



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 30TH DAY OF JANUARY, 2026

PRESENT

THE HON'BLE MR. JUSTICE R.DEVDAS

AND

THE HON'BLE MR. JUSTICE B. MURALIDHARA PAI

REGULAR FIRST APPEAL NO. 100337 OF 2019 (PAR)

BETWEEN:

1. SHRI SUDHAKAR S/O. PUTTA GOWDA,
(SUDHAKAR MOTA GOWDA),
SINCE DECEASED BY HIS LRS.
- 1A. SMT. GOPI KOM. SUDHAKAR GOWDA,
AGE: 57 YEARS, OCC: HOUSE HOLD.
- 1B. SRI. BAALA S/O. SUDHAKAR GOWDA,
AGE: 42 YEARS, OCC: AGRICULTURIST.
- 1C. SMT. TARA D/O. SUDHAKAR GOWDA,
W/O. UDAY GOWDA,
AGE: 40 YEARS, OCC: HOUSEHOLD.
- 1D. SMT. SULOCHANA
D/O. SUDHAKAR GOWDA,
W/O. PURUSHOTTAM GOWDA,
AGE: 36 YEARS, OCC: HOUSEHOLD.
- 1E. SMT. URVASHI
D/O. SUDHAKAR GOWDA,
W/O. SANTOSH GOWDA,
AGE: 36 YEARS, OCC: HOUSEHOLD.
- 1F. SRI MOHAN S/O. SUDHAKAR GOWDA,
AGE: 32 YEARS, OCC: AGRICULTURIST,
ALL ARE R/O. SEA BIRD COLONY,
BAAD VILLAGE, TODUR, TQ. KARWAR,
DIST. UTTARA KANNADA-581301.



2. SHRI LAXMAN MOTA GOWDA,
SINCE DECEASED BY HIS LRS.
- 2A. SMT. KAMALA KOM. LAXMAN GOUDA,
AGE: 45 YEARS, OCC: HOUSEHOLD.
- 2B. SRI. SAISHWAR S/O. LAXMAN GOUDA,
AGE: 22 YEARS, OCC: STUDENT.
- 2C. KUMARI SAHANA D/O. LAXMAN GOUDA,
MINOR, REP. BY MINOR GUARDIAN MOTHER,
SMT. KAMALA KOM. LAXMAN GOUDA,
ALL ARE R/AT: L.I.G.NO.179, 10TH CROSS,
NOW R/AT: NAVANAGAR, HUBLI TALUK,
DHARWAD DIST. 560001.
3. SMT. GANGA KOM. KRISHNA GOWDA,
(SMT. GANGA D/O. MOTA GOWDA),
AGE: 56 YEARS, OCC: HOUSEHOLD,
R/O. HARWADA, TQ: KARWAR,
DIST: UTTARA KANNADA-581301.
4. SMT. SHANTI KOM. RAMA GOWDA,
AGE: 54 YEARS, OCC: HOUSEHOLD,
R/O. POST CHENDIA, TQ: KARWAR,
DIST: UTTARA KANNADA-581301.
5. SMT. VIMALA KOM. BOMMA GOWDA,
(SMT. VIMALA D/O. MOTA GOWDA),
AGE: 52 YEARS, OCC: HOUSEHOLD,
R/O. MADANGERI, TQ: KUMTA,
DIST: UTTARA KANNADA-581301.
6. SMT. SHYAMALA KOM. NAGENDRA GOWDA,
AGE: 71 YEARS, OCC: HOUSEHOLD,
R/O. TODUR SEA BIRD, REHABILITATION
COLONY, TODUR, TQ: KARWAR,
DIST: UTTARA KANNADA-581301.

...APPELLANTS

(BY SRI. SABEEL AHMED, ADV. FOR SRI. A. S. PATIL, AND
SRI. S. K. HOSAMANI, ADVOCATES)



AND

1. SMT. NAGI KOM. BHIMA GOWDA,
AGE: 66 YEARS, OCC: AGRICULTURE,
R/O. SANEMAKKI, AMADALLI, TALUK: KARWAR,
DIST: UTTARA KANNADA-581301.
2. SHRI JAYA S/O. DINGA GOWDA,
SINCE DECEASED BY HER L.R.,

SMT. TIMMI W/O. JAYA GOWDA,
AGE: 64 YEARS, OCC: AGRICULTURE,
R/O. OKKALKERI, BINAGA, TQ: KARWAR,
DIST: UTTARA KANNADA-581301.
3. SMT. SUMITRA KOM. LOKU GOWDA,
AGE: 61 YEARS, OCC: AGRICULTURE,
R/O. OKKALKERI, BINAGA TQ: KARWAR,
DIST: UTTARA KANNADA-581301.
4. SMT. VASANTI KOM. MANI GOWDA,
AGE: 59 YEARS, OCC: AGRICULTURE,
R/O. BRAHMADEVWADA, AMADALLI,
TQ: KARWAR, DIST: UTTARA KANNADA-581301.
5. SMT. YENKI KOM. GIDDA GOWDA,
AGE: 57 YEARS, OCC: AGRICULTURE,
R/O. BALERSAHI, POST: AMADALLI,
TQ: KARWAR, DIST: UTTARA KANNADA-581301.
6. SHRI UGA DINGA GOWDA,
AGE: 55 YEARS, OCC: AGRICULTURE,
R/O. OKKALKERI, BINAGA, TQ: KARWAR,
DIST: UTTARA KANNADA-581301.
7. SHRI CHANDU S/O. MANI GOWDA,
AGE: 57 YEARS, OCC: COOLIE,
R/O. HUNSEMAKKI, AMADALLI, TQ: KARWAR,
DIST: UTTARA KANNADA-581301.
8. SHRI PRABHAKAR S/O. MOTA GOWDA,
AGE: 62 YEARS, OCC: AGRICULTURIST,
R/O. SEA BIRD COLONY, TODUR, TQ: KARWAR,



DIST: UTTARA KANNADA-581301.

9. SMT. GEETA UDAY GOWDA,
DECEASED, BY HER L.R.
- 9A. UFM SHRI UDAY BANTA GOWDA,
AGE: 42 YEARS, OCC: COOLIE,
R/O. TODUR, TALUK: KARWAR,
DIST: UTTARA KANNADA-581301.
10. SMT. NARAYANI KOM. BABU GOWDA,
AGE: 71 YEARS, OCC: HOUSEHOLD,
R/O. TODUR SEA BIRD, REHABILITATION
COLONY, TODUR, TALUK: KARWAR,
DIST: UTTARA KANNADA-581301.
11. SHRI VASU S/O. JARU GOWDA,
AGE: 66 YEARS, OCC: COOLIE,
R/O. OKKALKERI, BINAGA, TQ: KARWAR,
DIST: UTTARA KANNADA-581301.

...RESPONDENTS

(BY SRI. GIRISH A. YADAWAD, ADV. FOR R1 TO R6 AND R11;
SRI. P. G. MOGALI, ADV. FOR R7;
SRI. RAM P. GHORPADE, ADV. FOR R9(A);
NOTICE TO R8 & R10 ARE SERVED, BUT UNREPRESENTED)

THIS REGULAR FIRST APPEAL IS FILED UNDER SECTION 96
READ WITH ORDER 41 RULE 1 OF CPC., PRAYING TO SET ASIDE THE
JUDGMENT AND DECREE DATED 21/12/2018 PASSED BY THE COURT
OF THE PRL. SENIOR CIVIL JUDGE, KARWAR IN O.S.NO.32/2013 AND
DISMISS THE SUIT O.S.NO.32/2013 ON THE FILE OF THE COURT OF
THE PRL. SENIOR CIVIL JUDGE, KARWAR, IN THE INTEREST OF
JUSTICE AND EQUITY.

THIS REGULAR FIRST APPEAL, HAVING BEEN HEARD AND
RESERVED ON 17.11.2025, COMING ON FOR 'PRONOUNCEMENT OF
JUDGMENT', THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: THE HON'BLE MR. JUSTICE R.DEVDAS
AND
THE HON'BLE MR. JUSTICE B. MURALIDHARA PAI



CAV JUDGMENT

(PER: THE HON'BLE MR. JUSTICE B. MURALIDHARA PAI)

Defendant Nos. 1, 3 to 6 and 8 in O.S. No.32/2013 have filed this regular first appeal, praying to set aside the judgment and decree dated 21.12.2018 by the learned Principal Senior Civil Judge, Karwar, and secure dismissal of the suit.

2. Parties in this appeal retain their original designations from the trial court proceedings.

3. The plaintiffs - Smt. Nagi and others, filed O.S. No. 32/2013, seeking a declaration that Plaintiff No. 1 holds a 5/20th share, while Plaintiff Nos. 2 to 6 each hold a 1/20th share, in the suit schedule properties. They further prayed for disbursement of their respective portions from the compensation awarded for acquisition of these lands under the Seabird Naval Base Project, Karwar.

4. The Plaintiffs contended that the suit schedule properties constituted joint family assets among the parties, undivided by metes and bounds. They noted acquisition of these lands for the Seabird Naval Base Project, Karwar, with partial compensation



already deposited in the concerned court. In these circumstances, the plaintiffs instituted the suit to secure their shares, alleging defendants' refusal to disburse these legitimate entitlements.

5. The suit originally arrayed Defendant Nos. 1 to 8, with 37 items listed in Schedules A and B. During the pendency of the suit, Sri Chandu joined as Plaintiff No. 7; Smt. Narayani and Sri Vasu were added as Defendant Nos. 9 and 10; and the plaintiffs incorporated eight additional items as Schedule C.

6. Upon service of summons, all the defendants entered appearance through counsel. Defendant Nos. 2 and 9 filed separate written statements, admitting plaintiffs' claims and seeking decree as prayed, along with allocation of their own shares in the compensation.

7. Defendant Nos. 7 and 10 abstained from filing a written statement or contesting the suit.

8. Defendant Nos. 1 and 3 to 8 submitted a joint written statement, denying all plaintiffs' averments. They asserted no joint family ever existed among the parties; the plaintiffs never



resided in Kodar Village or derived usufruct from the properties since 1961 until acquisition. They further pleaded separation post the demise of Putta between Defendant No.1 and his natural father, followed by partition involving Defendant No. 2 and others, rendering the suit untenable and time-barred.

9. Based on the above pleadings, and the documents available on record, the trial Court framed following issues and additional issues for its consideration:

ISSUES

1. Whether the schedule 'A' and 'B' suit property were the JFP of plaintiffs and defendants?
2. Whether the suit is bad for non-joinder of necessary parties?
3. Whether the defendant No.1 proves that he alone is entitled to the compensation amount in LAC 1/04 and in LAC 54/06?
4. Whether the suit is bad for non inclusion of all the properties?
5. Whether the suit is bad for mis-joinder of properties?
6. Whether the suit is bad for mis-joinder of cause of action?
7. Whether the plaintiffs prove that the 1st plaintiff has 5/20 share; 2 to 6 plaintiffs have 1/20 share



in the compensation amount pertaining to the suit
schedule property?

8. Whether the plaintiffs are entitled for the reliefs
sought for?
9. What Decree or order?

ADDITIONAL ISSUES FRAMED ON 09.11.2015

1. Whether the plaintiff proves that the suit is within
time?
2. Whether the plaintiff proves that valuation of suit
schedule properties is correct and court fees paid
thereof is proper?
3. Whether the plaintiff proves that this Hon'ble
court has got jurisdiction to try and decide the
suit?
4. Whether the suit is maintainable without
impleading the S.L.A.O., as necessary party?

10. In support of their case, the plaintiffs examined Plaintiff
No.6 as PW-1, one more witness as PW-2, and got marked
documents at Ex.P1 to Ex.P50. Defendant Nos. 1 and 3 testified
as DW-1 and DW-2 respectively and got marked documents at
Ex.D1 to Ex.D94.

11. After hearing both sides and evaluating the record, the
trial court delivered the impugned judgment and decree holding



that Plaintiff No.1 entitled to a 1/4th share, Plaintiff Nos. 2 to 6 and Defendant No. 10 jointly to another 1/4th share, and Defendant Nos.1 to 9 entitled to remaining ½ share in Item Nos.1, 3, 7, and 9 to 39 of the schedule properties and their compensation. The trial court dismissed the suit of Plaintiff No. 7 for want of evidence, proving his status as son of the deceased Pokki, the eldest daughter of Rami.

12. Aggrieved, Defendant Nos. 1, 3 to 6, and 8 preferred this appeal, assailing the judgment and decree as contrary to evidence and law. Learned Counsel Sri Sabeel Ahmed, for Sri A.S. Patil and Sri S.K. Hosamani, Advocates for Appellants, urged that the trial court overlooked plaintiffs' exclusion from joint possession and usufruct sharing, of the properties in question since 1961, alongside defendants' open and exclusive enjoyment of those properties as absolute owners thereof. Despite framing a limitation issue, the trial court erroneously decreed the suit, ignoring plaintiffs' ouster over 52 years. Counsel highlighted the acquisition of the properties, rendering it non-existent at filing of the suit and the trial court's failure to address questions of estoppel, waiver, and laches on the part of the plaintiffs and



prayed for reversal of the decree.

13. Per contra, Sri Girish A. Yadawad, Counsel for Respondent Nos.1 to 6 and 11, Sri P.G. Mogali, Counsel for Respondent No.7, and Sri Ram P. Ghorpade, Counsel for Respondent No.9(a) maintained that the properties were undivided joint family assets of Laxman and Krishna. Revenue entries in names of Putta @ Putanya, Mota, and others served the family's collective interest. Upholding the trial court's findings as evidence-based, they urged dismissal of the appeal for want of merit.

14. Having meticulously considered rival contentions and re-appraised the record, the core issue for determination emerges - whether the trial court was justified in declaring the properties in question as joint family properties and that the plaintiffs are entitled for a share in the compensation amount awarded in respect of acquired properties.

15. First of all, the averments of the plaint gives an impression that the plaintiffs have claim over all 45 items of properties mentioned at Schedule A to Schedule C of the plaint.



A careful scrutiny of the averments, however, reveals that the claim of the plaintiffs is only in the compensation amount, arising from LAC Nos. 1/2004 and 54/2006.

16. The Plaintiffs have tendered certified copies of judgments in LAC No.1/2004 and LAC No. 54/2006 at Ex.P43 and Ex.P44. These documents go to show that these proceedings were the references under Section 18 of the Land Acquisition Act, initiated by Defendant No.1 - Sri Sudhakar, and his mother - Smt. Nagi, Wife of Mota Gouda, seeking enhanced compensation for 33 items of properties, situated in Kodar Village, Karwar Taluk, which were acquired for Seabird Naval Base Project, Karwar. Thereby, it becomes clear that the claim of the plaintiffs is restricted to only 33 items of properties referred in LAC Nos.1/2004 and 54/2006.

17. At this stage, it would be useful to refer to the written submissions of the plaintiffs, filed before the trial court on 01.12.2018 during the course of final arguments, which reads as under :

"Though the suit schedule properties at Serial Nos.2, 4 to 6, 8, 15, 40 to 45 were once the joint family properties. But,



in the passage of time, they went out of the hands of the plaintiffs and the defendants. Hence, those properties are no longer the joint family properties of the plaintiffs and the defendants and they do not have any share in them.

The suit schedule properties at Serial Nos.1, 3, 7, 9 to 38 and 39 are the joint family properties. Also, these properties have been acquired for the Sea-Bird Naval Base Project, Karwar and award enhancing the compensation of these lands is passed by the Hon'ble Court of Senior Civil Judge, Karwar.

The plaintiff No.1 being the daughter of Laxman and the plaintiff Nos.2 to 6 and defendant Nos.10 and 11 being the L.Rs of Smt. Rami who was another daughter of Laxman, are entitled for share in the suit schedule properties except at serial Nos.2, 4 to 6, 8, 15, 40 to 45 and also the enhanced compensation in respect of those lands. The award LAC No.1/04 is at Exhibit P.43 and the award LAC No.54/06 is at Exhibit P.44."

18. Further, in para 29 of the impugned judgment, the trial court has referred to the above mentioned written submissions filed on behalf of the plaintiffs and proceeded to decree the suit by declaring the rights of the parties only in respect of Item Nos.1, 3, 7 and 9 to 39 of suit schedule properties.



19. In their written submission, the plaintiffs have specifically stated that the property mentioned at Sl.No.15 is no longer a joint family property and that they do not have any share in the said property. In spite of such categorical statement/admission, the trial court proceeded to pass a decree even in respect of the property mentioned at Item No.15, which was a gross error. In view of the same, it is to be held that the claim of the plaintiffs needs to be considered only in respect of the properties mentioned at Item Nos.1, 3, 7, 9 to 14, 16 and 17 in Schedule A, Item Nos.18 to 37 in Schedule B and Item Nos.38 and 39 in Schedule C of the plaint.

20. The details of the properties involved in LAC Nos.1/2004 and 54/2006 and details of corresponding suit schedule properties are as under:

In LAC No.1/2004			In O.S. No.32/2013		
Sl. No.	Sy. No.	Extent	Sl.No	Sy. No.	Extent
01	159/1	00.18.00	20	159/1	00.19.08
02	126/7	00.37.00	13	126/7	01.08.00
03	171/12	00.06.08	29	171/12	00.06.08



04	171/9	00.02.00	12	171/9	00.02.02
05	167/10	00.06.00	27	167/10	00.06.00
06	167/6	00.06.00	01	167/6	00.06.00
07	165/5A	00.04.00	10	165/5A	00.04.00
08	162/21	00.02.12	09 & 25	162/21	00.02.12
09	162/24	00.10.18	11	162/24	00.10.08
10	126/13	00.02.08	18	126/13	00.02.08
11	126/15	00.06.00	14	126/5	00.06.00
12	126/17	00.02.12	-	-	-
13	<u>255</u>	<u>01.24.00</u>	35	<u>255</u>	<u>01.24.00</u>
14	162/2	00.04.04	07	162/2	00.04.04
15	62/26	00.06.12	26	162/26	00.06.12
16	171/1	00.28.00	28	171/1	00.28.00
17	162/18	00.05.12	24	162/18	00.05.12
18	162/9	00.08.08	22	162/9	00.08.08



19	162/6	00.03.12	21	162/6	00.03.12
20	162/14	00.02.02	23	162/14	00.02.02
21	<u>260</u>	<u>00.04.04</u>	36	<u>260</u>	<u>00.04.04</u>
22	171/13	00.07.00	30	171/13	00.07.00
23	148A1/B	01.11.00	19	148A/1B	01.11.00
In LAC No.54/2006					
24	215A/1	01.33.00	31	2 15A/1	01.33.00
25	215A/2	00.06.08	32	215A/2	00.06.08
26	215A/9	01.25.12	16	215A/9	02.03.00
27	215A/4	00.03.04	17	215/4	00.03.04
28	215A/20	00.26.04	34	215A/20	00.30.00
29	215A/11	00.06.00	03	215A/11	00.06.00
30	270	01.01.00	37	270	01.01.00
31	215A/15	00.10.00	33	215A/15	00.10.00



32	<u>260</u>	<u>00.04.04</u>	36	<u>260</u>	<u>00.04.04</u>
33	<u>255</u>	<u>01.24.00</u>	35	<u>255</u>	<u>01.24.00</u>

21. The contents of the above table go to show that the plaintiffs have not claimed any right in the property mentioned as Item No.12 i.e, Sy. No.126/17 measuring 00.02.12 of Kodar Village. Further, the plaintiffs have shown the same property i.e, Sy.No.162/21 measuring 00.02.12 as Item Nos.9 and 25 as if those were two different properties. In the absence of sufficient evidence on record to support such claim of the plaintiffs, any one of these items i.e, 9 or 25, can be considered for the purpose of the suit. Similarly, in LAC Nos.1/2004 and 54/2006, both the claimants have sought for enhancement of compensation in respect of two properties of identical descriptions i.e, Sy.Nos.255 measuring 1.24 acres and 260 measuring 0.04.04 acre. Whereas, the plaintiffs have mentioned about these properties only at Item Nos. 35 and 36. In the above circumstances, it is to be held that the plaintiffs are claiming their share in the compensation amount awarded in respect of properties mentioned at Sl.Nos.1, 3, 7, 9 to 11, 13, 14, 16 to 24



and 26 to 37 only. In other words, they have claimed their share in the compensation awarded in respect of 10 items of properties in Schedule A and 19 items of properties in Schedule B, in all 29 items of suit schedule properties.

22. The materials on record make it clear that the parties are not at dispute regarding their inter-se relationship. One Sukru Gouda was the propositus of the family. He had two sons by name Laxman and Krishna.

23. Admittedly, Krishna died on 03.02.1934 leaving behind his three children namely Mota, Putta and Nagamma. Putta died on 16.11.1975. Mota died on 22.07.1980. Even Nagamma is dead. Further, Putta and Nagamma died issueless. Defendant Nos.1 to 6 and defendant No.9 are the children of Mota. He had one more daughter by name Sushila. She died leaving behind her two daughters i.e., Defendant Nos.7 and 8.

24. Further, Laxman died on 06.03.1961 leaving behind two daughters namely Rami and Nagi, Plaintiff No.1 herein. Rami died on 09.10.1999. Plaintiff Nos.2 to 6 are the children of Rami. She had one more daughter by name Pokki, who died in the year



1969 leaving behind a son by name Chandu. He is Plaintiff No.7 in the suit.

25. At this stage, it would be proper to refer to the relevant averments in para 1 of the plaint, for better appreciation of the claim of the plaintiffs, which reads as follows:

"Laxman Sukru Gouda and Krishna Sukru Gouda are the full blood brothers and were residing jointly in Kodar Village of Karwar Taluka. The suit schedule A properties were in the name of Laxman Sukru Gouda and the suit schedule B properties were in the name of Krishna Sukru Gouda. Though in the Record of Rights the properties were mentioned separately, there was no partition in the family by metes and bounds. Only for the sake of convenience, some of the properties were in the name of Laxman Sukru Gouda and rest of the properties were in the name of Krishna Sukru Gouda. Suit schedule A and B properties are the joint family properties of the joint brothers...."

26. The above averments of the plaint clearly indicate that out of 29 items of properties in question, 10 items of properties in Schedule A were standing in the name of Laxman and remaining 19 items of properties in Schedule



B were standing in the name of Krishna. The revenue entries in the individual names of Laxman and Krishna, presupposes that these properties being their absolute and separate properties. As such, the burden was on the plaintiffs to plead and prove that all those properties were the joint family properties. Yet, the plaint offers no specific details on how or through what means Laxman and Krishna acquired these properties, nor evidence of their blending or throwing into common stock for joint possession and enjoyment. Instead, the plaintiffs merely alleged a convenient arrangement, but failed to produce cogent evidence in support.

27. Additionally, the plaintiffs assert that following Krishna's death, the Schedule B properties were transferred to Putta @ Putanya Krishna Gouda as manager of the undivided family, and later, upon Putta's demise, to his brother Mota Krishna Gouda. These transfers raise no irregularity, as admittedly both were Krishna's legal heirs and from his branch. Such mutation from father to sons represents a routine and logical succession.



28. The plaintiffs maintain that Schedules A and B properties were the joint family properties of Laxman and Krishna. Despite this, they offer no explanation for transferring Schedule B properties from the name of Krishna to his sons while his brother Laxman remained alive. Their vague claim is that the properties passed to Putta as family manager post Krishna's death on 3.2.1934, which lacks supporting evidence. Laxman, the eldest family member, who survived until 6.3.1961 and outliving Krishna by over 27 years. Had these been joint family holdings, mutation would naturally have occurred in Laxman's name. In the absence of proof, the plaintiffs fail to establish that Schedules A and B constituted joint or family properties of Laxman and Krishna, or of the suit parties.

29. The record discloses that during the life-time of Mota, certain properties in his name were mutated in the names of Defendant No.1, Nanibai, and his wife namely Nagi Mota Gouda. Post Mota's death, his remaining properties passed to his son - Defendant No.2, as family manager. The plaintiffs can raise no objection to these mutations in



respect of Schedule B properties as they trace title through Laxman and distinct from Krishna's lineage.

30. In contrast, the contesting defendants provide a cogent account. Following the death of Putta @ Puttanya, the properties standing in his name were partitioned among Defendants Nos.1 to 9, as reflected in revenue entries in ME 2070 and 2167. They further aver that Defendant No.1, who was biological son of Mota, was adopted by Putta during minority. The Aadhaar Card produced at Ex.D46 and Voter ID produced at Ex.D47, both identify Defendant No.1 as the son of Putta. Moreover, in the plaint of O.S. No.7/2011 (produced at Ex.D49), filed by Defendant No.2 against Defendants Nos.3 to 6 before the Principal Senior Civil Judge, Karwar, seeking a share in the compensation awarded in LAC No.54/2006, Defendant No.1 is shown as the son of Putta. This acknowledgment on the side of Defendant No.2 coupled with the revenue entries over a period of time and the claims of Defendant No.1 and his mother in LAC Nos.1/2004 and 54/2006, bolster the contention of the defendants.



31. The final issue concerns the mutation of Laxman's Schedule A properties to Putta @ Putanya Krishna Gouda and its implications. The plaintiffs submit that post Laxman's death, these should have passed to his daughters namely Rami and Nagi. Instead, they were entered in the name of Putta as joint family manager. They allege such RTC entries rotated among managers per family decisions, aiding collective benefit.

32. Primarily, the plaintiffs have not established that Laxman and Krishna resided jointly or that Schedule A and B properties were family properties. Absent this foundation, claims of mutations to managers like Putta for family welfare merit rejection. Records confirm that after Laxman's death, some Schedule A properties mutated to Putta vide ME 1837 dated 13.3.1962, which were later on transferred in the name of Mota and others. However, it is to be noted that the contesting defendants, in para 3 of their written statement, contended that –

“... The Defendant No.1 was a minor probably about 4 years of age and Defendant No.3-8 were not even



born at the time of death of said Lakshman. Therefore the allegation in Para 2 of the plaint is not within the knowledge of these defendants and therefore plaintiffs are put to strict proof of the death, his residence, etc. From the alleged ME No.1837 it is evident that the said Lakshman Sukru Gouda died at Amadalli. It is for the plaintiffs to explain why their name was not mutated if they were in possession and cultivation of Schedule A properties...".

In view of the same, it is to be held that the revenue entries alone yield no presumption favoring plaintiffs without discharging the initial burden of proving their case.

33. Notably, despite initial mutation in 1962 and subsequent entries excluding Laxman's daughters and his heirs, the plaintiffs neither sought their own inclusion nor challenged exclusions. This inaction defies explanation. Further, the acquisition of lands for Seabird Naval Base Project began with S.4(1) notification issued on 20.10.1986, followed by S.11 award on 27.4.1988. Later, based on objections to the quantum of the compensation awarded, the matters were referred to the court for its adjudication. Accordingly, the references pertaining to Defendant No.1 and his mother in LAC Nos.1/2004 and 54/2006,



came to be decided on 31.3.2006 and 5.7.2008 respectively. During these developments, the plaintiffs asserted no claim either to the properties or for compensation.

34. The plaintiffs filed this suit on 09.10.2013, alleging cause of action on 25.09.2013 when the defendants refused them share in the compensation amount. They claim that at this point of time, on verification they came to know about the revenue entries in the name of Defendant No.1. Against the factual matrix, this reveals lack of due diligence on the part of the plaintiffs in protecting their interest if any, in Schedule A properties within legal limits.

35. The trial court deemed Schedule A and B as joint family properties by relying on RTC entries showing Laxman and Putta's half-shares and mention about properties being in 'Samayak' status. On re-appreciating the materials available on record, we find the trial court has overlooked the pleadings and proof. No reasoned basis supports joint ownership between Laxman and Krishna. The impugned judgment and decree is thus erroneous and liable to be set aside.



36. In the result, this Court proceeds to pass the following:

ORDER

- (i) Appeal is allowed with cost throughout.
- (ii) The judgment and decree dated 21.12.2018 passed in O.S.No.32/2013 by learned Principal Senior Civil Judge, Karwar is set aside and consequently the suit is dismissed.
- (iii) Draw a decree accordingly.
- (iv) The registry is directed to send back entire trial court record to concerned court along with a copy of judgment and decree.

**Sd/-
(R.DEVDAS)
JUDGE**

**Sd/-
(B. MURALIDHARA PAI)
JUDGE**

VB, CKK
CT:AN
List No.: 19 Sl No.: 1