



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 5TH DAY OF NOVEMBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE C M JOSHI

REGULAR SECOND APPEAL NO.100072 OF 2021 (PAR)

BETWEEN:

VEEARAYYA S/O. PUTTAYYA HIREMATH,
AGED ABOUT 58 YEARS,
OCC. AGRICULTURE,
R/O. SANVASAGI-581104,
TQ. HANGAL. DIST. HAVERI.

...APPELLANT

(BY SRI. MAHESH WODEYAR, ADVOCATE)

AND:

1. SMT. NAGARATNA
W/O. JAYASHANKARAYYA HIREMATH,
AGED ABOUT 65 YEARS,
OCC. AGRICULTURE,
R/O. SANVASAGI, TQ. HANAGAL,
DIST. HAVERI,
NOW RESIDING NEAR RAILWAY TRACK,
NAGINAMATTI (NEHRU NAGAR), HAVERI-581110,
TQ. AND DIST. HAVERI.
2. SMT. ANNAPURNA
W/O. SHIVASHANKARAPPA UPPAR @ JAPANI,
AGED ABOUT 41 YEARS, OCC. HOUSEHOLD WORK,
R/O. NEAR YALAKKI ONI, NEAR BANNADMATH SCHOOL,
HAVERI-581110, TQ. AND DIST. HAVERI.
3. RENUKASWAMY S/O. JAYASHANKARAYYA HIREMATH,
AGED ABOUT 35 YEARS,
OCC. AGRICULTURE,
R/O. SANVASAGI-581104, TQ. HANGAL,



DIST. HAVERI.

4. SMT. ANNAPURNA W/O. RAJASHEKHARAYYA HIREMATH,
AGED ABOUT 66 YEARS, OCC. HOUSEHOLD,
R/O. 14 CROSS, BASAVESHWAR NAGAR,
HAVERI-581110, TQ. AND DIST. HAVERI.
5. SMT. AKKAMMA W/O. SHANTAYYA HIREMATH,
AGED ABOUT 64 YEARS, OCC. HOUSEHOLD WORK,
R/O. HURALIKOPPI-581118,
TQ. SAVANUR, DIST. HAVERI.
6. SHANMUKHAYYA S/O. PUTTAYYA HIREMATH,
AGED ABOUT 53 YEARS,
OCC. AGRICULTURE,
R/O. SANVASAGI-581104,
TQ. HANGAL, DIST. HAVERI.
7. KAMALAKSHI W/O. JAGADEESHAYYA SALIMATH,
AGED ABOUT 57 YEARS,
OCC. AGRICULTURE,
R/O. SAVANUR,
NOW RESIDING AT SANVASAGI-581004,
TQ. HANAGAL, DIST. HAVERI.

...RESPONDENTS

THIS RSA IS FILED UNDER SECTION 100 OF CPC, PRAYING TO
SET ASIDE THE JUDGMENT AND DECREE PASSED BY THE COURT OF
THE SENIOR CIVIL JUDGE AND JUDICIAL MAGISTRATE FIRST CLASS,
HANGAL IN R.A.NO.21/2018 DATED 06.03.2020 AND THE JUDGMENT
AND DECREE PASSED IN O.S. NO.306/2012 DATED 05.10.2016
PASSED BY THE CIVIL JUDGE JUDICIAL MAGISTRATE FIRST CLASS,
HANGAL, IN THE INTEREST OF JUSTICE AND EQUITY.

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



ORAL JUDGMENT

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

Heard the learned counsel appearing for the appellant.

2. The appellant is defendant No.6 before the Trial Court and the appellant before the First Appellate Court. The appellant having suffered the decree for partition is before this Court in appeal.

3. The brief facts that are relevant are that the plaintiff before the Trial Court, is one Kamalakshi and defendant Nos.1 to 7 are her brother and sisters and defendant No.8 is their mother. The plaintiff contended that her father inherited the suit schedule A and B properties in a partition among his siblings. Since then, the plaintiff and defendants along with their father were in joint possession and enjoyment of the properties. The father of the plaintiff and defendants died on 06.03.1989. Thereafter on 04.12.1989, the name of the brothers of the plaintiff was entered in the revenue records as legal heirs. It is contended that when the plaintiff sought partition in the year 2012, the defendants declined to effect the partition and therefore, she was constrained to file the suit.



4. The suit was resisted by the defendants contending that the enjoyment of the properties was in pursuance to a partition which was entered in their revenue records as a Varsa Entry i.e. U-form and accordingly notice was served to all the stakeholders. The plaintiff has filed this suit after lapse of 12 years and as such, she does not have any right, title or interest in the suit schedule properties. It was contended that the suit is not maintainable as the plaintiff was given her due share at the time of her marriage in the form of gold ornaments.

5. The Trial Court framed appropriate issues and the trial was held where the documents in respect of the entry in the names of the defendants in the revenue records were marked. After hearing the arguments, the Trial Court came to the conclusion that the suit schedule properties are the properties inherited by father of the plaintiff and defendant Nos.1 to 7; and therefore, the propositus having died prior to coming into force of the amending the Act of Hindu Succession Act in the year 2005 or the amending Act of Karnataka came into effect in the year 1994, partition has to be effected notionally allotting a share to the father of the plaintiff. Thus, it held that the plaintiff is entitled for 1/24th share in the suit schedule properties. It had



also ruled that defendant Nos.1 to 3 together are entitled for 7/24th share and defendant Nos.6 and 7 are entitled for 7/24th share each.

6. The First Appellate Court also concurred with the view of the Trial Court and held that there is no merit in the appeal and as such dismissed the appeal.

7. Being aggrieved, defendant No.6 is before this Court in appeal. On a careful perusal of the records and perusing the impugned judgments, it reveals that soon after the death of the father of the plaintiff and the appellant herein, Mutation Entries were effected to bring the legal heirs on record. The Mutation Entries only depict the person who will be in enjoyment of the suit schedule property and therefore, not entering the name of the plaintiff in the revenue records would not extinguish her right in the property. More so, the documents do not reveal that there was any partition between the plaintiff and the defendants. When there is no whisper about the partition in the revenue records, especially the entries which were effected in bringing the names of few of the defendants in records, this Court is of the view that such Mutation Entries will not in any way extinguish the right of the plaintiff. It is settled proposition of law that the mutation



**NC: 2025:KHC-D:15114
RSA No. 100072 of 2021**

entries cannot confer or divest the title from any person. More so when such Mutation Entries do not depict any partition. In that view of the matter, no substantial question of law arises and therefore, the appeal is devoid of any merits. Consequently, the appeal is ***dismissed*** at the admission stage.

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

SSP
CT:PA
LIST NO.: 1 SL NO.: 21