

(1988) 07 KAR CK 0014
In the Karnataka High Court
Case No : C.R.P. No. 3289 of 1988

Parvathamma B.N. and Others

APPELLANT

Vs

B.M. Nagaraja Setty and Others

RESPONDENT

Date of Decision : 20-07-1988

Acts Referred:

Citation : (1988) 07 KAR CK 0014

Hon'ble Judges : M.P. Chandrakantaraj Urs, J

Bench : Single Bench

Advocate : N. Kumar, for the Appellant;

Final Decision : Dismissed

Judgement

M.P. Chandrakantaraj Urs, J.—This revision is by the plaintiffs. They have filed O.S. No. 136/1982 in the Court of the Civil Judge at Madikeri, claiming partition of suit schedule properties between themselves and defendant-I. They presented I.A. No. XVII under order 1 Rule 10 CPC to implead one Chandramma who is said to be purchaser of a property allegedly sold by defendant-1 who is none other than the husband of plaintiff-1 and father of plaintiffs 2 to 5. That application has come to be rejected on the ground that the sale was prior to the filing of the suit.

2. Without an amendment to the plaint that such a sale is not binding on the plaintiffs, the purchaser does not become a necessary party in a partition suit. It is also further held that if the said Chandramma is a purchaser pendente lite then that sale would not enure to her benefit on account of the doctrine of lis pendente. Looked at in any way she is not a necessary party. Whether the properties sold to Chandramma are part of the joint family properties is a question of fact to be established, if it is disputed. If there is no amendment to the plaint in regard to certain sales not binding, on the plaintiffs then that amendment should be carried out first before the affected parties are impleaded.

3. In that view of the matter, there is no ground for this Court to interfere with the order under revision which is correct in law. This revision petition is rejected.