



CNR: KAHC010009592019

NC: 2026:KHC:40237
RSA No. 116 of 2019
C/W RSA No. 318 of 2019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31ST DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

REGULAR SECOND APPEAL NO.116 OF 2019 (PAR)
C/W REGULAR SECOND APPEAL NO.318 OF 2019

IN RSA No. 116/2019

BETWEEN:

A K NAGARAJ
S/O A.B.KRISHNAPPA,
AGED ABOUT 51 YEARS
RESIDING AT IN CSI HOSPITAL ROAD,
CHIKBALLAPUR-562 101

...APPELLANT

(BY SRI. H S SANTHOSH, ADVOCATE)

AND:

1. P V NARASIMHALU
S/O P.VENKATANARASAPPA,
AGED ABOUT 66 YEARS
KANDAVARA,
CHIKKABALLAPUR-562 101

2. P.V.RAMAPRASAD
S/O P.VENKATANARASAPPA,
AGED ABOUT 56 YEARS
KANDAVARA
CHIKKABALLAPUR-562 101

3. SMT.P.V.MANJULA
D/O P.VENKATANARASAPPA,
AGED ABOUT 51 YEARS
R/AT IN CHINTAMANI,



Digitally
signed by
MALATESH
K C

Location: HIGH
COURT OF
KARNATAKA



CNR: KAHC010009592019

NC: 2026:KHC:40237
RSA No. 116 of 2019
C/W RSA No. 318 of 2019

CHIKKABALAPURA-562 101

4. A.D.KRISHNA KUMAR
S/O A.DAYASHANKAR,
AGED ABOUT 26 YEARS
R/AT 242 CSI
HOSPITAL ROAD,
CHIKKABALLAPURA-562 101

5. SMT.A.D.SUCHITRA
W/O DAYASHANKAR,
AGED ABOUT 25 YEARS

RESPONDENTS 6 AND 7 ARE
RESIDING AT
CSI HOSPITAL ROAD,
CHIKKABALLAPUR-562 101

6. GOVINDAMMA
W/O P.V.VENKATANARASAPPA
SINCE DEAD BY LRS.
(THE LEGAL REPRESENTATIVES OF
DECEASED GOVINDAMMA ARE
ALREADY ON RECORD
AS RESPONDENTS 2 AND 3)

...RESPONDENTS

(BY SRI. C R SUBRAMANYA, ADVOCATE FOR C/R1 TO R3;
R4 AND R5 ARE SERVED;
R6 DEAD; R2 AND R3 ARE LRS OF DECEASED R6)

THIS RSA IS FILED UNDER SECTION 100 OF CIVIL
PROCEDURE CODE AGAINST THE JUDGMENT AND DECREE
DATED 22.10.2018 PASSED IN RA NO.68/2012 ON THE FILE OF
THE II ADDL.SENIOR CIVIL JUDGE AND JMFC, CHICKBALLAPUR
DISMISSING THE APPEAL AND CONFIRMING THE JUDGMENT
AND DECREE DATED 16.03.2012 PASSED IN O.S.NO 227/1989
ON THE FILE OF THE PRL.CIVIL JUDGE AND JMFC,
CHIKKABALLAPUR.



CNR: KAHC010009592019

NC: 2026:KHC:40237
RSA No. 116 of 2019
C/W RSA No. 318 of 2019

IN RSA NO. 318/2019

BETWEEN:

1. AMARANARAYANSWAMY
S/O LATE P V RAMAIAH
AGED ABOUT 50 YEARS
ADVOCATE
2. NARAYANSWAMY
S/O LATE P V RAMAIAH
AGED ABOUT 45 YEARS

BOTH ARE RESIDING AT NO.302,
VAIBHAV ENCLAVE, 6TH CROSS,
MATHIKERE, BRUNDAVANA NAGARA
BANGALORE – 560 054

3. SMT K N RATHNAMMA
W/O LATE P V RAMAIAH
AGED ABOUT 71 YEARS
4. SMT P R LAKSHMIDEVI
D/O LATE P V RAMAIAH
AGED ABOUT 51 YEARS

APPELLANTS NO.3 AND 4 ARE
RESIDING AT NO.32/1,
2ND FLOOR, 1ST CROSS,
S B M COLONY, MATHIKERE
BENGALURU – 560 054

5. SMT P R GIRIJAMBA
D/O LATE P V RAMAIAH
AGED ABOUT 45 YEARS
RESIDING AT MIG MFL NO.12/12
2ND PATHWAY, NANDINI LAYOUT
BENGALURU – 560 058



CNR: KAHC010009592019

NC: 2026:KHC:40237
RSA No. 116 of 2019
C/W RSA No. 318 of 2019

6. SMT P R VIJAYALAKSHMI
D/O LATE P V RAMAIAH
AGED ABOUT 42 YEARS
RESIDING AT NO 21,
7TH MAIN ROAD,
3RD FLOOR,
BRUNDAVANA NAGARA
MATHIKERE, BENGALURU – 560054

...APPELLANTS

(BY SRI. A.V.GANGADHARAPPA, ADVOCATE)

AND:

1. A K NAGARAJA
S/O A B KRISHNAPPA
AGED ABOUT 52 YEARS
2. SMT K N VIJAYALAKSHMI
W/O LATE DAYASHANKAR
AGED ABOUT 47 YEARS
3. SMT A D SUCHITRA
D/O LATE DAYASHANKAR
AGED ABOUT 30 YEARS

ALL ARE RESIDING AT CSI HOSPITAL ROAD,
CHIKKABALLAPURA CITY – 562 101

4. A D KRISHNAKUMAR
S/O LATE A DAYASHANKAR
AGED ABOUT 28 YEARS
RESIDING AT NO.242,
MISSION HOSPITAL ROAD,
CHIKKABALLAPURA CITY – 562 101
5. SMT M R GOVINDAMMA
W/O P VENKATANARASAPPA
AGED ABOUT 78 YEARS
DELETED VIDE ORDER DT.05.01.2021



CNR: KAHC010009592019

NC: 2026:KHC:40237
RSA No. 116 of 2019
C/W RSA No. 318 of 2019

ORDER DTD.05.01.2021 R6 TO R8 ARE
LR'S OF DECEASED R5.

6. P V NARASIMHALU
S/O P VENKATANARASAPPA
AGED ABOUT 75 YEARS

7. P V RAMAPRASAD
S/O P VENKATANARASAPPA
AGED ABOUT 70 YEARS

RESPONDENTS NO.5 TO 7 ARE
RESIDENTS OF KANDAVARA
CHIKKABALAPURA TOWN – 562 101

8. SMT P V MANJULA
D/O P VENKATANARASAPPA
& W/O S A KRISHNAN
AGED ABOUT 54 YEARS
RESIDENT OF CHINTAMANI TOWN
CHIKKABALLAPURA DISTRICT – 563125

9. P R VENUGOPALA
S/O LATE P V RAMAIAH
AGED ABOUT 54 YEARS
RESIDING AT NO.302,
VAIBHAV ENCLAVE, 6TH CROSS,
MATHIKERE, BRUNDAVANA NAGARA
BANGALORE – 560054

...RESPONDENTS

(BY SRI. H S SANTHOSH, ADVOCATE FOR R1, R3 AND R4;
SRI C.R.SUBRAMANYA, ADVOCATE FOR R6 AND R8;
SRI K.H.SOMASHEKHARA, ADVOCATE FOR R9;
R2 –SERVED; R5-DEAD, R6 TO R8 ARE LRS OF DECEASED
R5)

THIS RSA IS FILED UNDER SECTION 100 OF CIVIL
PROCEDURE CODE AGAINST THE JUDGMENT AND DECREE
DATED 22.10.2018 PASSED IN RA.NO.68/2012 ON THE



CNR: KAHC010009592019

NC: 2026:KHC:40237
RSA No. 116 of 2019
C/W RSA No. 318 of 2019

FILE OF THE II ADDL.SENIOR CIVIL JUDGE AND JMFC CHICKBALLAPUR DISMISSING THE APPEAL AND CONFIRMING THE JUDGMENT AND DECREE DATED 16.03.2012 PASSED IN O.S.NO.227/1989 ON THE FILE OF THE PRL.CIVIL JUDGE AND JMFC CHIKKABALLPUR.

THESE APPEALS, COMING ON FOR ORDERS, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE V SRISHANANDA

ORAL JUDGMENT

These two appeals arise out of the judgment passed in O.S.No.227/1989 whereby suit came to be decreed in part and confirmed by the First Appellate Court in R.A.No.68/2012.

2. Facts in the nutshell which are utmost necessary for disposal of the present second appeals are as under:

3. A suit for partition, separate possession and declaration came to be filed by Sri. Venkatanarasappa against Smt.Lakshmikanthamma and Sri A.K.Nagaraj.

4. During the pendency of the suit, Venkatanarasappa (original plaintiff) died and his legal representatives were brought on record. So also, Lakshmikanthamma (first defendant) died and in her place, A. Dayashankar was brought as a legal representative and when A. Dayashankar died in his



CNR: KAHC010009592019

NC: 2026:KHC:40237
RSA No. 116 of 2019
C/W RSA No. 318 of 2019

place, K.N.Vijayalakshmi, A.D. Suchithra and A.D. Krishna Kumar were brought in as parties to defendant No.1.

5. In the plaint, it is contented that following movable and immovable properties (hereinafter referred to as 'suit properties') belonged to Akalasheshappa and he died issueless leaving behind defendant No.1 – Lakshmikanthamma as his wife:

SCHEDULE

1. *House bearing Municipal No.144- 2nd division, Chikkaballapura bounded on the East by Road, West by House of Palakshaiah, North by House of T.M.Gangojirao and South by house of Jayamma.*
2. *Two shops bearing Municipal Nos.347 and 348 of 2nd Division, Chikkaballapura, bounded on the East by Road, West by Vijaya Bank, North by Vijaya Bank and South by Road.*
3. *One Godown bearing Municipal No.175 of Chikkaballapura town and bounded on the East by Road, West by Building Thimmachari, North by House of Appalappa and South by House of Narayanappa*
4. *Site bearing Municipal No.982 of 3 Division, Chikkaballapura and Bounded on the East by Railway's property, West by Road, North by vacant site of Besti Kondappa and South by Road.*



CNR: KAHC010009592019

NC: 2026:KHC:40237
RSA No. 116 of 2019
C/W RSA No. 318 of 2019

5. Two shops bearing Municipal Nos.33 and 34 of 4th Division of Chikkaballapura and bounded on the East by Shop of Gurubasappa, West by Road, North by Main road and South by Vacant site of Bachu Vasappa.

6. House bearing Municipal No.110, of Kandavara, 6th Division, Chikkaballapura and bounded on the East by House of Kasappa, West by vacant site of Muthoori Bachappa, North by Municipal road and South by Vacant site of Muthorri Karagappa.

7. Land bearing Sy.no.14, situated in Kandavara, Chikkaballapura Taluk measuring 25 guntas and bounded on the East by Rajakaluve, West by Bajanthri Ramaiah's land, North by Bachappa's land and South by Nama Ashwathaiah's-land

8. Land bearing No.240/2, situated in Kandavara, Chikkaballapura taluk, measuring 3-03 Guntas and bounded on the East by Yenaganna's land. West by Chinna Annaiahappa's lands, North by Govindappa's lands and South by Devara Inamthi's lands.

9. Amount deposited in Vijaya Bank, Chikkaballapura both in the name of the defendants and also in the name of Akala Sheshappa.

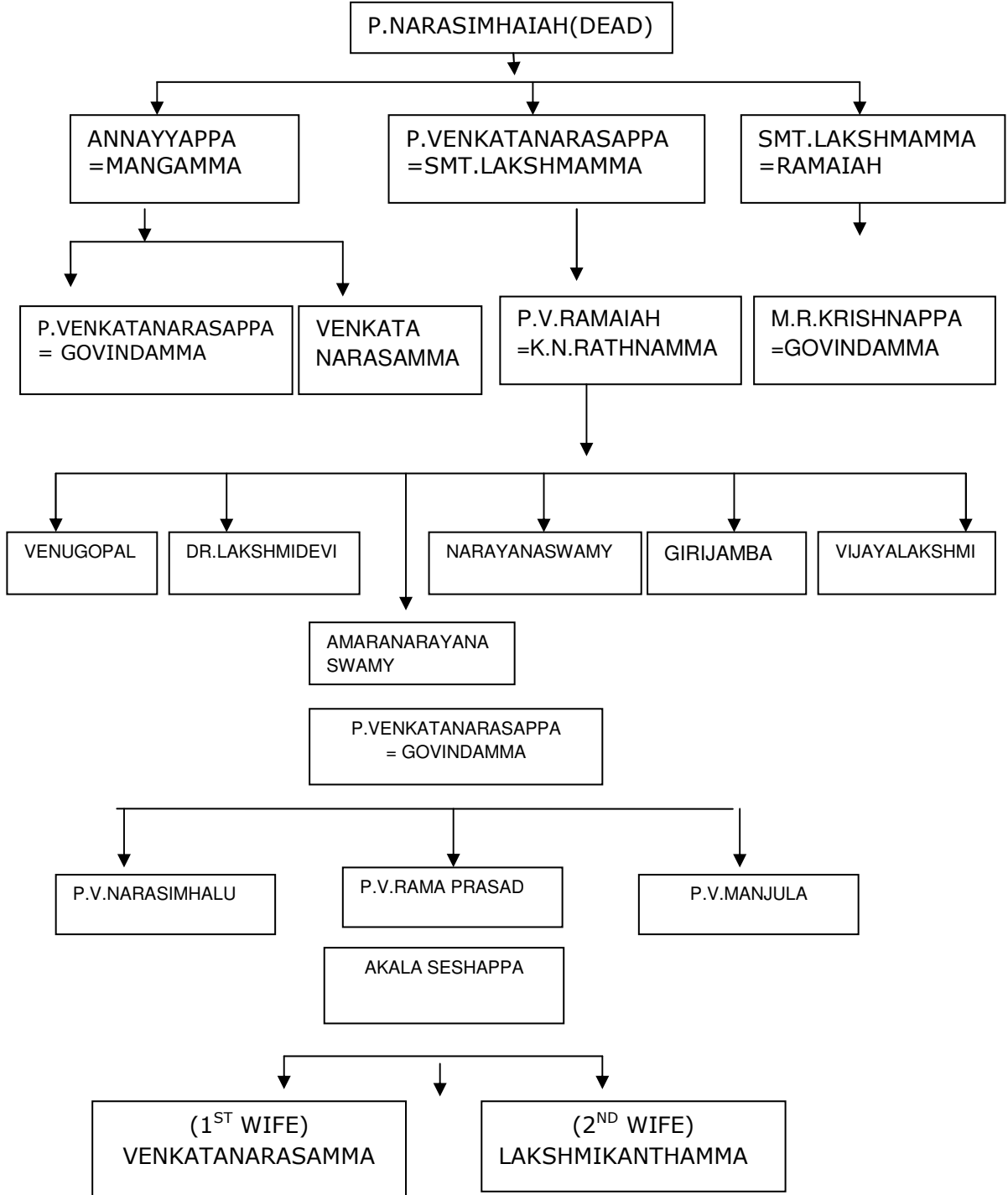
6. P. Annayappa and Venkatanarasappa are the sons and Lakshmmamma is the daughter of P. Narasimhaiah. Smt. Mangamma who is the wife of Annayappa had a brother who is none other than Akalasheshappa, who was married to



CNR: KAHC010009592019

NC: 2026:KHC:40237
RSA No. 116 of 2019
C/W RSA No. 318 of 2019

Anayappa's daughter namely Venkatanarasamma. For better understanding the relationship among the parties geneological tree is culled out hereunder:





CNR: KAHC010009592019

NC: 2026:KHC:40237
RSA No. 116 of 2019
C/W RSA No. 318 of 2019

7. It is further found from the plaint averments suit property originally belonged to P Narasimhaiah. He had two sons and a daughter namely, Annayappa, Venkatanarasappa and Lakshmamma. Among the children of P. Narasimhaiah, Annayappa had a son by name Venkatanarasappa and a daughter Venkatanarasamma. Second son Venkatanarasappa had a son by name, P.V. Ramaiah who had six children. Daughter, Smt. Lakshmamma had a son by name M.R.Krishnappa. Venkatanarasappa being the first son of Annayappa had three children namely, Narasimhalu, P. V. Ramaprasad and P. V. Manjula. Son-in-law of Annayappa, namely, Akalasheshappa, had two wives, namely, Venkatanarasamma (daughter of Annayappa) and second wife by name Lakshmikanthamma – second defendant.

8. As could be seen from the plaint averments, Akalasheshappa could not have been treated as the class-I heir of the common prepositous. Therefore, Akalasheshappa did not have any right, title or interest in respect of the suit properties so as to be succeeded by defendant No.1 - Smt.Lakshmikanthamma who had dealt with the suit property



CNR: KAHC010009592019

NC: 2026:KHC:40237
RSA No. 116 of 2019
C/W RSA No. 318 of 2019

in favour of defendant No.2. Therefore, suit was filed by P.Venkatanarsappa for partition, separate possession and declaration.

9. Suit on contest came to be decreed in part. Operative portion of the judgment of the trial Court reads as under:

"The suit of the plaintiff is hereby decreed in part.

It is hereby declared that the properties held by defendant is devolve on the plaintiff and the L.Rs of the plaintiff are entitled to succeed all the suit schedule properties except properties sold by Akala Seshappa during his lifetime i.e., item No.4 and 5 of B schedule.

The suit of the plaintiff in respect of partition and separate possession of their 1/3rd share is hereby dismissed.

Under the circumstances of the case, no order as to costs.

Draw decree accordingly."

10. Being aggrieved by the said judgment and decree passed by the First Appellate Court, it is the second defendant Sri A.K. Nagaraj, K.N.Vijayalakshmi, who is wife of A.Dayashankar, claiming to be the legal representative and



CNR: KAHC010009592019

NC: 2026:KHC:40237
RSA No. 116 of 2019
C/W RSA No. 318 of 2019

assignee interest of Smt.Lakshmikanthamma and A.D.Suchitra filed the appeal in R.A.No.68/2012.

11. Learned judge in the First Appellate Court after securing the records heard the arguments of the parties and noted that Akalasheshappa would not have got any right, title or interest in respect of the suit property being the son-in-law of Annayappa and dismissed the appeal.

12. Against the dismissal of the regular appeal, these two second appeals came to be filed.

13. Appeal filed by Sri Amaranarayanawamy in RSA No.318/2019 is only to the extent of not passing any order on the application filed by the appellants in R.A.No.68/2012.

14. Admittedly, the appellants in RSA No.318/2019 are the grandchildren of P.Venkatanarsappa, who is the second son of common prepositious P. Narasimhaiah.

15. Insofar as the appellant Sri A.K. Nagaraj in RSA No.116/2019 is concerned, he was the second defendant in the suit – O.S.No.227/1989 who claimed interest by virtue of the transactions made by Lakshmikanthamma in his favour based on the title said to have been possessed by Akalasheshappa.



CNR: KAHC010009592019

NC: 2026:KHC:40237
RSA No. 116 of 2019
C/W RSA No. 318 of 2019

16. Having heard the arguments of Sri H.S.Santhosh and Sri A.V.Gangadrappa, learned counsels for the appellants in RSA No.116/2019 and RSA No.318/2019 respectively and Sri C.R.Subramanya, learned counsel for the respondent Nos.1 to 3 in RSA No.116/2019 and respondent Nos.6 to 8 in RSA No.318/2019 and Sri K.H. Somashekhara, learned counsel for respondent No.9 in RSA No.318/2019, this Court noted that following substantial questions of law have been raised in respective appeal memorandum.

In RSA NO.116/2019

- 1. Whether the courts below are justified in holding that the legal representatives of the deceased plaintiff are entitled to succeed to the estate as per section 8 and 9 of the Hindu succession Act, 1956 ?*
- 2. Whether the courts below are justified in holding that Mangamma, the mother of the plaintiff, is the sister of Akala seshappa without there being any materials on record to the said effect?*
- 3. Whether the courts below are justified in allowing the application for amendment as to declaration filed by the plaintiff in contrary to the provision of section 58 of the Indian Limitation Act?*
- 4. Whether the lower appellate court is justified in dismissing the application filed under order 41 Rule 27 of*



CNR: KAHC010009592019

NC: 2026:KHC:40237
RSA No. 116 of 2019
C/W RSA No. 318 of 2019

CPC, which was filed by the appellant, at the time of passing the final judgment without considering the application independently ?

5. *Whether the lower appellate court was justified in dismissing the application led by the appellant under order 6 Rule 17 CPC at the time of passing the final judgment without considering the application independently?"*

In RSA No.318/2019

"(a) Whether the procedure adopted by the lower appellate court in not first disposing of the application filed by appellants for impleading as additional respondents and without assigning any reasons whatsoever dismissing the said application in the judgment on merits itself, is legal and valid and whether the lower appellate court is justified in passing the impugned judgment and decree?

(b) Whether the courts below are justified in law in granting the decree in favour of the legal representatives of the plaintiff only insofar as suit schedule items except item No.4 and 5 of "B" schedule properties?

(c) Whether the courts below are justified in law in passing the impugned judgment and decree without considering the evidence on record?"

17. Since the matter is not yet admitted, this Court heard them on the question of whether at all the appeal needs to be admitted on the aforesaid substantial questions of law and considered the arguments addressed by them.



CNR: KAHC010009592019

NC: 2026:KHC:40237
RSA No. 116 of 2019
C/W RSA No. 318 of 2019

18. Insofar as the appellants in RSA No.318/2019, they sail with the successful party in the original suit O.S.No.227/1989. Thus, they are not aggrieved party insofar as the judgment passed in O.S.No.227/1989, confirmed in R.A.No.68/2012 and therefore their appeal needs no consideration on merits.

19. However, if they have got any independent right In respect of the suit property being the grandchildren of P.Venkatanarsappa, who is the second son of common prepositous, namely P. Narasimhaiah, they may work out in a duly constituted suit in accordance with law as the suit is partly decreed in O.S.No.227/1989.

20. With that observation, RSA No.318/2019 needs to be dismissed.

21. Insofar as the appeal filed by Sri A. K. Nagaraj in RSA No.116/2019, who is the second defendant in O.S.No.227/1989, it is to be noted that Akalasheshappa being the son-in-law of Annayappa and Mangamma and also the brother of Mangamma, did not possess any independent right in respect of the suit property. Admittedly, he cannot be



CNR: KAHC010009592019

NC: 2026:KHC:40237
RSA No. 116 of 2019
C/W RSA No. 318 of 2019

termed as class – I legal heir, when P. Narasimhaiah had other heirs namely, Annayappa (who has got a son by name Venkatanarasappa), P. Venkatanarasappa (who has got a son P.V. Ramaiah and grandchildren) and Smt.Lakshamma (who has also got a son by name M.R.Krishnappa).

22. Thus, when Akalasheshappa himself did not get any right, title or interest in respect of the suit property being the son-in-law of Annayappa, his second wife Lakshmikanthamma only on the ground of death of Akalasheshappa did not get any right to deal with the suit property.

23. Therefore, A.K. Nagaraja being the appellant who had got the right through Lakshmikanthamma did not have any right to oppose the suit. As such, the decreeing of the suit by the Trial Court, confirmed by the First Appellate Court, needs no interference in this appeal also. Hence, RSA No.116/2019 needs to be dismissed.



CNR: KAHC010009592019

NC: 2026:KHC:40237
RSA No. 116 of 2019
C/W RSA No. 318 of 2019

24. Accordingly, the following:

ORDER

Appeals in RSA No.116/2019 and RSA
No.318/2019 are hereby dismissed.

No order as to costs.

**Sd/-
(V SRISHANANDA)
JUDGE**

MR