

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 3298/2012

B. RAGHAVENDRA HEDGE (D) BY LRS.

APPELLANT(S)

VERSUS

MANORAMA J.SHANBHOGUE(D) BY LRS. & ORS.

RESPONDENT(S)

O R D E R

1. We have heard the learned Senior Counsel appearing for the appellant and the respondent(s).
2. Respondent No. 01-Plaintiff filed a suit for partition. Aggrieved by the preliminary decree passed by the Trial Court as confirmed by the High Court, the present appeal is filed by Defendant No. 2, who is the appellant herein. Both the Courts have held that all the suit properties are joint family properties.
3. There are three schedules of properties before us. Schedule A has five items. Item No.1 is a property in which the partnership firm, which is the subject matter of Scheduled 'C' property, is situated. It is the case of the respondents that the said property is a joint family property, while the

learned Senior Counsel appearing for the appellant(s) contends that the property belongs to the Temple and he is the tenant. He submits that it was initially taken on rent by his father, who returned it. Item Nos. 2, 3, and 5 are immovable properties. Item 4 has not been put into partition even by both the Courts.

4. The Schedule 'B' properties consist of movables, and the Schedule 'C' property is the business of "Hegde Medicals" being carried on the premises of the property listed under item no.1 of Schedule A. Both the Courts have found that all the properties are joint family properties.
5. Learned Senior Counsel appearing for the appellant would submit that the application filed by him, invoking Order 41 Rule 27 of the Code of Civil Procedure, 1973 (for short, the CPC), has not been disposed of while disposing of the appeal. He contends that adequate evidence is available in the documents filed to show that the 'C' Schedule property, i.e., the business of "Hegde Medicals", is not joint family property and Item No.1 of the Scheduled 'A' properties is one in which the appellant(s) is a tenant and, therefore, is also not a joint family property.
6. Incidentally, it is submitted that as much as Item No.2 of 'A' Schedule is a house property, the appellant(s) shall be given the benefit of Section 32 of the Hindu Succession Act, 1956 (for short, the Act, 1956) read with Section 24 of the

Partition Act, 1893 (for short, the Act, 1983).

7. The learned Senior Counsel appearing for the respondents would submit that factual findings have been given by both the Courts on the nature of the properties concerned. He further submits that Section 22 of the Act, 1956 read with Section 24 of the Act, 1893 cannot be pressed into service in the present proceedings. In such view of the matter, he contends that there is no need for any interference.
8. We are inclined to remit the matter back to the High Court only insofar as 'C' Schedule property and Item No.1 of the 'A' Scheduled property alone are concerned.
9. Touching upon these properties, the appellant has filed an application seeking production of additional documents by invoking Order 41 Rule 27 of the CPC. This Court has reiterated time and again regarding the ambit of Order 41 and Rule 27, and therefore there is no need to delve into the same. Similarly, we do not want to express anything on the admissibility, relevancy and proof of the additional documents that are sought to be produced.
10. Suffice it is to state that the High Court was duty bound to consider the application at the time of disposing of the appeal; unfortunately, the same has not been done.
11. In such view of the matter, we are inclined to set aside the judgment and decree of the High Court insofar as Item No.1 of 'A' Schedule Property and the 'C' Schedule Property and remit

it back. All the issues pertaining to those properties are left open, including admissibility, relevancy and proof of the documents sought to be marked.

12. Insofar as properties other than Item No.1 of 'A' Schedule Property and the 'C' Schedule Property are concerned, we are inclined to hold that the law is quite settled that whenever the property stands in the name of the *karta*, the same is presumed to be a joint family property and, therefore, the onus to prove otherwise is on the person who repudiates the claim of joint family property. In the absence of any evidence to that effect and in view of the settled decisions, we are confirming the decision rendered on the other properties.
13. The judgment and decree of the Trial Court as confirmed by the High Court insofar as Item No.1 of 'A' Schedule Property and the 'C' Schedule Property stand set aside, and the matter is remitted back to the High Court for fresh consideration to that extent. In respect of other properties, the judgment and decree of the Trial Court as confirmed by the High Court is upheld.
14. We request the High Court to make an endeavour to dispose of the appeal within a period of one year from the date of receipt of a copy of this order.
15. Liberty is given to the appellant(s) to raise the plea on Section 32 of the Act, 1956 read with Section 24 of the Act,

1983, in the manner known to law.

16. The appeal stands allowed in part, accordingly.

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

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

.....J.
[PRASANNA B. VARALE]

NEW DELHI;
8th OCTOBER, 2026

ITEM NO.101

COURT NO.4

SECTION XII-B

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

Civil Appeal No(s). 3298/2012

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Appellant(s)

VERSUS

MANORAMA J.SHANBHOGUE(D) BY LRS. & ORS.

Respondent(s)

[TOP OF THE BOARD]

IA No. 77794/2017 - STAY APPLICATION

Date : 08-10-2026 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE M.M. SUNDRESH
HON'BLE MR. JUSTICE PRASANNA B. VARALE

For Appellant(s) Ms. Kiran Suri, Sr. Adv.
Mr. K. V. Muthu Kumar, AOR
Ms. Gagandeep Chauhan, Adv.

For Respondent(s) Dr. Aditya Sondhi, Sr. Adv.
Mr. V. N. Raghupathy, AOR
Mr. M.k. Vipul, Adv.
Mr. Rijuk Sarkar, Adv.
Ms. Mythili S, Adv.

Mr. Raghvendra M Kulkarni, Adv.
Mr. Hemanth Kumar, Adv.
Mr. Naresh Kumar- 1271, AOR

Mr. Amarjit Singh Bedi, Adv.
Ms. Surekha Raman, Adv.
Mr. Shreyash Kumar, Adv.
Mr. Siddharth Nair, Adv.
Mr. Harshit Singh, Adv.
Mr. Yashwant Sanjenbam, Adv.
For M/S. K J John And Co- 1287, AOR

Mr. Anantha Narayana M.Gg.- 2160, AOR

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

The appeal stands allowed in part in terms of the signed order.

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

(SWETA BALODI)

ASTT. REGISTRAR-cum-PS

(POONAM VAID)

ASSISTANT REGISTRAR

(Signed order is placed on the file)