



CNR: KAHC010102062018

NC: 2026:KHC:39035-DB
WA No. 318 of 2018

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF JULY, 2026

PRESENT

THE HON'BLE MR. JUSTICE D K SINGH

AND

THE HON'BLE MR. JUSTICE T.M.NADAF

WRIT APPEAL NO. 318 OF 2018 (CS-RES)

BETWEEN:

K.C. SUKAN RAJ,
SINCE DECEASED BY LRS,

SMT. UMRAO BAI,
AGED ABOUT 75 YEARS,
W/O LATE K.C.SUKAN RAJ,
SINCE DECEASED
HENCE NOT MADE AS PARTY

1. SRI K.S.JEEVAN PRAKASH,
AGED ABOUT 52 YEARS,
S/O LATE K.C.SUKAN RAJ,
2. SRI. K.S. VIMAL KUMAR,
AGED ABOUT 47 YEARS,
S/O LARE K.C. SUKAN RAJ,
3. SRI. K.S. SUMAKHI LAL,
AGED ABOUT 45 YEARS,
S/O LATE K.C.SUKAN RAJ,
4. SRI K.S.MAHAVEER,
AGED ABOUT 40 YEARS,
S/O LATE K.C.SUKAN RAJ,



**NC: 2026:KHC:39035-DB
WA No. 318 of 2018**

CNR: KAHC010102062018

5. SRI. K.S. GOUTAM CHAND,
AGED ABOUT 38 YEARS,
S/O LATE K.C.SUKAN RAJ,

6. SRI. K.S. SUNIL SISODIA,
AGED ABOUT 33 YEARS,
S/O LATE K.C.SUKAN RAJ,

ALL OF THEM ARE RESIDING AT:
C/O GOUTAM HARDWARE,
M.G.ROAD,
CHIKKAMAGALURU - 577 101.

7. SMT. PUSHPA,
AGED ABOUT 49 YEARS,
W/O SRI VINOD MEHTA,
D/O LATE K.C.SUKAN RAJ,
R/AT M.S AMBIA ASSOCIATES,
KADUR.

8. SMT. SHOBA,
AGED ABOUT 40 YEARS,
W/O SRI. ROOPESH MAKANA,
D/O LATE K.C.SUKAN RAJ,
R/AT M/S RAJAN APPLIANCES,
K.T STREET, MYSORE.

9. SMT. SANKOSH,
AGED ABOUT 32 YEARS,
W/O SRI. PADAM CHAND,
D/O LATE K.C. SUKAN RAJ,
R/AT KOTARI BANKERS,
MYSORE-BANGALORE ROAD,
CHENNAPATNA.

...APPELLANTS

(BY SRI. THILAKRAJ S.V., ADVOCATE)



CNR: KAHC010102062018

NC: 2026:KHC:39035-DB
WA No. 318 of 2018

AND:

1. THE PRINCIPAL SECRETARY
TO GOVERNMENT,
CO-OPERATIVE DEPARTMENT,
M.S.BUILDING,
DR.AMBEDKAR VEEDHI,
BANGALORE - 560 001.
2. THE DEPUTY REGISTRAR
OF CO-OPERATIVE SOCIETIES,
CHIKKAMAGALURU - 577 101.
3. SMT. SYEEDA SHEHER BANU,
AGED ABOUT 46 YEARS,
S/O SYED ABDUL HAKIM,
4. SMT. SYEEDA SHAMSHAD BANU,
AGED ABOUT 45 YEARS,
W/O MOHAMMED ISMAIL SAIT,
5. SMT. SYEEDA TABASAM BANU,
AGED ABOUT 44 YEARS,
W/O AMEER AHAMED,
6. SMT. SYEEDA MASOODA SULTHANA,
AGED ABOUT 37 YEARS,
W/O MOHAMMED YOUNUS KHAN
7. SMT. SYEEDA NAVEEDA SULTHANA,
AGED ABOUT 27 YEARS,
W/O SYED MAHAZAR RABBANU,
8. SRI. JANAB SYED TAHEER ALI,
AGED ABOUT 38 YEARS,
9. SRI. JANAB SYED AZHAR PASHA,
AGED ABOUT 38 YEARS,



CNR: KAHC010102062018

RESPONDENT NOS.3 TO 7 ARE
DAUGHTERS AND NOS. 8 & 9 ARE
THE SONS OF SYED ABDUL GAFFOOR
R/AT MOHAMMED KHAN STREET,
CHIKAMAGALUR - 577 101.
CHIKAMAGALUR DISTRICT.

10. THE RECOVERY OFFICER,
U.R. 441, D.C.C.BANK LTD.,
CHIKMAGALURU - 577 101.
11. SRI. M RUDRAIAH,
MAJOR,
S/O MUPANAIAH,
R/AT MUTHINAPURA,
CHIKMAGALURU - 577 101.
12. THE SECRETARY,
KASABA LARGE SEIZED CREDIT
CO-OP SOCIETY,
NOW IN LIQUIDATION AND
ATTACHED TO C.D.C.C. BANK,
CHIKMAGALURU - 577 101.

...RESPONDENTS

(BY SRI. S.H. RAGHVENDRA, AGA FOR R1 & R2,
SRI. R. VIJAYKUMAR, ADVOCATE FOR
D.L. SURESH, ADVOCATE FOR R3 TO R9,
R10, R11, R12 SERVED AND UNREPRESENTED)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE
KARNATAKA HIGH COURT ACT, 1961, PRAYING TO SET ASIDE
THE ORDER PASSED BY THE LEARNED SINGLE JUDGE IN WRIT
PETITION NO.47284/2011 [CS-RES] DATED:14.11.2027 AND
FUTHER BE PLEASED TO GRANT THE APPELLANTS SUCH OTHER
FURTHER RELIEFS AS DEEMED FIT IN THE FACTS AND



CNR: KAHC010102062018

CIRCUMSTANCES OF THE CASE AND ALLOW THIS WRIT
APPEAL WITH COSTS.

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

CORAM: HON'BLE MR. JUSTICE D K SINGH
and
HON'BLE MR. JUSTICE T.M.NADAF

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE T.M.NADAF)

The petitioners in writ petition No.47284/2011 are
before us in this intra Court appeal, challenging the order
dated 14.11.2007 passed by the writ Court. The writ Court
under the impugned order dismissed the writ petition and
sale in favour of one Syed Abdul Gafoor was confirmed.

2. The parties are referred to as per their ranking
before the writ Court.

3. The facts germane to filing of this appeal are as
under.



CNR: KAHC010102062018

**NC: 2026:KHC:39035-DB
WA No. 318 of 2018**

4. The petitioners filed the writ petition for the following reliefs:

"The Petitioner is in possession and enjoyment of the land in question for last several years and he has raised very valuable Coffee Plantation in the land in question. The revenue records also establish the possession and cultivation of the Petitioner. It is submitted that on account of the impugned orders, it is likely that the Respondents would take steps to dispossess the Petitioner either forcibly or by resorting to other means. The Petitioner is having prima facie good case on merits. Therefore having regard to the facts and circumstances of the case on merits. Therefore having regard to the facts and circumstances of the case stated above, it is just and necessary that the orders of the Deputy Registrar of Co-Operative Societies as well as the order of the 1st Respondent of Co-Operative Societies as well as the order of the 1st Respondent requires to be stayed by this Hon'ble Court as otherwise the Petitioner would be put to irreparable loss and hardship."

5. A proceeding came to be initiated in Arb.Dis.No.707/1969-70 for recovery of dues payable to the Co-operative Bank. An award came to be passed therein. Subsequently, execution petition was filed in EP.No.543/69-70, wherein the property bearing Sy.No.92



CNR: KAHC010102062018

of Nagenahally Village, Chikamagalur Taluk, measuring 6 acres 30 guntas was brought to sale. The property was admittedly registered in the name of Rudramma and the same was said to be subjected to mortgage in the transaction afore.

6. Under the execution, the property supra was sold in public auction dated 20.03.1978. The respondent No.4-Sayed Abdul Gafoor, purchased the property for valuable consideration and the sale was confirmed on 18.01.1983.

7. When the revenue records were pending consideration on the basis of the registered sale deed, the petitioners preferred an appeal before the Deputy Registrar of Co-operative Societies in DRC/DAP/1/82-83 challenging the auction sale of the property afore in favour of Sayed Abdul Gafoor. The appeal came to be allowed on 18.03.1983, holding that the sale dated 20.03.1978 as well as confirmation of the sale on 18.01.1983 by the



CNR: KAHC010102062018

Recovery Officer of DCC Bank were not sustainable in law. It was further held that the appellants before the Deputy Registrar of Co-operative Societies were owners of property afore, as the same was not mortgaged to Kasaba Large Seized Credit Co-operative Society, Chickmagalur.

8. The reasons for respondent No.2 for its order was based on the plea that the petitioner-K.C.Sukan Raj had purchased the land in Sy.No.92 of Nagenahally Village initially under a registered under sale dated 16.11.1964 to an extent of 5 acres 6 guntas and subsequently in an auction conducted by the Civil Court in Exn.No.215/1975 he purchased the total extent of 6 acres 30 guntas, including the earlier land and became absolute owner of the property. Therefore, the sale pursuant to the order passed in EP.No.543/69-70 is not binding on him and the same was accepted by respondent No.2.

9. A revision came to be filed against the order passed by respondent No.2 in CMW19CAP/83, which was



CNR: KAHC010102062018

dismissed on 08.08.1989 and reserved liberty to proceed with the matter by following due procedure prescribed under law. The order was subject matter in WP.No.18019/1989 and was allowed on 20.06.1997. Consequently, the order dated 18.03.1983 passed by the Government and DRCS were quashed and the matter was remanded to the second respondent-Deputy Registrar for fresh disposal in according to law.

10. After remand, the second respondent dismissed the appeal on 04.02.2000, and sale of the property in dispute, which was confirmed by an order dated 18.01.1983 was made absolute. This order was again a subject matter in CMW/14/CAP/2000, before the Principal Secretary to Government, Cooperation Department, M.S Building, Bengaluru, which was disposed of on 16.07.2011, resulting in dismissal holding that, there was no merit in the case. This order of revision as well as the order passed by the Deputy Registrar of Co-operative Societies are the subject matter in writ petition.



CNR: KAHC010102062018

**NC: 2026:KHC:39035-DB
WA No. 318 of 2018**

11. The Writ Court having found that the contentions taken by the petitioners that the property was not subjected to mortgage with respondent No.12 - Society was incorrect, as in the suit filed by K.C.Sukan Raj - the original petitioner, in OS.No.105/1978 seeking the relief of injunction against respondent Nos.11, 4 and 12, he had pleaded that six items of the property belonging to Rudramma and her four daughters were mortgaged to respondent No.12-Society. The said pleading has been recorded by a writ Court in paragraph No.2 of its order passed in WP.No.18019/1989.

12. The petitioner had taken a contrary stand in the appeal filed by him subsequently. The Writ Court in earlier Writ Petition had taken a view that the petitioner was precluded from taking such a defence that the property in dispute was not the subject matter of mortgage in favour of respondent No.12. After the remand, the second respondent framed two issues, which has been extracted in paragraph 11 of the order, reads as under:



CNR: KAHC010102062018

1. *"Whether the admissions made by the appellant before the Civil Court in O.S.No.105/78 with regard to mortgage of schedule property to the Chikmagalore Kasaba L.S.C.Society would act as estoppel against the appellant?*
2. *Whether the schedule property is, in fact, mortgaged to the Chikmagalore Kasaba L.S.C.Society?"*

13. The Writ Court in view of categorical pleading and relying on the judgment of the Supreme Court, in ***R.S.MADANAPPA (DECEASED) BY HIS L.RS VS. CHANDRAMMA & ANOTHER***, reported in ***AIR 1965 SC 1812***, formed an opinion that a person is estopped from taking a contrary stand than the one already taken and placed on record.

14. In view of categorical stand taken and the admission in the suit filed by plaintiff himself (i.e., in the suit of K.C.Sukan Raj - the original petitioner) that, there was a mortgage of the property with respondent No.12, had attained finality, as the appeal filed against the Judgment and Decree passed in the Original Suit was



CNR: KAHC010102062018

confirmed by dismissing the RA.No.28/1982. In that view of the matter, the writ Court has found that the orders impugned therein does not call for any interference and dismissed the petition. It is this order called in this present writ appeal.

15. Heard Sri.Thilakraj.S.V, learned counsel for the appellants, Sri.S.H.Raghavendra, learned Additional Government Advocate for respondent Nos.1 & 2 and Sri.R.Vijaykumar, learned counsel appearing for Sri.D.L.Suresh, learned counsel for respondent Nos.3 to 9. Respondent Nos.10, 11 and 12 are served and unrepresented.

16. Sri.Thilakraj.S.V, learned counsel for the appellants again reiterated the very same contention, that in the absence of any document, the admission cannot be taken into consideration for turning down the claim of the petition.



CNR: KAHC010102062018

NC: 2026:KHC:39035-DB
WA No. 318 of 2018

17. We are not in a position to comprehend this kind of submissions, in view of Section 115 of the evidence Act. A party is estopped from taking a contrary stand than the one already taken and which has attained finality. The said submission has already been addressed before the writ Court. The writ Court having considered the same, negated in the impugned order. The statement made in the plaint remained as it is in the judgment and decree in the suit, and confirmed in the appeal supra. In that view of the matter, we find no infirmities in the order passed by the learned Single Judge. Accordingly, we ***dismiss*** this appeal as the same sans merit.

**Sd/-
(D K SINGH)
JUDGE**

**Sd/-
(T.M.NADAF)
JUDGE**

PK
List No.: 1 Sl No.: 35
ct-vn