



CNR: KAHC010162382018

NC: 2026:KHC:37034
RSA No. 596 of 2018

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

REGULAR SECOND APPEAL NO. 596 OF 2018 (DEC/INJ)

BETWEEN:

1. STATE OF KARNATAKA
BY ITS CHIEF SECRETARY
REVENUE DEPARTMENT
VIDHANA SOUDHA,
BENGALURU - 560 001.
2. THE DEUTY COMMISSIONER
MYSURU DISTRICT,
MYSURU - 570 001.
3. THE ASST. COMMISSIONER
MYSURU DISTRICT,
MYSURU - 570 001.
4. THE TAHASILDAR
T. NARASIPURA TALUK,
T. NARASIPURA
MYSURU DISTRICT - 570 001.

...APPELLANTS

(BY SRI. SESHU V, AGA)

AND:

1. PARASHIVAPPA
AGED 53 YEARS
2. NAGARAJU
AGE 51 YEARS

(BOTH ARE SONS OF LATE BASAPPA

Digitally
signed by
MALATESH
K C
Location:
HIGH
COURT OF
KARNATAKA



**NC: 2026:KHC:37034
RSA No. 596 of 2018**

CNR: KAHC010162382018

RESIDING AT BETTADA HOSUR
VILLAGE, TALAKADU HOBLI
T. NARASIPURA TALUK - 571 124.)

3. BASAVANNA
S/O LATE SUBBAPPA
AGE 76 YEARS
R/O BETTADA HOSUR VILLAGE
TALAKADU HOBLI
T. NARASIPURA TALUK - 571 124.

...RESPONDENTS

(BY SRI. N. MANOHAR, ADVOCATE FOR R2;
VIDE ORDER DATED 18.06.2026, APPEAL AGAINST R1 AND
R3 STANDS DISMISSED)

THIS RSA IS FILED U/S. 100 OF CPC., AGAINST THE
JUDGEMENTDECREE DTD 15.09.2017 PASSED IN R.A.NO.
889/2016 ON THE FILE OF THE II ADDITIONAL DISTRICT
JUDGE, MYSURU, PARTLY ALLOWING THE APPEAL AND
SETTING ASIDE THE JUDGEMENT AND DECREE DTD
01.08.2016 PASSED IN OS.NO.33/12 ON THE FILE OF THE
SENIOR CIVIL JUDGE AND JMFC., T.NARASIPURA.

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



CNR: KAHC010162382018

CORAM: HON'BLE MR. JUSTICE V SRISHANANDA

ORAL JUDGMENT

1. Though the matter is listed for admission, with the consent of the parties, matter is taken up for final disposal.

2. Heard Sri.Seshu H. V., learned Additional Government Advocate for the appellants and Sri.N.Manohar, learned counsel for respondent No.2.

3. State of Karnataka, Deputy Commissioner of Mysuru, Assistant Commissioner of Mysuru and Tahasildar, T. Narasipura Taluk, Mysuru District are the appellants. Contesting respondent is plaintiff No.3. Plaintiff Nos.1 and 2 are respondent Nos.1 and 3 in this second appeal. It is reported that they are no more and for not taking proper steps, appeal against them stands dismissed against them.

4. Learned counsel for respondent No.2 who is plaintiff No.3 before the Trial Court would submit that execution case has been filed pursuant to the decree



CNR: KAHC010162382018

passed in O.S.No.33/2012, when execution petition is filed, legal representatives of plaintiff are brought on record.

5. Learned Additional Government Advocate would submit that since the matter is being remanded, legal representatives of remaining plaintiffs may be permitted to be brought on record after remand.

6. Present appeal is filed challenging the judgment of the First Appellate Court in RA No.889/2016 whereby suit in O.S.No.33/2012 came to be decreed by setting aside the judgment passed by the Trial Court.

7. Learned Additional Government Advocate at the outset would submit that there is a serious lapse on the part of the appellants in not contesting the suit though they were represented by District Government Pleader in the Trial Court as well as in the First Appellate Court.

8. He would further contend that written statement was not filed before the Trial Court and before



CNR: KAHC010162382018

the First Appellate Court. There is no proper representation on behalf of the State to oppose the appeal grounds and thus sought for affording opportunity to contest the suit on merits by permitting the State to file the written statement by remitting the matter to the Trial Court.

9. Learned counsel for the contesting respondent No.2/plaintiff No.3 would oppose such a submission by contending that sufficient opportunity has been granted before both the Courts but State having a structured machinery to oppose the suit as well as the appeal, negligently failed to do so and therefore, no opportunity can be granted to the State by remitting the matter to the Trial Court and sought for dismissal of the appeal.

10. Having heard the arguments of both sides, this Court noted that admittedly, suit came to be dismissed by the Trial Court after considering the case of the plaintiffs



CNR: KAHC010162382018

even in the absence of written statement filed by the State – defendants, dismissed the suit.

11. Suit is one for declaration in respect of the immovable property situated in Malangi village, Talakad Hobli, T.Narasipura Taluk, Mysuru District, measuring 5 acres 31 guntas in land bearing Sy.No.107.

12. According to learned Additional Government Advocate, land belongs to the Government.

13. Against dismissal of the suit, it is the plaintiffs who had filed the appeal before the First Appellate Court.

14. It is to be noted that learned Judge in the First Appellate Court has mentioned that arguments of learned counsel for the plaintiffs and on behalf of the State, learned Additional District Government Pleader has been heard.

15. Learned Judge in the First Appellate Court noted that the claim made by the plaintiffs though passed



CNR: KAHC010162382018

on the adverse possession, it is to be noted that in the absence of written statement, no issue was framed before the Trial Court with regard to the prescribed rate to claim adverse possession.

16. First Appellate Court while reappreciating the material on record, was necessarily required to consider the question of limitation or the period that is required to claim adverse possession against the Government as one of the points though not such an issue was framed before the Trial Court for want of written statement; more so, when the First Appellate Court was considering the probative value of the revenue records.

17. In other words, question of limitation being the legal issue, even in the absence of written statement filed by the State, it was required to be considered.

18. Non-consideration of the said aspect of the matter by the First Appellate Court and solely on the basis of the revenue entries, decreeing the suit of the plaintiffs



CNR: KAHC010162382018

by reversing the judgment of the First Appellate Court has thus resulted in injustice calling for interference by this Court, in this second appeal by exercising the power under Section 100 of Code of Civil Procedure.

19. Accordingly, a case is made out for fresh adjudication before the Trial Court by permitting the State to file written statement.

20. This Court cannot lose sight of the fact that suit of the year 2012 and at this distance of time, if the opportunity is to be provided for the State to file the written statement, rights settled in favour of the plaintiffs for inaction of the State should be compensated in terms of costs.

21. Accordingly, if a sum of Rs.25,000/- is imposed as costs to the State to be payable to the plaintiffs by permitting the State to file the written statement and to contest the State afresh in accordance with law, ends of justice would be met.



CNR: KAHC010162382018

22. Accordingly, following:

ORDER

- i. Appeal is ***allowed***.
- ii. Judgment passed by the First Appellate Court in RA No.889/2016 dated 15.09.2017 on the file of II Additional District Judge, Mysuru reversing the dismissal of the suit in O.S.No.33/2012 dated 01.08.2016 on the file of Senior Civil Judge and JMFC, Tirumakudalu Narasipura, Mysuru is hereby set aside.
- iii. Matter is remitted to the Trial Court for fresh disposal in accordance with law by affording opportunity for the State to file written statement and contest the suit subject to payment of cost of Rs.25,000/-.



CNR: KAHC010162382018

- iv. Cost is payable by the State on or before 01.08.2026 either by paying to the plaintiffs or depositing before the Trial Court.
- v. Matter to be listed before the Trial Court on 05.08.2026.
- vi. Parties are directed to be present before the Trial Court without further notice.
- vii. Legal representatives of remaining plaintiffs are at liberty to file necessary applications to come on record as they are already parties before the executing Court.
- viii. If any such applications are filed, learned Trial Judge shall allow such applications as the State failed to implead them as parties before this Court.



**NC: 2026:KHC:37034
RSA No. 596 of 2018**

CNR: KAHC010162382018

- ix. Taking note of the fact that suit is of the year 2012, Trial Court shall dispose of the matter as early as possible but not later than 31.08.2027.
- x. Parties shall maintain *status quo* till the disposal of the suit on merits.

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

KAV
List No.: 1 Sl No.: 55