



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 16TH DAY OF DECEMBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE C M JOSHI

REGULAR SECOND APPEAL NO.100227 OF 2023 (DEC/PAR)

BETWEEN:

SMT. PADMAVATI W/O. HANUMANTHAPPA CHITHAPUR,
AGE: 61 YEARS, OCC. HOUSEHOLD,
REPRESENTED NEXT FRIEND BY HER HUSBAND
SRI. HANUMANTHAPPA S/O. RAMAPPA CHITHAPUR,
AGE: 70 YEARS, OCC. RETIRED GOVT. EMPLOYEE,
R/O. INDRAKILA NAGAR, GADAG ROAD,
KOPPAL, DIST. KOPPAL-583231.

...APPELLANT

(BY SRI. SURESH SHETTEMMAVAR, ADVOCATE)

AND:

1. SRIKANTH S/O. SANNA HANUMANTHAPPA NAYAK,
AGE: 64 YEARS, OCC. RETIRED EMPLOYEE,
R/O. NAGARAHALLI, NOW AT TEJA NAGAR,
MUKKHYA PRANA NILAYA, MULAGUND ROAD,
GADAG, DIST. GADAG-582118.
2. SRI. SURYAPRAKASH S/O. SANNA HANUMANTHAPPA NAYAK,
AGE: 60 YEARS, OCC. AGRICULTURE,
R/O. BEHIND POLICE STATION,
BASAVESHWAR NAGAR, MUNDARGI, DIST. GADAG-582118.
3. SMT. BHARATI @ RENUKA W/O. HEMANNA ANGADI,
AGE: 53 YEARS, OCC. HOUSEHOLD,
R/O DYMPUR ROAD, AT KUKANOOR,
TQ. KUKANUR, DIST. KOPPAL-583232.

...RESPONDENTS

(BY SRI. S.K. NADAMANI, ADVOCATE FOR R1 AND R2;
R3-DISMISSED (V/O DATED 16.12.2025))

THIS RSA IS FILED UNDER SECTION 100 OF CPC, PRAYING TO SET ASIDE THE JUDGMENT AND DECREE DATED 28.10.2022 IN R.A.NO.91/2020 ON THE FILE OF THE SENIOR CIVIL JUDGE MUNDARGI, CONFIRMING THE JUDGMENT AND DECREE DATED 07.03.2020 IN O.S.NO.30/2016 ON THE FILE OF THE CIVIL JUDGE COURT, MUNDARGI AND ALLOW THE APPEAL.



THIS APPEAL, COMING ON FOR FINAL HEARING, THIS DAY,
JUDGMENT WAS DELIVERED THEREIN AS UNDER:

ORAL JUDGMENT

(PER: THE HON'BLE MR. JUSTICE C M JOSHI)

The GPA holder of the appellant/plaintiff and the respondents No.1 and 2 who are the defendants No.1 and 2 before the Trial Court are present along with their counsel. They have filed a compromise petition under Order XXIII Rule 3 of CPC stating that they have amicably settled the matter.

2. The learned counsel appearing for the appellant submits that the respondent No.3 has already relinquished her share on the suit schedule properties and therefore, the notice to the respondent No.3 may be dispensed with.

3. The suit was filed by the plaintiff/appellant herein seeking partition in the suit schedule properties. The defendants No.1 and 2 are the brothers of the plaintiff and defendant No.3 is the sister of the plaintiff. The defendant No.3/respondent No.3 herein had deposed before the Trial Court as DW3 and had stated that she has given up her share in favour of her brothers. On the basis of such statement made by her before the Court,



the Trial Court had not granted any share to her. The Trial Court decreed the suit awarding 1/4th share to the plaintiff and the remaining 3/4th share to the defendants No.1 and 2. The said judgment was questioned in R.A.No.91/2020 before the First Appellate Court, which confirmed the judgment of the Trial Court.

4. Now, the appellant/plaintiff and the defendants No.1 and 2 have entered into a compromise, whereby, the plaintiff has given up all her claim in favour of the defendants No.1 and 2. She has also given up her claim in respect of the properties bequeathed to her by her grandmother.

5. The learned counsel appearing for the appellant submits that the sister of the husband of the plaintiff was given in marriage to the respondent No.2 and she had filed a suit against the properties held by the husband of the plaintiff.

6. Now it is submitted that those disputes have also been resolved between the parties amicably and in view of that settlement, which had occurred the plaintiff herein is giving up her share in favour of respondent No.1 and 2 herein.



7. It is observed by this Court that defendant No.3 had deposed in her deposition before the Trial Court that she has given up her share in favour of defendant No.1 and 2. On the basis of such statement, the Trial Court had not granted any share to her. Defendant No.3 has not filed any appeal against her exclusion from giving any share to her by the Trial Court. Therefore, the memo filed by the learned counsel for the appellant that the appeal is not pressed against the respondent No.3 is accepted and the appeal as against respondent No.3 is dismissed.

8. The compromise petition is just and proper, as such is acceptable in view of the settlement reached in O.S.No.181/2019 also. Hence, the compromise petition filed by the plaintiff and respondent No.1 and 2 is accepted.

9. The GPA Holder of the plaintiff is present and he acknowledges the contents of the compromise petition. A copy of the GPA is also produced along with the compromise petition.

10. In view of the above, the appeal deserves to be allowed and to be disposed of in terms of the compromise petition. Hence, the following:



ORDER

- (i) *The appeal is allowed.*
- (ii) *The impugned judgment and decree in R.A.No.91/2020 passed by the Senior Civil Judge, Mundargi as well as in O.S.No.30/2016 passed by the Civil Judge, Mundargi is hereby set aside.*
- (iii) *The appeal is disposed of in terms of the compromise petition filed under Order XXIII Rule 3 of CPC.*
- (iv) *The compromise petition shall be part and parcel of the decree of this Court.*
- (v) *Draw decree accordingly.*

**SD/-
(C M JOSHI)
JUDGE**