

(2015) 01 KAR CK 0510

In the Karnataka High Court

Case No : Regular First Appeal No. 15 of 2008 and Regular First Appeal CROB No. 32 of 2011

N. Satish Kumar

APPELLANT

Vs

D. Gowramma and Others

RESPONDENT

Date of Decision : 08-01-2015

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 20 Rule 12, Order 39 Rule 2A, Order 41 Rule 27, Order 8 Rule 9
Hindu Marriage Act, 1955 — Section 16
Hindu Succession Act, 1956 — Section 6

Citation : (2015) 3 KarLJ 510 : (2015) 4 KCCR 3691

Hon'ble Judges : N. Kumar, J;B. Veerappa, J

Bench : Division Bench

Advocate : Sriyuths A. Madhusudhana Rao, Rashmi and Padma K.T. for M.T. Nanaiah, Ramesh Ananthan, C.R. Gopalaswamy and Associates, M.R. Rajagopal, C.R. Gopalaswamy and K.M. Somashekar, for the Appellant

Judgement

N. Kumar, J.

1. This appeal is preferred by the 3rd defendant challenging the judgment and decree passed by the Trial Court decreeing the suit of the plaintiff as prayed for. The 11th respondent in this appeal, who is the purchaser of "B" schedule property has preferred a cross-objection challenging that portion of the judgment and decree, which affects her interest. Therefore, both the appeal and the cross-objection are taken up for consideration together and disposed of by this common judgment. For the purpose of convenience, the parties are referred to as they are referred to in the original suit.

2. The case of the plaintiffs is that Sri P. Narasimhaiah alias Appaji Gowda is the owner of the plaint schedule properties. The 1st defendant claims to be the first wife i.e., the legally wedded wife of Sri P. Narasimhaiah. Defendants 2 and 3 are his sons through his first wife. Defendants 5 to 8 are his daughters through his first wife. During the subsistence of the marriage with the first wife, concealing

the said fact, he married the 1st plaintiff on 24-11-1967. Plaintiffs 2 to 4, daughters were born to him through the second wife. It is the further case of the plaintiffs that Sri P. Narasimhaiah was carrying on the avocation of Excise Contractor. He had earned the properties both movables and immovables. He had obtained licence at different places of the State like Shimoga, Ranibennur, Chitradurga, Magadi etc. and the 1st plaintiff was residing with him at those places and he was performing his marital obligations with the 1st plaintiff. Sri P. Narasimhaiah, died on 15-5-1979 at C.M.C. Hospital, Vellore, Tamil Nadu. After the death of Sri P. Narasimhaiah, defendants took the control of his properties. Sri P. Narasimhaiah had deposited a sum of Rs. 16,50,000/- in the office of the Deputy Commissioner, Bangalore towards his licensing fee of obtaining contract to deal with excisable items. The 1st defendant by misrepresentation and by practicing fraud obtained the signature of the 1st plaintiff, on a white paper and has utilised the same to claim refund of deposit from the Deputy, Commissioner and thereafter misappropriated the said amount. Plaintiffs have been claiming their legitimate and rightful share in the schedule properties, from the defendants. The defendants are denying the same on some pretext or the other in giving their legitimate share. Till the end of 1992, the defendants were paying about Rs. 5,000/- to Rs. 7,000/- per annum to the plaintiffs in piecemeal manner, by stating that due to crop and rain failure, only such amount has accrued to their share from the agricultural lands. On 13-6-1994 when the plaintiffs demanded 50% as their share, they were abused. Hence, they were constrained to lodge a complaint with the jurisdictional police. The defendants refused to heed to the advice of the Sub-Inspector. Therefore, they were constrained to file the suit for partition and separate possession of their legitimate 1/10th share in all the plaint schedule properties. In the plaint at Schedule "A", agricultural lands situated at Harohalli Village, Kanakapura Taluk, Bangalore District are set out. In the Schedule "B", agricultural lands in Kirangere Village, Harohalli Hobli, Kanakapura Taluk, Bangalore District are set out. In Schedule "C", the residential three storeyed house building built on Site No. 431 bearing name of "Sathyahari Krupa" in 5th Block, 40th Cross, Jayanagar, Bangalore are set out. In Schedule "D" property, the particulars of a Benz Car and in Schedule "E", particulars of a Fiat car owned by Sri P. Narasimhaiah is set out. In Schedule "F", the amount of Rs. 16,50,000/- deposited by late Sri P. Narasimhaiah with the Deputy Commissioner, Bangalore towards excise licencing deposits, which was received by the defendants is set out. The plaintiffs are seeking half share in all the plaint schedule properties and they also sought for mesne profits.

3. After service of summons, defendants 1 to 3 filed a detailed written statement. It is denied that Sri P. Narasimhaiah was called Appaji Gowda. They also denied that he earned properties both movables and immovables as set out in the plaint schedules. However, they admit that Sri P. Narasimhaiah was Karnataka State Excise licensed contractor. The 1st defendant's, brother Sri Dasappa was pioneer and bigwig in the field and was supporting all through the

life of late Sri P. Narasimhaiah. The 1st defendant was quite affluent, born with silver spoon in her mouth and had brought dowry both in the form of cash and in kind, so that Sri P. Narasimhaiah could amass wealth both movables and immovable properties. They have denied the allegation that Sri P. Narasimhaiah had obtained licence as an Excise Contractor at different places of the State and used to keep the 1st plaintiff at such places, continuously performing his marital obligations with the 1st plaintiff. They contended that the 1st defendant had obtained a succession certificate after the demise of her husband, through the jurisdictional Court by impleading all the family members of the 1st defendant. The said Succession Certificate was obtained about 15 years back. The plaintiffs did not appear and contest the matter. It is after obtaining the Succession Certificate, the amount of Rs. 16,50,000/- was withdrawn from the Excise Department by producing the same. Therefore, the allegation that by misrepresentation and fraud the defendants obtained the signature of the 1st plaintiff and that the amount was withdrawn are false. The plaintiffs are utter strangers to the defendants and they denied in toto that the 1st plaintiff was married to late Sri P. Narasimhaiah and that 2nd, 3rd and 4th plaintiffs were born to him. When they have specifically denied the relationship between the 1st plaintiff and Sri P. Narasimhaiah, the question of traversing the documents produced by the plaintiffs does not arise. Therefore, they sought for dismissal of the suit. They also contended that the suit is hopelessly barred by limitation. The Court has no jurisdiction to entertain the suit. All the schedules mentioned in the plaint are not correct. Some of the properties do not belong to any of the defendants and some are recently purchased by earnings of 2nd and 3rd defendants, who are Doctor and Engineer by profession. In fact the 2nd and 3rd defendants are carrying on business too. Plaintiffs have not approached the Court with clean hands. The 1st defendant is suffering from Myo Cardiac infarction and other maladies of old age. She is unable to take any tension or stress. In the circumstances, the 1st defendant is unable to give proper instructions completely at this juncture. The 2nd and 3rd defendants were minors when their father expired. Hence, the delay in filing the written statement is quite obvious. It is further stated that when the 1st defendant completely recuperates from his ailments, she would reserve her rights to file additional written statements, if need be, in due course, etc.

4. After the daughters of the 1st defendant were impleaded as defendants 5 to 8 they also filed a separate written statement. They denied that the 1st plaintiff is the wife of Sri P. Narasimhaiah and that plaintiffs 2 to 5 are the children of Sri P. Narasimhaiah through the 1st plaintiff. It is only the 1st defendant, her two sons and five daughters, who are the legal heirs of Sri P. Narasimhaiah. They pleaded that it is not within the knowledge of them that Sri P. Narasimhaiah was carrying out the avocation as an Excise Contractor and out of the said avocation, he earned the properties described in the schedule. They averred that their father was an Excise licensed contractor and with the assistance and guidelines of the brother of the 1st defendant namely Dasappa, was pioneer in the deal of excise

items pushed up and supported Sri P. Narasimhaiah in all kinds. As a result late Sri P. Narasimhaiah was able to acquire both movable and immovable properties during his lifetime. They have reiterated the allegation regarding the application for grant of Succession Certificate and grant of the same. They further contend that the defendants 1 to 3 had sold "B" Schedule property, which was the joint family property, to the 4th defendant for legal necessity for which consent has also been obtained from these defendants. They contend that the 4th defendant is the bona fide purchaser of the property for monetary consideration.

5. The 4th defendant, the purchaser of "B" Schedule property has filed the written statement after she being impleaded. She also has denied that the 1st plaintiff is the wife of Sri P. Narasimhaiah. He never married the 1st plaintiff. The 1st defendant is the only wife of deceased Sri P. Narasimhaiah and 2nd and 3rd defendants are the only sons of him. She admits that Sri P. Narasimhaiah was an Excise Contractor. Sri P. Narasimhaiah died intestate on 15-5-1979. She reiterated the allegations made in the written statement of defendants 1 to 3. It is stated that she is a bona fide purchaser for a valuable consideration, having purchased the "5" Schedule properties from defendants 1, 2 and 3 for a total sale consideration of Rs. 6,20,000/- under a registered sale deed dated 19-5-1994. She is enjoying the said property in her own right. She further states that the suit is not property valued and the Court Fee paid is not proper. Stamp duty paid is not appropriate. However, in the end she has stated that the Court would come to a conclusion that the plaintiffs are entitled to a share as claimed, the share that may be allotted to defendants 1 to 3 may be allotted in her favour and the same may be decreed accordingly.

6. On the aforesaid pleadings, the Trial Court has framed the following issues as under:

1. Whether the plaintiffs prove that they are the legal heirs of the deceased P. Narasimhaiah alias Appaji Gowda?
2. Whether the plaintiffs prove that the deceased P. Narasimhaiah married 1st plaintiff on 24-1-1967 and 2nd and 3rd plaintiffs are born out of the said wedlock?
3. Whether the plaintiffs further prove that the suit schedule properties are the properties of deceased P. Narasimhaiah and he died intestate?
4. Whether the plaintiff prove jointly that they are entitled to any share in the suit schedule properties? If so, to what percentage?
5. Whether defendants prove that the 1st defendant is the legally wedded wife and 2nd and 3rd defendants are the son of late P. Narasimhaiah and plaintiffs have no relationship of any sort with the deceased P. Narasimhaiah?
6. Whether the 4th defendant proves that he is the bona fide purchaser of "B" schedule properties from defendants 1 to 3 and further proves that if partition suit is decreed, he is entitled to the share of defendants 1 to 3 under equity?

7. Whether there is any cause of action for the suit?

8. What order or decree?

Additional issues:

1. Do the defendants 5 to 8 prove that they are children and legal heirs of late P. Narasimhaiah born to defendant 1?

2. Do the defendants 5 to 8 prove that they are entitled for share(s) in the suit schedule properties and if so, to what proportions?

7. The plaintiffs in order to establish their case examined the 1st plaintiff as P.W. 1. They also examined two witnesses Kalegowda and Krishnappa as P.W. 2 and P.W. 3 respectively and produced 27 documents, which were marked as Exs. P. 1 to P. 27. On behalf of the defendants, the 1st defendant-Smt. Gowramma was examined as D.W. 1 and the 3rd defendant-Satish Kumar was examined as D.W. 2 and one N. Pushpalatha was examined as D.W. 3 and produced 20 documents, which were marked as Exs. D. 1 to D. 20.

8. The Tribunal, on the basis of the aforesaid oral and documentary evidence on record held that the marriage between the 1st plaintiff and Sri P. Narasimhaiah is proved. However, the said marriage was performed during the subsistence of the marriage between Sri P. Narasimhaiah and the 1st defendant. It further held that the plaintiffs 2 to 4 were born to Sri P. Narasimhaiah through the 1st plaintiff. It also held that except items 1 and 2 of "A" Schedule properties, the other immovable properties were all self-acquired properties of Sri P. Narasimhaiah whereas items 1 and 2 are ancestral properties. It held that the plaintiffs are entitled to 1/10th share each as against their claim at 50%. It held that the 1st defendant is the legally wedded wife of Sri P. Narasimhaiah and therefore, defendants 2 and 3 are his sons. The 4th defendant is not a bona fide purchaser of "B" Schedule properties from the defendants 1 to 3 as contended by her. Defendants 5 to 8 are the daughters of Sri P. Narasimhaiah born to the 1st defendant. They are also entitled to equal share. Further, it held that the plaintiffs have failed to prove that "D", "E" and "F" Schedule properties belong to Sri P. Narasimhaiah. Accordingly, the suit of the plaintiffs was decreed granting 1/10th share to each of the plaintiffs in "A" to "C" Schedule properties and the suit of the plaintiff was dismissed in respect of "D", "E" and "F" Schedule properties. It also directed that there shall be an enquiry into the future mesne profits as contemplated under Order 20, Rule 12 of the Code of Civil Procedure, 1908. It also held that the 1st plaintiff being the second wife and hence, the marriage being void, is not entitled to any share in the properties. As the defendants 1, 2 and 5 to 7 had alienated the properties during the pendency of the suit inspite of an order of temporary injunction being operating, the application filed under Order 39, Rule 2-A of Civil Procedure Code, 1908 which are numbered as LA. Nos. 15 and 17, are ordered to be included into and registering them as miscellaneous cases. Aggrieved by the said judgment and decree of the Trial Court, this first appeal is preferred by the 3rd defendant.

9. It is submitted that the 1st defendant also had filed an appeal in R.F.A. No. 225 of 2008, which came to be dismissed for non-prosecution on 17th April, 2008 and it has attained finality. Defendants 2 and 5 to 8 have not chosen to challenge the judgment and decree of the Trial Court however, the 4th defendant - the purchaser of "B" Schedule property, though did not prefer any appeal, has chosen to file a cross appeal in this appeal.

10. The learned Counsel appearing for the 3rd defendant, assailing the impugned order, contends that when the Trial Court has categorically recorded a finding that items 1 and 2 of the "A" Schedule properties are the ancestral property of Sri P. Narasimhaiah, it shows the existence of a Joint family nucleus. The evidence on record shows that the 1st defendant after the death of Sri P. Narasimhaiah, purchased the remaining items of "A" Schedule properties as well as "B" Schedule properties out of the said income. Similarly, Sri P. Narasimhaiah had purchased "B" schedule properties also out of the income from the ancestral properties. Therefore, the Court below was not justified in granting a decree for partition giving 1/10th share to the plaintiffs. Further, he submits that as the said properties are all joint family properties, Section 16 of the Hindu Marriage Act, 1955 has no application and the illegitimate children have no right to claim a share in coparcenary property. Therefore, he submits that the judgment and decree of the Trial Court requires to be set aside. He also submits that an application is filed in these proceedings, producing a certified copy of the sale deed dated 21-4-2005 executed by defendant 2 conveying the suit Schedule "C" property, which sale deed has been confirmed by the plaintiff by executing a registered sale deed dated 8-11-2010 giving right in the said property. In that view of the matter, they cannot claim any right in the "C" Schedule property.

11. The learned Counsel appearing for the cross-objector contends that the 4th defendant was not aware of the existence of the plaintiffs. Bona fide, she has purchased the "B" Schedule properties from defendants 1 to 3 for a valuable consideration. She has been put in possession and is enjoying the said property. The plaintiffs being illegitimate children of Sri P. Narasimhaiah are not entitled to any share. Therefore, the decree passed by the Trial Court is erroneous and requires to be set aside.

12. Per contra, the learned Counsel appearing for the plaintiffs submits that nowhere in the pleadings there is any averment that the schedule properties, in particular, items of Schedules "A" and "B" are the ancestral properties. Therefore, no issue was framed. It is only in the course of evidence of the 3rd defendant, certified copy of registered partition deed of the year 1980, is produced in which the 1st defendant is given a share in "A" Schedule properties. In Items 1 and 2 of the "A" Schedule properties, a share which legitimately belongs to her husband, is sought to be pressed into service to contend that it is a joint family property. It is settled law that any amount of evidence without plea cannot be looked into by the Court. It is not the case of the defendants, as set out in the pleadings, that it is a joint family property and therefore, he submits

that the said finding recorded by the Trial Court is erroneous but however, the ultimate order granting equal share to everyone is justified and no case for interference with the judgment of the Trial Court is made out.

13. From the aforesaid facts and rival contentions, the points that arise for our consideration in this appeal are as under:

(a) Whether the plaint "A", "B" and "C Schedule properties are the self-acquired properties of Sri P. Narasimhaiah or is it ancestral properties?

(b) Whether the shares allotted to each of the parties to the suit is in accordance with law?

Point No. 1:

14. Though the primary defence taken in the written statement of all the defendants is that the 1st plaintiff is not the wife of Sri P. Narasimhaiah and plaintiffs 2 to 4 are not the children of Sri P. Narasimhaiah through the second wife, the oral and documentary evidence adduced on record clearly establishes the fact that Sri P. Narasimhaiah married the 1st plaintiff during the subsistence of his marriage with the 1st defendant, who is his 1st wife. The plaintiffs 2, 3 and 4, the three daughters were born to Sri P. Narasimhaiah through the 1st plaintiff. The Trial Court, on a careful appreciation of the oral and documentary evidence on record, which consists of power of attorney, marriage invitation card, certified copy of the voters' list, certified copy of the transfer certificate issued by the Educational Institutions etc., has categorically held that the 1st plaintiff is the second wife of Sri P. Narasimhaiah. Though the said marriage is void as the marriage was performed during the subsistence of the first marriage with the 1st defendant and the plaintiffs 2 to 4 are born out of the said void marriage and though they are treated as illegitimate children by virtue of Section 16 of the Hindu Marriage Act, they are conferred with the status of legitimate children insofar as the claim to property of Sri P. Narasimhaiah is concerned. Realising the futility of canvassing against the said finding of fact of Trial Court based on legal evidence, the said point was not pressed much further and therefore, on reappraisal of the entire evidence on record, we are of the view that the finding recorded by the Trial Court that the 1st plaintiff being the second wife, their marriage is void and out of the said void marriage, the plaintiffs 2, 3 and 4 were born, does not call for any interference.

15. In the light of the aforesaid finding regarding the relationship between the parties, we have to see whether the schedule properties are the self-acquired properties of Sri P. Narasimhaiah or is it the ancestral properties of Sri P. Narasimhaiah, in order to find out what is the share to which these children i.e., plaintiffs 2 to 4 and the first wife i.e., plaintiff 1 is entitled to.

16. In the plaint, the plaintiffs have categorically stated that all the plaint schedule properties belong to Sri P. Narasimhaiah alias Appaji Gowda. He was carrying on the avocation of Excise contractor and he has earned the properties

both movables and immovables and was possessing the same. On his death, according to them, they were entitled to half share, which they demanded and the same was refused to them. In the written statement filed by defendants 1 to 3, the major stress is to deny the relationship of Sri P. Narasimhaiah with the 1st plaintiff and the children born to her. They also have taken a specific contention that it was not within their knowledge that Sri P. Narasimhaiah was carrying out the avocation as an Excise contractor and he has earned the properties both movables and immovables, which are described in the suit schedule. But they admit that Sri P. Narasimhaiah was Karnataka State Excise Licensed Contractor and the 1st defendant's brother Sri Dasappa, who was pioneer and bigwig in the field was supporting all through the life of late Sri P. Narasimhaiah. The 1st defendant was quite affluent, born with silver spoon in her mouth and brought dowry both in cash and in kind, so that Sri P. Narasimhaiah could amass wealth both movables and immovable properties. Therefore, it is clear from the said statement that though the property stood in the name of Sri P. Narasimhaiah, the source of acquisition is not any income from his ancestral properties, but the source is dowry, which was brought by the 1st defendant. The evidence on record do not establish the case of the 1st defendant bringing dowry and out of that dowry, the said Sri P. Narasimhaiah amassing wealth both movable and immovable properties. Again, it is not the case of the defendants that the schedule properties are joint family properties of Sri P. Narasimhaiah, his sons or his brothers. The documents, which are produced by the plaintiffs such as revenue records and the RTC entries made therein do not indicate that it is a property, which was acquired either by succession or by inheritance. On the contrary, it shows that the properties are acquired by sale.

17. An application is filed under Order 41, Rule 27 of the Code of Civil Procedure, 1908 placing on record a certified copy of the sale deed executed by defendant 2 in respect of the "C" Schedule property. They have also placed on record, a registered confirmation deed dated 8-11-2010 executed by the plaintiffs in respect of "C" Schedule property. It only shows that the purchaser of the "C" Schedule property, who is the 4th defendant, accepted the judgment of the Trial Court, bargained with the plaintiffs, paid them the consideration in respect of their legitimate share and got confirmation of the sale deed executed by the 2nd defendant in her favour. The said document has no bearing in deciding the rights of the parties in this case. Though the said fact is not disputed, those documents are not really necessary for deciding the rights of the parties in this case and therefore, allowing the said application would not arise. It would be sufficient to record that the plaintiffs, who have been conferred 1/10th share in the "C" Schedule property has parted with their right for valuable consideration.

18. It is also submitted that some applications are filed to implead the subsequent purchasers during the pendency of the suit and the appeal. It is settled law that in a suit for partition, to pass a preliminary decree, the persons who have a share in the property by birth or by death are only necessary and prior to the filing of the suit, if any alienation has taken place, they are also

necessary parties. The sale in favour of subsequent purchaser are hit by doctrine of lis pendens. However, they can agitate their rights in drawing up a final decree in terms of the preliminary decree. In that view of the matter, all the applications filed in this appeal are dismissed with liberty to the parties to make them parties in the final decree proceedings or it is for them to appear in the final decree proceedings.

19. After filing of the written statement, the 3rd defendant filed an application under Order 8, Rule 9 of the Code of Civil Procedure bringing to the notice of the Court that subsequent to the filing of the suit, the 1st defendant is alienating suit "A" Schedule properties in favour of her daughters and outsiders. According to him, the said property belongs to the Joint family and she has no right to make such alienations. That application was dismissed by the Trial Court. Aggrieved by the same, he preferred a writ petition before this Court in W.P. No. 842 of 2007. The said writ petition was rejected by order dated 7th June, 2007 with an observation that the Trial Court is perfectly justified in passing the impugned order rejecting the application filed by the petitioner. Further, it was made clear that the 3rd defendant was entitled to place before the Court, subsequent developments, by way of evidence. It was further made clear that the Court is under an obligation to consider the subsequent developments, which are placed in the form of evidence, even in the absence of pleadings in this regard. Taking advantage of these observation in the order passed by this Court, the 3rd defendant in the course of his evidence produced Ex. D. 5-a certified copy of the sale deed dated 13-3-1969 and Ex. D. 6-certified copy of the registered sale deed dated 8-3-1980, Ex. D. 7-certified copy of the sale deed dated 19-5-1994. Ex. D. 8-certified copy of the sale deed dated 6-12-1979 and Ex. D. 9-certified copy of the registered partition deed dated 26-5-1980, Ex. D. 10-certified copy of the sale deed dated 25-2-1981, Ex. D. 11-certified copy of the sale deed dated 6-5-1981 and Ex. D. 12-certified copy of the sale deed dated 25-8-1994. As is clear from the dates mentioned, none of these documents are subsequent events. All these documents are prior to the filing of the suit on 23-2-1995. Therefore, the Trial Court committed an error in permitting the 3rd defendant to produce these documents. Further, after looking into the contents of the documents, it committed a further error in recording a finding that items 1 and 2 of the schedule properties are ancestral family properties. Now relying on that finding, which has no legal basis, it is urged before us that because it is an ancestral property, the illegitimate children have no right in the said property and even if they have a right, it is not an equal right with the legitimate children. It is well-settled that the parties, in order to succeed in a civil suit, first have to plead their case, in other words, there should be proper plea in the pleadings. Then, if that plea is denied, they should adduce evidence to substantiate the said plea. Any plea, which is not supported by evidence, cannot be looked into. This fundamental principal is not kept in mind by the Trial Court when it acted on these documents, which were not produced in support of any plea and recording a finding thereof contrary to the directions issued by the High Court in its order

dated 7th June, 2007 in W.P. No. 842 of 2007 as none of these documents-Exs. D. 5 to D. 12 came into existence subsequent to the filing of the suit. Therefore, the defendants cannot take advantage of neither the said documents nor the finding recorded, because, never it was their case that "A", "B" and "C" Schedule properties were the ancestral properties of Sri P. Narasimhaiah. Though Exs. D. 13, D. 14, D. 15, D. 16, D. 17, D. 18, D. 19 and D. 20 have come into existence subsequent to filing of the suit, they are in the nature of gift deeds, Will, power of attorney and registered agreements, copy of the plaint and the certified copy of the order sheet, which in no way conferred any right on the defendants in the schedule properties. Those documents shows that after the filing of the suit, an attempt is made by defendant 1 to alienate the properties, which has no bearing on the parties insofar as the schedule properties are concerned. In that view of the matter, the finding recorded by the Trial Court that items 1 and 2 of the schedule properties are ancestral properties cannot be sustained. After holding it is an ancestral property, applying the amended Section 6 of the Hindu Succession Act, 1956 it has proceeded to grant equal share to the daughters ignoring the fact that prior to the coming into force of the Act, the 4th defendant had purchased "B" Schedule property in the year 1994 itself. Therefore, in the facts of this case when once it is established that the "A", "B" and "C" Schedule properties are the self-acquired properties of Sri P. Narasimhaiah, by application of Section 16 of the Hindu Marriage Act, plaintiffs 2 to 4, though are illegitimate children born to Sri P. Narasimhaiah through the second wife, they are considered as legitimate children and they are entitled to equal share with the legitimate children in the properties of their parents, i.e., their father Sri P. Narasimhaiah. Therefore, they are entitled to 1/10th share, though the reasoning adopted by the Trial Court is fallacious. The ultimate result of granting 1/4th share to each of the plaintiffs, except 1st plaintiff is in accordance with law. In that view of the matter, there is no justification to interfere with the judgment and decree of the Trial Court. Hence, appeal is dismissed. Insofar as the cross-objection is concerned, the 4th defendant has purchased this property from defendants 1 to 3. Defendants 5 to 8 have also given their consent. Therefore, she is entitled to their share. As plaintiffs 2 to 4 have not conveyed their share in the property, their share is intact. Their plea that the 4th defendant is bona fide purchaser for valuable consideration is not available as purchaser should be aware i.e., caveat emptor. She did not know how many children Sri P. Narasimhaiah had and she has taken the signature of only the children of the first wife. There is no merit in this cross-objection. Hence, cross-objection is also dismissed.