demonstrate joint family members do not have any funds to purchase the B-schedule property and that defendant No.1 has sufficient funds to purchase B-schedule property and more so, it is contended that the defendant No.1 has only salary income at the time of the purchase of the schedule –B property. In the light of the specific admission that, all the joint family members are residing as joint family till the filing of the subject suit, the B-schedule properties

though purchased in individual name of defendant No.1 and defendant No.2 and plaintiff No.4 jointly by joint family resources cannot be termed as self acquired property of defendants.

31. Further, it is contended that Ex.B1-Will Deed executed by mother-plaintiff No.1 in favour of plaintiff No.2- youngest son was her last wish and the same was proved by examining scribe of the purported document, and since it is proved by all means and as there are no suspicious circumstances surrounding the said Will Deed, the Will Deed entitles the plaintiff No.2 to claim her share in the suit schedule property. Therefore, it is contended that the finding of the trial Court that the said Will Deed was genuinely executed document is germane and valid. More so, in view of the categorical admission of the DW1, the said suit was decreed by the learned trial Court Judge and there are no impediment and defects in the Judgment passed by the learned trial Court Judge, which calls for interference of this Court in the instant appeal.

32. The learned counsel relies upon the Judgment of Hon'ble Supreme Court in ***Basant Singh Appellant Vs. Janki Singh and others***², wherein, it was held that an admission by a party in a plaint signed and verified by him, may be used as evidence against him in other suits and learned counsel contended that the defendant has admitted B-schedule property to be joint family property in a suit filed against third parties, as such, B-schedule property is a joint family property.

33. The learned counsel also placed reliance upon the Judgment of Hon'ble Supreme Court in the case of ***Sukh Ram and Another Vs. Gauri Shankar and Another***³, wherein it was held that in a Joint Hindu Family governed by Benares School of Hindu Law, interest and property acquired by widow by virtue of the act is subject to restrictions, qua alienation, as found in Benares School of Hindu Law.

34. The learned counsel has also placed reliance upon the Judgment of Hon'ble Supreme Court in the case of ***Shrinivas***

² AIR 1967 supreme Court 341

³ AIR 1968 Supreme Court 365

Krishna Rao Kango Vs. Narayan Devji Kango and Others⁴,

wherein it is held that, whether it is joint family or self acquired, initial burden of proof on plaintiff who asserts property to be a joint family property. This burden can be discharged by showing that family possessed sufficient income-producing nucleus in its ancestral lands, for acquiring property in question, and onus would then shift on the coparcener who claims the property to be his self acquisition.

35. Therefore, in the present case since the plaintiffs have initially discharged their burden that the joint family has got sufficient sources for purchase of the property, thus the burden was on the defendant No.1 to establish that it was a self acquired property and much less, the defendant has not produced any substantial evidence to show that the said property is not a joint family property, much less Schedule-B property is self acquired property.

36. Lastly the learned counsel placed reliance upon the Judgment of Hon'ble Supreme Court in the case of ***Dorairaj v.***

⁴ (1954) 1 Supreme Court Cases 544

Doraisamy (dead) through LRs & Ors⁵, wherein the Hon'ble Supreme Court affirmed the High Court's decision that in Joint Hindu Family property partition suit, burden of proof lies on the member asserting self acquisition and scrutiny of alienations by Kartha.

37. Therefore, the leaned counsel for the respondents/plaintiffs vehemently contends that since the plaintiffs have discharged initial burden, the only question that falls for consideration before this Court is in respect of B-schedule property as to whether it is self acquired property or joint family property. In the light of the judgments and also the categorical admission of defendant No.1 (DW1) and evidence of PWs 1 to 8, the defendants have not substantially proved any self acquisition over the B-schedule property. Therefore, it is contended that the present appeal is devoid of merits and does not warrant interference by this Court in a well reasoned judgment.

38. I have heard learned counsel for the appellants/defendant Nos.1 and 2, the learned counsel for the

⁵ 2026 LawSuit (SC) 120

respondents/plaintiffs and having given earnest consideration to their submission, perused the record.

39. In the light of the said submissions of the learned counsel on either side, the following points arise for adjudication before this Court:-

1. Whether the schedule A, C & D properties are available for partition being joint family property?
2. Whether the Ex.A8/Will Deed executed by plaintiff No.1 who expired during the pendency of the suit, bequeathing her share in respect of the schedule properties in respect of plaintiff No.2 is valid and whether the said Will Deed can convey, right title or interest to the extent of her share in favour of plaintiff No.2?
3. Whether the suit Schedule-B properties are the self acquired properties of the defendant No.1 and if so, whether the said properties are not available for partition among the legal heirs of Sri Yeddula Yella Reddy?

POINT NO.1:-

40. Apparently, it is an admitted fact by going into the pleadings and cross examination of defendant No.1(DW1) that the Schedule-A, C and D are the ancestral properties. Therefore, further examination on the said schedule of

properties to be joint family is not that warranted. Moreso, in view of the specific pleadings by the defendant No.1 in the written statement and also in view of his admission in the cross-examination of DW1, the learned trial Court Judge has already adjudicated the same by assigning proper and valid reasons. Though learned counsel for the appellant tacitly challenges the judgment in respect of Schedule-A, C, D properties, no cogent evidence is shown to go into the merits of the said adjudication by the learned trial Court Judge.

Accordingly, Point No.1 is answered in favour of plaintiffs.

POINT NO.2:-

41. As regards the validity of Will Deed vide Ex.B4 executed by plaintiff No.1 in favour of the plaintiff No.2, it is settled law that the propounder of the Will Deed has to always prove beyond reasonable suspicion that the Will Deed which was executed in his favour is proper and there are no suspicious surrounding circumstances.

42. Evidently, the Will Deed is a registered document executed by the plaintiff No.1 (mother) who died pending suit

on 17.03.1996, bequeathing her share in schedule of the properties in favour of plaintiff No.2. The evidence of PW8 who was the scribe of the said document clinchingly proved the execution of the Will Deed Ex.A8, whose cross examination has not thrown any suspicion on the execution of the said Will Deed. More particularly, the very admission of the defendant No.1 that he was not in good terms and he has not even participated in the last rites when his mother expired, eventually shows that defendant No.1 got offended when the plaintiff No.1 has executed the Will Deed in favour of the plaintiff No.2 bequeathing her share and nothing contrary is shown by the defendants to disbelieve the same and more particularly, the said Will Deed is a registered document. It is trite law that a registered Will Deed when executed cannot be doubted unless and until contrary is shown by the other party. Admittedly no substantive evidence is placed by defendants to disbelieve the same.

43. It is trite law that under Section 8 of the Hindu Succession Act, 1956, the wife of the original Kartha of the family has a definite share and shall be a Class-I legal heir.

Now by virtue of the execution of the Will Deed, which is amply proved, in the considered view of this Court, the property which has been bequeathed by Will Deed vide Ex.A8 is devolved in favour of plaintiff No.2 conferring a valid title in his favour in respect of the share of the plaintiff No.1. Though, it is trite law under Section 52 of the Transfer of Property Act, 1882, a subsequent transferee *pendente lite* would be bound by the result of the pending litigation, however, if it is established that the person who executed the document had a valid and vested right in the property at the time of execution, the subsequent transferee acquires such right, subject to the outcome of the pending proceedings and the doctrine of *lis pendens*. Thus, the plaintiff No.2 is entitled to the share of the plaintiff No.1.

The 2nd point as framed by this Court is accordingly answered in favour of plaintiff No.2.

POINT NO.3:-

44. Whether the Schedule-B property is a self acquired property or he to be tested more carefully in view of the specific attack by the counsel for the appellants. The specific

admissions of the defendant No.1 in cross examinations are enlightened for coming to a just conclusion and to determine whether the learned trial Court Judge has dealt the matter with a proper and tenable findings in the light of the assertion and depositions of DW1 in deciding it to be a joint family property.

45. The admissions of defendant No.1(DW1) are hereby extracted:

“ We all work in joint family during the life time of our parents including the plaintiff No.3 until her marriage in the year 1966. **Thereafter also we continued in the joint family till filing of the suit including the plaintiff No.1 and PW1.** It is true that my father died as a member of joint family.

It is true that we got mentioned in O.S.No.31/90 on the file of this Court that our father being old aged, short sighted and defined that I being Government servant, **PW1 in the present case was allowed to act as manager of our joint family, but the witness adds that: PW1 was permitted to act as a Manager of our joint family only for that case only.**

I have no objection for partition of the A-Schedule lands which were inherited by our father, according to law, but including the Ac.0-15 guntas in Sy.No.2 which is covered in

Judgment and decree in O.S.No.16/93 on the file of JDJ, Nagarkurnool which is in my favour.

It is true that I was present in Manthati Village on the date of death of plaintiff No.1 and immediately I came to know about her death. But I did not go and see the deadbody of my mother and even I did not attend the death ceremony of my mother, but my family members have attended to it.

It is true that I stated in Ex.A9 that I did not see mother's dead body since she executed Will Deed in favour of PW1 herein, the witness adds that: he gave the above answer as the question placed to him, otherwise he would have further stated that reasons for not seeing the dead body of his mother. It is not true to say that even before the death of my mother, I know that she executed Will Deed in favour of PW1 herein.

It is true that registration was done for Ac.6.32 guntas in the name of PW1 by same vendor Ramalaxmamma on the same day of Ex.B1. PW1 did not come to the place of Ex.B1, but my father was present at that time. It is true that my father has personally got scribed Ex.B1/Sale Deed in the name of PW1. It is true that attesters in Ex.B1 and the Registered Sale Deed in the name of PW1/Ex.A5 are the same and they were present at the time of execution.

It is true that the consideration amount under Ex.A5 was paid by my father to the vendor in the presence of Sub-Registrar, but witness adds that: the said amount was given by him to his father, just before entering into the office of the Sub-Registrar.

It is true that Ramalaxmamma expressed her disinclination to sell her land to her family, and then my father is the younger brother raised the contention that the Ramalaxmamma shall sell her property to them only as they are the agnates.

It is true that my father and we two brothers were sat and decided to purchase the land from Ramalaxamma to extent of **half share for our joint family, and also decided that the said land has to be registered in my name and in the name of PW1 and accordingly Ex.B1 and origin of Ex.A5 were executed.**

It is true that on the date of payment of consideration amount by me and our vendors under Ex.B2, we all were constituted Hindu Joint Family. My father asked me to pay the entire sale consideration amount as I have got self sufficiency of income and private earnings and accordingly, I paid the said consideration amount to my vendors, but not in the capacity as joint family members as suggested to me.

Since myself and PW1 and her father constitute as Hindu Joint Family, in all signed on

the loan application as required by the Bank officials and since it is ancestral property.

It is true that the land under Ex.B2 is still undivided between plaintiff No.4 and defendant No.2. I have no objection of dividing the land under Ex.B2 as per law to be decided by the Court. It is true that myself and PW1 have partitioned what are the properties purchased from Ramalaxmamma, on his part I have no objection for partition of land covered by Ex.B1 and origin of Ex.A5 as per law to be decided by the Court. The above lands are shown in B-schedule.”

46. Having extracted the relevant portion of the cross-examination of defendant No.1, it is significant to note from the said admissions that, as on the date of filing of the suit, the joint family continued to subsist and the joint family nucleus was very much in existence. More so, the defendant No.1 i.e., DW1 has categorically asserted that he has no objection to divide the suit schedule properties including the schedule-B property as per the Court judgment. The plaintiffs have brought substantial evidence to show that the joint family has got enough funds to purchase the land.

47. In view of the judgment of the Hon'ble Supreme Court in ***Shrinivas Krishna Rao Kango (supra)***, once the plaintiff discharges his initial burden to show that the suit schedule properties are the joint family properties though registered on the name of defendant No.1 vide Ex.B1 and defendant No.2 and plaintiff No.4 jointly vide Ex.B2, the onus is on defendant No.1 to show that as to how the properties were acquired by him and specifically he should demonstrate the nature of resources to meet the funds. Once the defendant No.1 asserts that the schedule-B properties are the self acquired properties, burden is on the defendant No.1 to show that the said schedule-B properties exclusively belong to the defendant No.1 and the said lands have been purchased by his self earnings. Further, cross examination of DW1 specifically shows that the same is purchased by joint family funds and do not support the case of defendant No.1, to show that the schedule properties in respect of schedule-B properties are self acquired properties of defendants.

48. The plaintiffs have fully discharged their initial burden of existence of joint family nucleus as on the date of filing of suit.

Moreso, the admission of defendant No.1 in his cross examination, coupled with evidence of PWs 1 to 8 go to show that all the schedule properties are joint family properties. In that view of the matter, and in view that the judgment in ***Shrinivas Krishna Rao Kango (supra)***, relied upon by the learned counsel for the respondents/plaintiffs, this Court is of the considered view that once the joint family nucleus are shown to be existing as on the date of the filing of the suit, any property which is even purchased on one of the legal heirs, without there being any evidence of self earning by defendants, will definitely fall in the common pool of joint family properties.

49. Thus, in the light of the above specific admissions of DW1 i.e., defendant No.1 coupled with depositions of PWs 1 to 8 along with the documents filed and the positive admissions and affirmations of the defendant No.1(DW1), this Court without there being any hesitation specifically hold that the findings arrived by the learned trial Court Judge, in coming to a conclusion that the schedule-B properties are the ancestral and joint family properties, which are liable to be partitioned as per their entitlements, is proper and valid.

Accordingly, Point No.3 is answered in favour of plaintiffs.

CONCLUSION:-

50. In view of the aforesaid discussion, this Court do not see any substantial grounds placed by the appellants/defendant Nos.1 and 2 to interfere with the well reasoned and well considered findings of the trial Court Judge, and the appeal is devoid of merits and liable to be dismissed.

51. In the result, the Appeal Suit is dismissed, by confirming the Judgment and Decree dated 01.12.1999 passed in O.S.No.1 of 1994 by the learned Senior Civil Judge, at Nagarkurnool. No costs.

Miscellaneous petitions, if any, pending, shall stand closed.

SUDDALA CHALAPATHI RAO, J

Date: 01.10.2026
ds

THE HON'BLE SRI JUSTICE SUDDALA CHALAPATHI RAO

APPEAL SUIT No.191 of 2000
Date: 01.10.2026

ds