

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. _____ OF 2025
(@ SLP(C) No.24993/2023)

GOWTHAM CHAND

APPELLANT(S)

VERSUS

A. G. SHIVAKUMAR SINCE DEAD BY LRS & ORS.

RESPONDENT(S)

O R D E R

1. Leave granted.
2. The appellant before us is defendant No.2 in a suit for partition and separate possession filed by the contesting respondents. This Court is only concerned with Item No.2 of Schedule 'A' properties.
3. An agreement was entered into between the appellant being defendant No.2, and the father of the other respondents being defendant No.1. Pursuant to the said agreement in the year 1977, a sale deed was executed in the year 1980. A few days prior to the execution of the sale deed, a suit for partition and separate possession was filed by the contesting respondents. Summons were issued after the execution of the sale deed. The Trial Court was pleased to grant a decree in favour of the contesting

respondents, except to the extent of Item No.2 of Scheduled 'A', inter alia holding that the appellant is a bonafide purchaser of value. The judgment and decree of the Trial Court was confirmed by the First Appellate Court. However, on a second appeal, the High Court has set aside the decree insofar as Item No.2 of Scheduled 'A' is concerned, on the premise that the suit property is a joint family property and it was purchased by the appellant during the pendency of the suit. Challenging the same, the present appeal has been filed.

4. The jurisdiction of the High Court under Section 100 of the Code of Civil Procedure, 1908 (for short, 'the CPC') is rather well defined. What is required is a substantial question of law which if answered in favour of the appellant, shall have the effect of reversing the judgment and decree of the Court below. As a matter of course, findings rendered on facts ought not to be interfered with. In other words, a substantial question of law arises from the findings rendered by the First Appellate Court. The First Appellate Court while exercising power under Section 96 of the CPC is the final Court of fact and law.
5. The reasoning of the High Court in the impugned order cannot be sustained in the eye of law.

Admittedly, an agreement was entered into way back in the year 1977 between the appellant and defendant No.1. It is only pursuant to the said agreement that a sale deed was executed on 30.07.1980. There is no bar for alienation during the pendency of a suit. However, in this case, the sale deed was executed on 30.07.1980, but the suit was filed on 25.07.1980 and summons were issued much later.

6. Therefore, even the question of an earlier pending suit does not arise. Both the Courts have held that equity shall be considered in favour of the appellant. As per settled position of the law, defendant No.1 is entitled to alienate joint family property as a 'karta'.
7. Thus, looking from any perspective, the High Court ought not to have interfered with the judgment and decree rendered by the Courts below. It is not as if there are no sufficient properties to work out equities. This is a fact which has been taken note of by the Trial Court as well as the First Appellate Court. As there is a factual finding with respect to the bonafide transaction and in view of our aforesaid discussion, we are inclined to set aside the impugned order passed by the High Court. Consequently, the judgment and decree of the Trial Court as confirmed by the First Appellate Court

stands revived.

8. The contesting respondents are at liberty to seek their respective shares in Item No.2 of Schedule 'A', from the remaining share allotted to their father being defendant No.1.
9. Accordingly, the appeal is allowed.
10. Pending application(s), if any, shall stand disposed of.

.....J.
[M.M. SUNDRESH]

.....J.
[NONGMEIKAPAM KOTISWAR SINGH]

NEW DELHI;
18th JULY, 2025

ITEM NO.54

COURT NO.6

SECTION IV-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 24993/2023

[Arising out of impugned final judgment and order dated 18-08-2022 in RSA No. 206/2010 passed by the High Court of Karnataka at Bengaluru]

GOWTHAM CHAND

Petitioner(s)

VERSUS

A. G. SHIVAKUMAR SINCE DEAD BY LRS & ORS.

Respondent(s)

Date : 18-07-2025 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE M.M. SUNDRESH
HON'BLE MR. JUSTICE NONGMEIKAPAM KOTISWAR SINGH

For Petitioner(s) Mr. Shanthkumar V. Mahale, Sr. Adv.
Mr. Madhvendra Singh, Adv.
Ms. Anuradha Bhat, Adv.
Mr. Harisha S.R., AOR

For Respondent(s) Mr. Radhakrishna S. Hegde, Adv.
Mr. Prakash Chandra Sharma, Adv.
Mr. Rajeev Singh, AOR

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is allowed in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

(SWETA BALODI)

ASTT. REGISTRAR-cum-PS

(Signed order is placed on the file)

(AVGV RAMU)

COURT MASTER (NSH)