



CNR: KAHC010173652008

NC: 2026:KHC:40236
RSA No. 408 of 2008
C/W RSA No. 167 of 2008

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. 408 OF 2008 (DEC/INJ)
C/W REGULAR SECOND APPEAL NO. 167 OF 2008

IN RSA No. 408/2008

BETWEEN:

Y P BYRAPPA
S/O LATE PEDDANNA
AGED 77 YEARS,

1(A) SMT.MUNITHAYAMMA
AGED ABOUT 85 YEARS
W/O LATE Y.P.BYRAPPA

1(B) SRI B.MUNIRAJANNA
AGED ABOUT 58 YEARS
S/O LATE Y.P.BYRAPPA

1(C) SRI B.RAVICHANDRA
AGED ABOUT 48 YEARS
S/O LATE Y.P.BYRAPPA

1(D) SRI B.SRINIVAS
AGED ABOUT 44 YEARS
S/O LATE Y.P.BYRAPPA

1(E) SMT.JAYALAKSHMAMMA
AGED ABOUT 54 YEARS
D/O LATE Y.P.BYRAPPA

1(A) TO 1(E) ARE ALL
RESIDING AT NO.175,

Digitally
signed by
MALATESH
K C

Location:
HIGH
COURT OF
KARNATAKA



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HALESANTHE PET ROAD
CHICKBALLAPUR CITY
CHICKBALLAPUR DISTRICT -562 101

1(F) SMT.R.SAROJA
AGED ABOUT 52 YEARS
D/O LATE Y.P.BYRAPPA
W/O S.B.RAJANNA
NO.737, KALYANANAGAR 1ST STAGE
BENGALURU – 560 033

1(G) SMT.B.LEELAVATHI
AGED ABOUT 50 YEARS
D/O LATE Y.P.BYRAPPA
W/O HANUMANTHE GOWDA
NO.32, MARUTHI LAYOUT
2ND CROSS
BENGALURU – 560 024

1(H) SMT.B.RUKMANI
AGED ABOUT 42 YEARS
D/O LATE Y.P.BYRAPPA
W/O LOKESH GOWDA
NO.8, 3RD MAIN ROAD
VYALIKAVAl
BENGALURU – 560 003

...APPELLANTS

[BY SRI G.PAPI REDDY, SR. ADVOCATE FOR
SRI V VINOD REDDY, ADVOCATE FOR A1(A TO H)]

AND:

1. SMT LAKSHMIKANTHAMMA @ KANTHAMMA
DEAD BY LRS

(A) K.N. VIJAYALAKSHMI
AGED 50 YEARS
W/O DAYASHANKAR



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(B) A D SUCHITRA
AGED 22 YEARS
D/O. DAYASHANKAR

(C) A D KRISHNAKUMAR
AGED 19 YEARS
S/O. DAYASHANKAR

(D) A K NAGARAJ
AGED 46 YEARS
S/O. A.B. KRISHNAPPA

(A) TO (D) ARE
R/AT NO.242, MISSION HOSPITAL ROAD
CHICKBALLAPUR TOWN
CHICKBALLAPUR DISTRICT -562 101.

2. K C RAMAKRISHNAPPA
AGED 68 YEARS
S/O. CUYALAHALLI CHIKKAPPAIAH
AGRICULTURIST
R/O KANDAWARA VILLAGE,
CHICKBALLAPUR TOWN,
CHIKKABALLAPUR DISTRICT-562 101.

...RESPONDENTS

(BY SRI C.PRAKASH, ADVOCATE FOR R2;

SRI H.S.SANTHOSH, ADVOCATE FOR R1(A TO D), [VAKALATH
NOT FILED IN RESPECT OF R1(A AND C)]

THIS RSA IS FILED UNDER SECTION 100 OF CIVIL
PROCEDURE CODE AGAINST THE JUDGMENT & DECREE DATED
11.12.2007 PASSED IN R.A.NO.158/2003 ON THE FILE OF THE
CIVIL JUDGE (SR.DN) AND CJM, CHIKKABALLAPUR,
DISMISSING THE APPEAL AND CONFIRMING THE JUDGMENT
AND DECREE DATED 25.8.2003 PASSED IN O.S.NO.162/1991
ON THE FILE OF THE PRL. CIVIL JUDGE (JR.DN) AND JMFC,
CHICKBALLAPUR.



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IN RSA NO. 167/2008

BETWEEN:

SRI K C RAMAKRISHNAPPA
AGED ABOUT 69 YEARS
S/O GUYALAHALLI CHIKKAPPAIAH
AGRICULTURIST,
R/O CHIKKABALLAPUR TOWN
CHIKKABALLAPUR DISTRICT

...APPELLANT

(BY SRI. C PRAKASH, ADVOCATE)

AND:

1. SMT LAKSHMI KANTHAMMA @ KANTHAMMA
DEAD BY LRS
- 1(a) K N VIJAYALAKSHMI
AGED ABOUT 50 YEARS
W/O DAYASHANKAR,
- 1(b) A D SUCHITRA
AGED ABOUT 22 YEARS
S/O DAYASHANKAR
- 1(c) A D KRISHANKUMAR
AGED ABOUT 19 YEARS
S/O DAYASHANKAR
- 1(d) A K NAGARAJ
AGED ABOUT 46 YEARS
S/O A B KRISHNAPPA

ALL ARE RESIDING AT NO.242,
MISSION HOSPITAL ROAD
CHIKKABALLAPUR TOWN
CHIKKABALLAPUR DISTRICT



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2. SRI Y B BYRAPPA
AGED ABOUT 77 YEARS
S/O PEDDANNA
R/O NO.175, HALESANTHEPET ROAD
CHIKKABALLAPUR TOWN
CHIKKABALLAPUR DISTRICT

SINCE DEAD BY HIS LRs

- (A) MUNITHAYAMMA
W/O LATE Y.B.BYRAPPA
AGED ABOUT 85 YEARS
- (B) B.MUNIRAJANNA
S/O LATE Y.B.BYRAPPA
AGED ABOUT 58 YEARS
- (C) B.RAVICHANDRA
S/O LATE Y.B.BYRAPPA
AGED ABOUT 48 YEARS
- (D) B.SRINIVAS
S/O LATE Y.B.BYRAPPA
AGED ABOUT 44 YEARS
- (E) JAYALAKSHMAMMA
D/O LATE Y.B.BYRAPPA
AGED ABOUT 54 YEARS

RESPONDENTS 2(A) TO 2(E)
ARE ALL RESIDING AT NO.175
HALESANTHEPET ROAD
CHIKKABALLAPUR TOWN
CHIKKABALLAPUR DISTRICT.

- (F) R.SAROJA
W/O LATE S.B.RAJANNA
AGED ABOUT 52 YEARS
NO.737, KALYANANAGAR 1ST STAGE



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7TH A MAIN ROAD

(G) B.LEELAVATHY
W/O HANUMANTHE GOWDA
AGED ABOUT 50 YEARS
NO.32, MARUTHI LAYOUT
2ND CROSS,
BENGALURU – 560 024

(H) B.RUKMINI
W/O LOKESH GOWDA
AGED ABOUT 42 YEARS
NO.8, 3RD MAIN ROAD
VYALIKAVALL
BENGALURU – 560 003

3. SRI P.V.NARASIMHALU
S/O VENKATANARASAPPA
AGED ABOUT 59 YEARS

4. SRI P.V.RAMAPRASAD
S/O VENKATANARASAPPA
AGED ABOUT 54 YEARS

5. SMT.P.V.MANJULA
S/O VENKATANARASAPPA
W/O KRISHNA (TEACHER)
AGED ABOUT 49 YEARS

RESPONDENT NOS.3 TO 5 ARE
RESIDING AT
C/O CHAKRAPANI
ANAND NILAYA
OPP. BRIGHT SCHOOL
OPP. POLICE QUARTERS GROUND GATE
CHIKKABALLAPUR TOWN

6. SRI ALTAF ALI MIR
S/O MIR MEHDI ALI



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AGED ABOUT 45 YEARS
RESIDING AT NO.13/1, ALFRED STREET,
RICHMOND TOWN
BENGALURU – 560 025

...RESPONDENTS

(BY SRI H.S.SANTHOSH, ADVOCATE FOR R1(A TO D);

[VAKALATH NOT FILED FOR R1(A AND C)]

SRI G.PAPIREDDY, SR. ADVOCATE A/W SRI V.VINOD REDDY,
ADVOCATE FOR R2(A TO H) (VAKALATH NOT FILED);

SRI C.R.SUBRAMANYA, ADVOCATE FOR R3 TO R5;

SRI B.K.KUMAR, ADVOCATE FOR R6)

THIS RSA IS FILED UNDER SECTION 100 OF CIVIL
PROCEDURE CODE AGAINST THE JUDGMENT & DECREE
DATED 11.12.2007 PASSED IN R.A.NO.158/2003 ON THE
FILE OF THE CIVIL JUDGE (SR.DN) AND CJM,
CHICKBALLAPUR, DISMISSING THE APPEAL AND
CONFIRMING THE JUDGMENT AND DECREE DATED
25.8.2003 PASSED IN O.S.NO.162/1991 ON THE FILE OF
THE PRL. CIVIL JUDGE (JR.DN) AND JMFC, CHICKBALLAPUR.

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

CORAM: HON'BLE MR. JUSTICE V SRISHANANDA



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ORAL JUDGMENT

These two appeals are filed by appellants Nos.1 and 2 respectively in R.A.No.158/2003, challenging the judgment passed in O.S.No.162/1991, confirmed in R.A.No.158/2003.

2. These two appeals came to be admitted by the coordinate Bench of this Court on the following substantial questions of law:

"Whether the courts below were justified in holding that respondents 1(a) to 1(d) are the legal heirs of Lakshmikanthamma solely having their finding on the genealogical tree produced in the case?"

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

3.1 Smt. Lakshmikanthamma @ Kanthamma being the second wife of Aakalasheshappa filed a suit with a prayer for declaration, possession and permanent injunction in respect of suit properties. Suit on contest came to be decreed against the defendants who are the appellants before this Court.

4. Being aggrieved by the same, both defendants filed common appeal in R.A.No.158/2003.



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5. Learned Judge in the First Appellate Court after securing the records, heard the arguments of the parties and dismissed the appeal filed by the defendants and confirmed the decree passed in O.S.No.162/1991 in respect of the following properties (hereinafter referred to as the 'suit properties').

1. *"House premises situated in HALE Santhepet Road, Chickballapur town, forming part of Municipal No.175, measuring east to west 17 feet, and north to south 12 feet and bounded as follows:-
East by Municipal Road
West by item No.2.
North by Item no.2
South by Abdul Wajid's House*
2. *House premises situate in HALE Santhepet Road, Chickballapur town, forming part of Municipal No.175(remaining portion after excluding item No.1) and bounded as follows:-
East by Municipal Road and Item No.1
West by house of G.K.Thimmaiah
North by Kadri Nayana Mopurappa's house
South by Abdul Wajid Sab's house*
3. *Agricultural land situated at Kandavara Village, Nandi Hobli, Chickballapur Taluk bearing S.No.240/2, dry 3 acres 3 guntas in extent assessed at Rs.4-83, and bounded as follows:-*



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*East by Manganna's land
West by Guyyalahalli Chikkappaiah's land
North by Govindappa, Sale Thimmaiah and others
land
South by Temple Inamathi lands."*

2. Plaintiff in the said suit claimed that suit properties belonged to Sri Akalasheshappa, who died intestate on 01.02.1994 leaving behind plaintiff as the sole legal representative, being the second wife of Akalasheshappa.

3. It is her case that during the lifetime, Akalasheshappa has leased item No.1 of the suit properties to first defendant under a rent note and after the death of Akalasheshappa, a legal notice was issued demanding arrears of rent and also for eviction.

4. Defendant No.1 gave an evasive reply, setting up a title in himself under the Will alleged to have been executed by Akalasheshappa on 15.01.1984.

5. Based on the said Will, first defendant said to have dispossessed the plaintiff from item No.2 of the suit properties. Plaintiff still continued to be in possession of the suit item No.3 and contented that the alleged Will set up by



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the first defendant said to have been executed by Akalasheshappa in his favour is a forged Will and sought for possession of the suit properties declaring that plaintiff is the owner of the suit properties with the sole surviving heir of Akalasheshappa.

6. Pursuant to the suit summons defendants appeared and filed their written statement denying that plaintiff is the sole surviving legal heir of Akalasheshappa and she is the absolute owner of the suit properties. But, it is admitted that Aklasheshappa had leased the property in favour of first defendant insofar as item No.1 of the suit properties, but he denied that there were arrears of rent.

7. It is further contented that Akalasheshappa, being the owner of all the suit properties, had executed a Will on 15.01.1984 and thereby first defendant became the owner of item Nos.1 and 2 of the suit properties. Under the said Will, item No.3 of the suit property was bequeathed in favour of defendant No.2 and thus, defendant No.2 became the owner of item No.3 of the suit properties and thus, suit was resisted.



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8. Based on the rival contentions, learned Trial Judge, after raising necessary issues, recorded the evidence of the parties and on appreciation of the material evidence on record dismissed the claim of the defendants as to the contra title and decreed the suit of the plaintiff.

9. Operative portion of the judgment of the Trial Court reads as under:

"Suit is decreed with cost declaring that the LR's of the plaintiff are the owners of items 1 and 2 of the suit properties, and defendants 1 and 2 are directed to deliver the possession of these properties to the LR's of plaintiff.

The defendants 1 and 2 are further restrained by an order of permanent injunction from entering or obstructing the peaceful possession of item no.3 of the suit schedule property.

The mesne profits shall be determined after an enquiry under order 20 R 12 of CPC.,

Draw decree accordingly."

10. Being aggrieved by decreeing of the suit, both the defendants jointly filed an appeal in R.A.No.158/2003.



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11. Learned Judge in the First Appellate Court after securing the records, heard the arguments of the parties and dismissed the appeal *inter alia* holding in paragraphs 18 to 22 as under:

"18. A perusal of Will Ex D1 it is clear that, Akala Sheshappa has not made any provision about the bequeathing of the any of the properties in favour of his wife-plaintiff, though he has got other properties apart from the suit schedule properties. DW2 (scribe), DW3 and DW7 attesting witnesses in their evidence, in the cross-examination have specifically stated that Lakshmikanthamma W/o deceased Akala Sheshappa was present at the time of reducing into writing of alleged Will Ex.D1. DW2 scribe admitted in his cross-examination that he did not make any enquiry with Akala Sheshappa as to what were the properties left to his wife. DW7 has admitted that Akala Sheshappa and his wife plaintiff were in good terms. He has also deposed that he do not know whether Ex. D1 contains mention of any property given to Lakshmikanthamma-plaintiff. It is pertinent to note in this case that though Akala Sheshappa, was a very rich man and he was having some other landed properties apart from suit schedule properties, he is not made any provision in Ex.D1 will. The recitals of Ex.d1 Will reveal that he has not stated as to for what reason he has not made any provision for his beloved wife Lakshmikanthamma for her livelihood after



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his death. If At all the relationship of his wife plaintiff and Akala Sheshappa was not good, then the matter would have been quite different and he also ought to have mention about the same in Ex. D1 Will. There is no material in the case on hand, to show that there was no cordial relationship between Akala Sheshappa and his wife Lakshmikanthamma-plaintiff. So this suspicious circumstances also clearly indicate that there is a doubt about the execution of the alleged Will Ex.D1 by Akala Sheshappa in favour of Defendants 1 and 2. DW2 scribe in his evidence has stated that Akala Sheshappa was suffering from blindness and he had some eye problem. Ex.D1 Will indicate that Akala Sheshappa was blind at the time of execution of Will. Admittedly signatures on Ex.D1 are appearing as if they were put by Akala Sheshappa. It is un-understandable as to how Akala Sheshappa put his alleged signatures on Ex.D1 Will despite of the fact that he was blind. It is an universal truth that a blind person cannot put his signatures. I have compared the signatures Ex.D1 (a), D1(b) and D1(c) the disputed signatures with the admitted signatures Ex. P11(a) and Ex.p16(b) belonging to Akala Sheshappa and it is quite obvious that Ex D1(a) and Ex.D1(b) D1(c) signatures does not tally with the admitted signatures Ex.P11(a) and P16(b). That clearly indicate that some one might have forged the signatures Ex.D1 (a), D1(b) and Ex.D1(c) to show that signatures were put by Akala Sheshappa. This is one of the strong suspicious circumstances to come to the conclusion that



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the document Ex.d1 is a forged and concocted document.

19. The recitals of Ex.D1 will show that defendants 1 and 2 served for Akala Sheshappa for 30 years, defendant No.2 is the son of aunt of Akala Sheshappa and defendant No.1 belonging to a different caste. Only this much is stated in Ex. D1 Will. No where in Ex.D1 Will it is stated that out of love and affection towards defendants 1 and 2, Akala Sheshappa wanted to bequeath suit schedule properties in favour of defendants 1 and 2. Absolutely there is no recital in that Ex.D1 about the love and affection towards defendants 1 and 2 for bequeathing suit schedule properties in their favour. This is also one of the very strong circumstance to come to the conclusion that there is a suspicion about the execution of Will Ex.D1 by Akala Sheshappa in favour of defendants 1 and 2.

20. As pointed out by me above, Ex. D1 Will was reduced into writing by DW2 tailor and not by a regular and professional deed writer. DW5 has clearly admitted in his evidence that one Gopalrao was a famous professional deed writer at Chickballapur and he reduced into writing 60-70 documents of Akala Sheshappa, and Gopalrao was known to Akala Sheshappa for about 20 or 30 years and the distance of the house of Gopalrao from the house of Akala Sheshappa is about 300 meters. This evidence of DW5 clearly indicate that Akala Sheshappa used to call upon Gopalrao for writing the documents, whenever he wanted to reduce into writing any of the documents, But in this case, DW2 who is a tailor by



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professional and not a professional deed writer reduced into writing Ex.D1 Will Akala Sheshappa, if at all really wanted to reduce into writing the Will for bequeathing the suit schedule properties, he ought to have called upon Gopalrao, whose house is very near to the house of Akala Sheshappa and whom Akala Sheshappa was knowing for 20-30 years who was very much alive and available for Akalaseshappa. Ex D1 is written on a plain paper and not on a stamp paper and it is not registered document. Ex P11 and 16 executed by Akala Sheshappa are the registered documents. That shows that whenever Akala Sheshappa wanted to execute any of the document he used to reduced into writing on the stamp paper and he used to register the same in the office of Sub-Registrar. If really Akala Sheshappa wanted to execute a Will in favour of the defendants, he would have reduced into writing the same on stamp paper and also he would have got it registered the same. There is a suspicion as to why Akala Sheshappa did not reduced into writing Ex.D1 on the stamp paper and did not register that document in the office of Sub-Registrar. This is also one of the suspicious circumstances to come to the conclusion that there is a doubt about the execution of Ex. D1 will in favour of defendants 1 and 2.

21. It is not in dispute that Akala Sheshappa had given suit item No.1 to defendant No.1, on rent basis and he used to collect the rent from defendant No. 1. As pointed by me above, defendant No. 1 in his evidence has stated that he served Akala Sheshappa for 30 years and he intended to give his properties to him. There is a



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recital about the same in Ex D1 Will. If at all of Akala Sheshappa has intended to bequeath suit schedule items 1 and 2 properties in favour of defendant No. 1 because of his 30 years service for Akaia Sheshappa, Akala Sheshappa would have not given item No.1 of suit schedule properties on lease to defendant No.1 and he would have not collected rent from defendant No.1 during his life time and defendant No.1 ought to have not filed suit O.S.137/83 against Akala Sheshappa claiming that he wanted to extract higher rents from him. Apart from this if at all the relationship of defendant No. 1 with Akala Sheshappa was cordial for 30 years, the question of giving suit item No.1 on lease to defendant No.1, does not arise at all. Suit O.S.No.137/83 despite of the death of Akala Sheshappa on 1.2.1984, was pending until 1993 and it was withdrawn by defendant No.1 after 9 years of death of Akala Sheshappa. While executing Ex. D1 Will Akala Sheshappa ought to have made the mention of suit OS.137/83 in Ex.D1. A perusal of Ex D1 Will it is clear that there is no any recital about the same in Ex. D1. This is also one of the suspicious circumstances to show that there is a doubt about execution of Ex. D1 Will by Akala Sheshappa in favour of defendant 1 and 2. In that view of the matter and in view of the above discussion, it has become quite obvious that Ex. D1 Will is shrouded with so many suspicious circumstances and therefore, the case of the appellants that Akala Sheshappa has executed Ex. DI Will in their favour cannot be believed at all.



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22. PW1 in his evidence has stated that he himself and other plaintiffs are LRs of deceased plaintiff and Akala Sheshappa. They have furnished the genealogy in this regard. A perusal of genealogy furnished by the LRs of deceased plaintiff it is clear that one Akala Sheshappa is the grand father of Akala Sheshappa and the brother of the grand father of Akala Sheshappa is one Akula Narayanappa and plaintiffs 1 to 4 are the grand children of Akala Narayanappa. That shows that plaintiffs are the relatives of present deceased Akala Sheshappa and present deceased Lakshmikanthamma-the plaintiff. There is no material on record to show that defendant No.2 is the relative of Akala Sheshappa. In Ex. D1 Will it is stated that defendant No.2 is the son of the aunt of Akala Sheshappa. However the name of the aunt of Akala Sheshappa has not been stated in Ex.D1. That clearly show that Akala Sheshappa is no way related to Defendant No.2 and though plaintiffs are the distant relatives of Akala Sheshappa, they are the relatives of Akala Sheshappa. In that view of the matter and in view of the above discussion, it has become quite obvious that the trial court has given cogent and valid reasons while decreeing the suit of the plaintiff and it has not committed any error and therefore the impugned judgment and decree of the trial court need not be interfered with, in this appeal. Accordingly, I answer point No. 1 in the negative."



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12. Being further aggrieved by the same, defendant Nos.1 and 2 have respectively filed these two second appeals challenging the judgments and decree passed by the Trial Court as well as the First Appellate Court.

13. Pursuant to the substantial questions of law framed at the time of admission, this Court heard the arguments of learned counsel for the appellants in RSA No.408/2008.

14. On behalf of the appellants in RSA No.408/2008, Sri G. Papireddy, learned Senior Counsel, reiterating the grounds urged in the appeal memorandum would contend that both the Courts failed to note that there was a due execution of the Will by Akalasheshappa in favour of defendant Nos.1 and 2, bequeathing item Nos.1 and 2 in favour of defendant No.1 and item No.3 in favour defendant No.2 who is the appellant in connected appeal RSA No.167/2008 and thus sought for allowing the appeals.

15. He would further contend that Akalasheshappa got the competence to bequeath the suit properties in favour of defendant Nos.1 and 2 being the son-in-law of Venkatanarsamma who is the daughter of Annayappa and



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Mangamma. Said Annayappa is the son of P. Narasimhaiah. Therefore, the title to the property is traceable to the common prepositious P.Narasimhaiah and from him to Annayappa and then to Akalasheshappa. Therefore, defendants are the owners of the suit properties which has not been properly appreciated by both the Courts and thus sought for allowing the appeal.

16. Sri Prakash learned counsel for the appellant in RSA No.167/2008 would adopt the arguments put forth on behalf of the appellant by Sri G.Papireddy, learned Senior Counsel would contend that insofar as the second defendant is concerned, he was only beneficiary of the Will executed by Akalasheshappa in respect of item No.3 of the suit properties.

17. Therefore, at no stretch of imagination the declaration could have been granted in favour of Smt.Lakshmikantamma (plaintiff) who is none other than the second wife of Akalasheshappa and thus sought for allowing the appeal.

18. Per contra, Sri H.S. Santhosh, learned counsel for the respondent No.1 (a) to (d) who are the legal



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representatives of Lakshmikanthamma (original plaintiff), supports the impugned judgments.

19. Having heard the arguments of both sides, this Court perused the material on record meticulously.

20. On such perusal of the material on record, the very relationship of Lakshmikanthamma was denied by the defendants. Lakshmikanthamma claimed that she is the second wife of Akalasheshappa.

21. Admittedly, Akalasheshappa did not have any issues either from the first wife Venkatanarsamma or the second wife Lakshmikanthamma.

22. Akalasheshappa being the younger brother of Smt.Mangamma who is the wife of Anayappa. Anayappa is the first son of P.Narasimhaiah. Annayappa had two children namely, VenkataNarasappa and Venkatanarasamma. Venkatanarasamma is none other than the first wife of Akalasheshappa.

23. Thus, though the defendants have disputed the relationship of the plaintiff with the family of common prepositious P. Narasimhaiah. But, genealogy placed on record



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would make it clear that Lakshmikanthamma was the member of the family of P.Narasimhaiah.

24. However, with regard to the suit properties, Lakshmikanthamma claimed that Akalasheshappa alone got the suit properties being the son-in-law of Annayappa and Mangamma who died intestate and therefore Lakshmikanthamma became the absolute owner of the suit properties.

25. First defendant did not dispute lease of the property of item No.1 by Akalasheshappa.

26. However, after the death of Akalasheshappa, when the suit came to be filed after issuing the necessary legal notice, defendants have set up title in themselves to the effect that they are the owners of the suit properties by virtue of the Will executed by Akalasheshappa marked at Ex.D1.

27. In order to prove Ex.D1, defendants have not only examined the witnesses on their behalf but also tried to controvert the title set up by the plaintiff.

28. But, learned Trial Judge after taking into consideration the relevant aspects of the matter did not accept



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the proof of the Will and decreed the suit of Lakshmikanthamma.

29. Moreover, whether at all Akalasheshappa had any right in respect of the suit properties to bequeath the same in favour of the defendants is a question that remains unanswered by the defendants being the propounders of the Will said to have been executed by Akalasheshappa in their favour.

30. Admittedly, Akalasheshappa being the son-in-law of Annayappa and Mangamma was not the absolute owner of the suit properties inasmuch as P.Narasimhaiah, common prepositour had two more children namely, Venkatanarasappa and Lakshmamma.

31. Therefore, even assuming that the Will executed by Akalasheshappa is to be considered as proved for the sake of arguments alone, Akalasheshappa himself did not have any right, title or interest in respect of the suit properties to bequeath in favour of defendant No.1 and defendant No.2.

32. Insofar as Lakshmikanthamma is concerned, she did not file the suit against the remaining members of the



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family, but has chosen only against defendant Nos.1 and 2 assuming that the declaration and injunction that has been granted in favour of Lakshmikanthamma, which will be subject to the result of suit in O.S.No.227/1989.

33. Thus, insofar as defendants are concerned, they are totally strangers to the family of P.Narasimhaiah and as such, they cannot oppose the title of either Lakshmikanthamma or remaining members of the family of P.Narasimhaiah.

34. As such, substantial questions of law raised in both, the appeals are to be held against the appellants and accordingly, they are answered.

35. Consequently, the following:

ORDER

Appeals are meritless and hereby dismissed.

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

MR,
List No.: 1 SI No.: 63