

IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 17TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE DR. JUSTICE K.MANMADHA RAO

REGULAR FIRST APPEAL NO.100381 OF 2025

BETWEEN:

SHRI. MOHANSA @ MOHANLAL
S/O. BHIMASA MALAJI
AGE. 68 YEARS, OCC. BUSINESS,
R/O. RAMAPUR PETH, AT AND TQ. RAMDURG,
DIST. BELAGAVI-591123.

...APPELLANT

(BY SRI. R.K. KULKARNI, ADVOCATE)

AND:

1. SHRI. HOOVASA S/O. BHIMASA MALAJI
AGE. 56 YEARS, OCC. AGRICULTURE,
R/O. RAMAPUR PETH, AT AND TQ. RAMDURG,
DIST. BELAGAVI-591123.
2. SHRI. JAVAHARSA @ JAVA HARALAL
S/O. BHIMASA MALAJI
AGE. 66 YEARS, OCC. BUSINESS,
R/O. RAMAPUR PETH, AT AND TQ. RAMDURG,
DIST. BELAGAVI-591123.
3. SHRI. RAJENDRASA @ RAJENDRAKUMAR
S/O. BIMASA MALAJI,
AGE. 61 YEARS, OCC. BUSINESS,
R/O. RAMAPUR PETH, AT AND TQ. RAMDURG,
DIST. BELAGAVI-591123.
4. SMT. SUNDARABAI W/O. BHALKRISHNASE MEHARWADE
AGE. 64 YEARS, OCC. HOUSEHOLD WORK,
R/O. MANGALWAR PETH, KSHATRIYA GALLI,
SOLAPUR, TQ. AND DIST. SOLAPUR.
5. SMT. SARSWATIBAI W/O. VITTALSA RANGAREJ
AGE. 62 YEARS, OCC. HOUSEHOLD WORK,
R/O. GUDUR, TQ. HUNUGUND, DIST. BAGALKOT.

6. SMT. MANJULABAI W/O. VASUDEV KHATAVATE
AGE. 58 YEARS, OCC. HOUSEHOLD WORK,
R/O. BHUMARADDI CIRCLE,
TQ. AND DIST. GADAG.
7. SMT. SHOBHATAI W/O. SHAMDUNDRASA MALAJI
AGE. 65 YEARS, OCC. HOUSEHOLD WORK,
R/O. RAMAPUR PETH, AT AND TQ. RAMDURG,
DIST. BELAGAVI-591123.
8. SMT. ROOPA W/O. SRIKANTHASA KOLHAPURE
AGE. 41 YEARS, OCC. HOUSEHOLD WORK,
R/O. NEAR JAIN MANDHIR, SOLAPUR,
TQ. AND DIST. SOLAPUR.
9. SHRI. VINAYAK S/O. SHAMSUNDRASA MALAJI
AGE. 39 YEARS, OCC. BUSINESS,
R/O. RAMAPUR PETH, AT AND TQ. RAMDURG,
DIST. BELAGAVI-591123.
10. SHRI. PRASHANT S/O. SHAMSUNDRASA MALAJI
AGE. 37 YEARS, OCC. BUSINESS,
R/O. RAMAPUR PETH, AT AND TQ. RAMDURG,
DIST. BELAGAVI-591123.

...RESPONDENTS

THIS REGULAR FIRST APPEAL IS FILED UNDER SECTION 96 READ WITH ORDER 41 RULE 1 OF CPC, 1908, PRAYING TO SET ASIDE THE COMPROMISE DECREE DATED 22.09.2016 PASSED IN O.S.NO.65/2016 BY THE SENIOR CIVIL JUDGE AND JMFC, RAMDURG AT RAMDURG AND TO ALLOW THIS APPEAL WITH COSTS, IN THE INTERESTS OF JUSTICE AND EQUITY.

THIS RFA HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 03.02.2026 AND COMING ON FOR PRONOUNCEMENT THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: THE HON'BLE DR. JUSTICE K.MANMADHA RAO

CAV JUDGMENT

1. This Regular First Appeal is filed under Section 96 of the Code of Civil Procedure ('CPC' for short), 1908, assailing the judgment and decree dated 22.09.2016 passed in O.S. No.65/2016 on the file of the Senior Civil Judge and JMFC, Ramdurg, whereby the suit for partition and separate possession came to be disposed of in terms of a compromise arrived at between the parties.

2. Brief facts of the case are that, respondent No.1 instituted O.S. No.65/2016 against the appellant and respondents No.2 to 10 seeking partition and separate possession of the suit schedule properties. During the pendency of the suit, the parties filed a joint compromise petition under Order XXIII Rule 3 of the CPC, and the Trial Court, being satisfied that the compromise was lawful, voluntary and signed by all parties, recorded the same and passed a compromise decree on 22.09.2016

3. After a lapse of nearly nine years, respondent No.1 initiated Execution Petition No.3/2025 for enforcement of the compromise decree. Thereafter, the appellant has filed the present appeal contending that the compromise decree was obtained by fraud, taking advantage of his alleged illness.

4. Learned counsel for the appellant contends that at the time of compromise, the appellant was suffering from cancer and was not in a sound mental condition and taking undue advantage of his illness, respondent No.1 played fraud and hurriedly obtained the compromise decree within two days of filing the suit. He further submits that the alleged fraud came to the knowledge of the appellant only upon receipt of notice in Execution Petition No.3/2025. Hence, he prays that the compromise decree is liable to be set aside.

5. The point that arises for consideration is:

“Whether a Regular First Appeal under Section 96 of the CPC is maintainable against a compromise decree, even when allegations of fraud are raised?”

6. Heard the learned counsel for the appellant.

7. Considering the submission, it is an admitted position that the decree under challenge is a compromise decree passed on the basis of a joint compromise petition filed by the parties. Statutory Bar under Section 96(3) of the Code of Civil Procedure categorically provides:

“No appeal shall lie from a decree passed by the Court with the consent of parties.”

8. The language of the provision is clear, mandatory and admits of no exception. Once a decree is passed with the consent of parties, an appeal under Section 96 of the CPC is expressly barred. The appellant has sought to overcome the statutory bar by alleging that the compromise was obtained by fraud and while he was suffering from illness.

9. At this stage, it is necessary to refer to Order XXIII Rule 3A of the CPC, which provides:

"No suit shall lie to set aside a decree on the ground that the compromise on which the decree is based was not lawful."

10. The combined reading of Section 96(3) and Order XXIII Rule 3A of the CPC makes it abundantly clear that a compromise decree cannot be challenged by way of an appeal and the allegations of fraud, coercion or misrepresentation do not create a right of appeal. The only remedy available to an aggrieved party is to approach the very Court which recorded the compromise, seeking recall or setting aside of the compromise decree in accordance with law.

11. The Hon'ble Supreme Court has consistently held that even allegations of fraud do not render a Regular First Appeal maintainable against a compromise decree.

12. In the present case, the compromise decree was passed on 22.09.2016. The appellant remained silent for nearly nine years and has chosen to question the decree only after execution proceedings were initiated in 2025. Such prolonged silence further strengthens the conclusion that the present appeal is not a *bona fide* invocation of appellate jurisdiction but an attempt to delay execution of a lawful decree. Since the appeal itself is not maintainable, the application for condonation of delay does not survive for consideration.

13. In view of the express bar under Section 96(3) of the CPC, the remedy prescribed under Order XXIII Rule 3 and Rule 3A of the CPC, and the admitted fact that the impugned decree is a compromise decree, this Court holds that the present Regular First Appeal is not maintainable in law.

14. For the foregoing discussions, this Court proceeds to pass the following:

ORDER

- i. The Regular First Appeal is **dismissed as not maintainable.**

ii. The application for condonation of delay stands **rejected.**

iii. It is made clear that dismissal of this appeal shall not preclude the appellant from availing such remedy as is permissible in law before the appropriate forum.

No order as to costs.

**Sd/-
(DR. K.MANMADHA RAO)
JUDGE**

KGK / CT:VP