



CNR: KAHC010217392024

NC: 2026:KHC:42097
RSA No. 635 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 7TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

REGULAR SECOND APPEAL NO.635 OF 2024 (PAR)

BETWEEN:

SMT. RATHNAMMA
W/O RAMANNA,
D/O T. KRISHNAPPA,
AGED ABOUT 71 YEARS,
AGRICULTURIST,
R/AT BADAGANAHALLI VILLAGE,
KASABA HOBLI,
CHIKKABALLAPURA TALUK-562 101.

...APPELLANT

(BY SRI AJAY.N FOR SRI MITHUN G A, ADVOCATES)

AND:

1. SRI K VENKATESH @ SRINIVASA
S/O P. KRISHNAPPA,
AGED ABOUT 65 YEARS,
R/AT ARASANAHALLI VILLAGE,
NANDI HOBLI,
CHIKKABALLAPURA TALUK AND
DISTRICT-562 101.



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Location: 2.
HIGH
COURT OF
KARNATAKA

2. SMT. ASHWATHAMMA
W/O. LATE MANJUNATH,
D/O. SONNAPPA,
AGED ABOUT 49 YEARS,
R/AT GUVVALAKANAHALLI VILLAGE,
KASABA HOBLI,
CHIKKABALLAPURA TALUK AND DISTRICT-562 101.



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3. SMT. KAMALAMMA
W/O. NARASIMHAPPA,
D/O. T. KRISHNAPPA,
AGED ABOUT 54 YEARS,
R/AT KANGANAHALLI VILLAGE,
NANDI HOBLI,
CHIKKABALLAPURA TALUK
AND DISTRICT-562 101.
4. SMT. RATHNAMMA
W/O. LATE K. MANJUNATH,
AGED ABOUT 54 YEARS,
R/AT ARASANAHALLI VILLAGE,
NANDI HOBLI,
CHIKKABALLAPURA TALUK AND
DISTRICT-562 101.
5. SRI. ANIL KUMAR
S/O. LATE K. MANJUNATH,
AGED ABOUT 34 YEARS,
R/AT ARASANAHALLI VILLAGE,
NANDI HOBLI,
CHIKKABALLAPURA TALUK AND
DISTRICT-562 101.
6. SMT. PAVITHRAMMA
D/O. LATE K. MANJUNATH,
AGED ABOUT 32 YEARS,
R/AT NALLIMARADAHALLI VILLAGE,
KASABA HOBLI,
CHIKKABALLAPURA TALUK AND
DISTRICT-562 101.
7. SRI. MURALI
S/O. LATE PADMAMMA
AND NARAYANASWAMY,
AGED ABOUT 42 YEARS,
R/AT KANGANAHALLI VILLAGE,
NANDI HOBLI,
CHIKKABALLAPURA TALUK AND DISTRICT-562 101.



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8. SRI. PRATAP
S/O. LATE PADMAMMA AND NARAYANASWAMY,
AGED ABOUT 39 YEARS,

9. SMT. ROOPA
D/O. LATE PADMAMMA
AND NARAYANASWAMY,
AGED ABOUT 36 YEARS,
R/AT KANAJENAHALLI VILLAGE,
KASABA HOBLI,
CHIKKABALLAPURA TALUK AND
DISTRICT-562 103.

10. SRI. SANTHOSH
S/O. LATE PADMAMMA AND NARAYANASWAMY,
AGED ABOUT 32 YEARS,

SL.NO.7, 8 AND 10 ARE
R/AT KANGANAHALLI VILLAGE,
NANDI HOBLI,
CHIKKABALLAPURA TALUK AND
DISTRICT-562 101.

11. SMT. SUBBALAKSHMAMMA
W/O. VENKATESH,
AGED ABOUT 61 YEARS,
R/AT ARASANAHALLI VILLAGE,
NANDI HOBLI,
CHICKBALLAPURA TALUK AND DISTRICT-563 160.

12. SRI. M. GANESH MURTHY
S/O. LATE T. MUNIYAPPA,
AGED ABOUT 75 YEARS,

13. SRI. M. BALARAJU
S/O. LATE T. MUNIYAPPA,
AGED ABOUT 72 YEARS,



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14. SRI. M. LOKESH
S/O. LATE T. MUNIYAPPA,
AGED ABOUT 70 YEARS,

15. SRI. M. NAGARAJ
S/O. LATE T. MUNIYAPPA,
AGED ABOUT 66 YEARS,

SL.NO.12 TO 15 ARE
R/AT NO. L-199, 13TH CROSS,
LAKSHMINARAYANAPURAM,
BENGALURU-560 021.

...RESPONDENTS

(BY SRI PARASHURAM R HATTARAKIHAL, ADVOCATE FOR R1
AND R11;

SMT.SPOORTHI.N, FOR SRI C.SHANKAR REDDY, ADVOCATE
FOR R2;

SRI L.VIJAY KUMAR, ADVOCATE FOR R3 TO R6;

SRI RAMESH P. KULKARNI, ADVOCATE FOR R7 TO R10;

SRI P.D.SURANA, ADVOCATE FOR R12 TO R15)

THIS RSA IS FILED UNDER SECTION 100 OF CIVIL
PROCEDURE CODE, AGAINST THE JUDGMENT AND DECREE
DATED 09.08.2023 PASSED IN RA NO.23/2021 ON THE FILE OF
THE I ADDITIONAL SENIOR CIVIL JUDGE AND JMFC,
CHIKKABALLAPURA, PARTLY ALLOWING THE APPEAL AND
MODIFYING THE JUDGMENT AND DECREE DATED 23.12.2020
PASSED IN O.S.NO.123/2008 ON THE FILE OF THE PRINCIPAL
CIVIL JUDGE AND JMFC, CHICKBALLAPURA.

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



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CORAM: HON'BLE MR. JUSTICE V SRISHANANDA

ORAL JUDGMENT

Heard Sri Ajay N., learned counsel appearing on behalf of Sri Mithun G.A., counsel for the appellant, Sri Ramesh P.Kulkarni, learned counsel for respondent Nos.7 to 10, Sri Parashuram R. Hattarakihal, learned counsel for respondent Nos.1 and 11, Smt. Spoorthi N., learned counsel appearing on behalf of Sri C. Shankar Reddy, counsel for respondent No.2, Sri L. Vijaya Kumar, learned counsel for respondent Nos.3 to 6 and Sri P.D. Surana, learned counsel for respondent Nos.12 to 15.

2. Third Defendant in O.S.No.123/2008 is the appellant in the second appeal challenging the judgment of the First Appellate Court in R.A.No.23/2021, allowing the regular appeal and decreeing the suit in part by modifying the share.

3. Operative portion of the Trial Court judgment and First Appellate Court judgment are culled out hereunder for ready reference.



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Operative portion of the judgment in O.S.No.123/2008:

"The suit of the plaintiff is hereby decreed accordingly.

The plaintiff is entitled for 3/8th share and defendants No.7 and 8 together entitled for 3/8th share, defendant No.2, 4 and defendants No.9 to 12 together are entitled for 1/8th share and defendant No.3 is entitled for half share in suit item No.1 to 3 and 5 to 7.

The suit of plaintiff with respect to suit item No.4 is hereby dismissed.

The parties to this suit shall divide the properties at suit item No.1 to 3, 5 and 6 by metes and bounds by appointing court commissioner under section 54 R/w order 20 Rule 18 of CPC.

The parties to this suit shall divide the properties suit item No.7 by metes and bounds by appointing court commissioner under order 26 Rule 13 of CPC.

Considering the age of suit and also the relationship between the parties no order as to costs.

Draw preliminary decree accordingly."



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Operative portion of the judgment in
R.A.No.23/2021:

*The appeal filed by the appellant/ defendant No.2
U/Sec.96 R/w Order XLI Rule 1 of CPC is allowed in
part.*

*The judgment and decree dated 23.12.2020 in
O.S.No.123/2008 on the file of Prl. Civil Judge & JMFC.,
Chikkaballapura is hereby modified and suit of the
plaintiff is decreed in part as per following terms:*

*1. It is held that plaintiff is entitled to
36/450th share; defendants No.7 and 8 are entitled to
36/450th share each; defendant No.2 is entitled to
18/450th share; defendants No.3 and 4 are entitled to
108/450th share each and defendants No.9 to 12 are
entitled to 108/450th share in 0-26 guntas in
Sy.No.62/4 situated at Arasanahalli Village; 0-28
guntas in Sy.No.62/5 situated at Arasanahalli Village;
0-07 guntas in Sy.No.18/2 of Arasanahalli Village; 0-
00.12 guntas in Sy.No.70/1 situated at Arasanahalli
Village; 0-12 guntas in Sy.No.118 of Kuppahalli Village;
0-01 gunta in Sy.No.121/1 situated at Kuppahalli
Village; 0-15 guntas in Sy.No.121/2 situated at
Kuppahalli Village and Item No.7 of the plaint schedule
property by metes and bounds.*

*2. It is held that the plaintiff and defendants No.3
to 12 are not entitled to share in 0-13 guntas in
Sy.No.62/5, 0-14 guntas in Sy.No.62/1; 0-00.12*



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guntas in Sy.No.70/1 situated at Arasanahalli Village, 0-05 guntas in Sy.No.121/1 and 0-03 guntas in Sy.No.121/2 situated at Kuppahalli Village, 0-24 guntas in Sy.No.118 situated at Kuppahalli village and Item No.6 of the plaint schedule property.

3. The suit of the plaintiff is dismissed in respect of Item No.6 and 0- 24 guntas in Item No.4 of the plaint schedule properties as against the defendant No.14 to 18 and defendant No.12 respectively.

4. The suit of the plaintiff is dismissed in respect of 0-13 guntas in Sy.No.62/5, 0-14 guntas in Sy.No.62/1; 0-00.12 guntas in Sy.No.70/1 situated at Arasanahalli Village, 0-05 guntas in Sy.No.121/1 and 0-03 guntas in Sy.No.121/2 situated at Kuppahalli Village which are allotted towards share of defendant No.2.

5. The parties are directed to bear their own costs.

6. Draw decree accordingly.

7. Office to transmit records of the trial court along with copy of the judgment to the Trial Court forthwith."

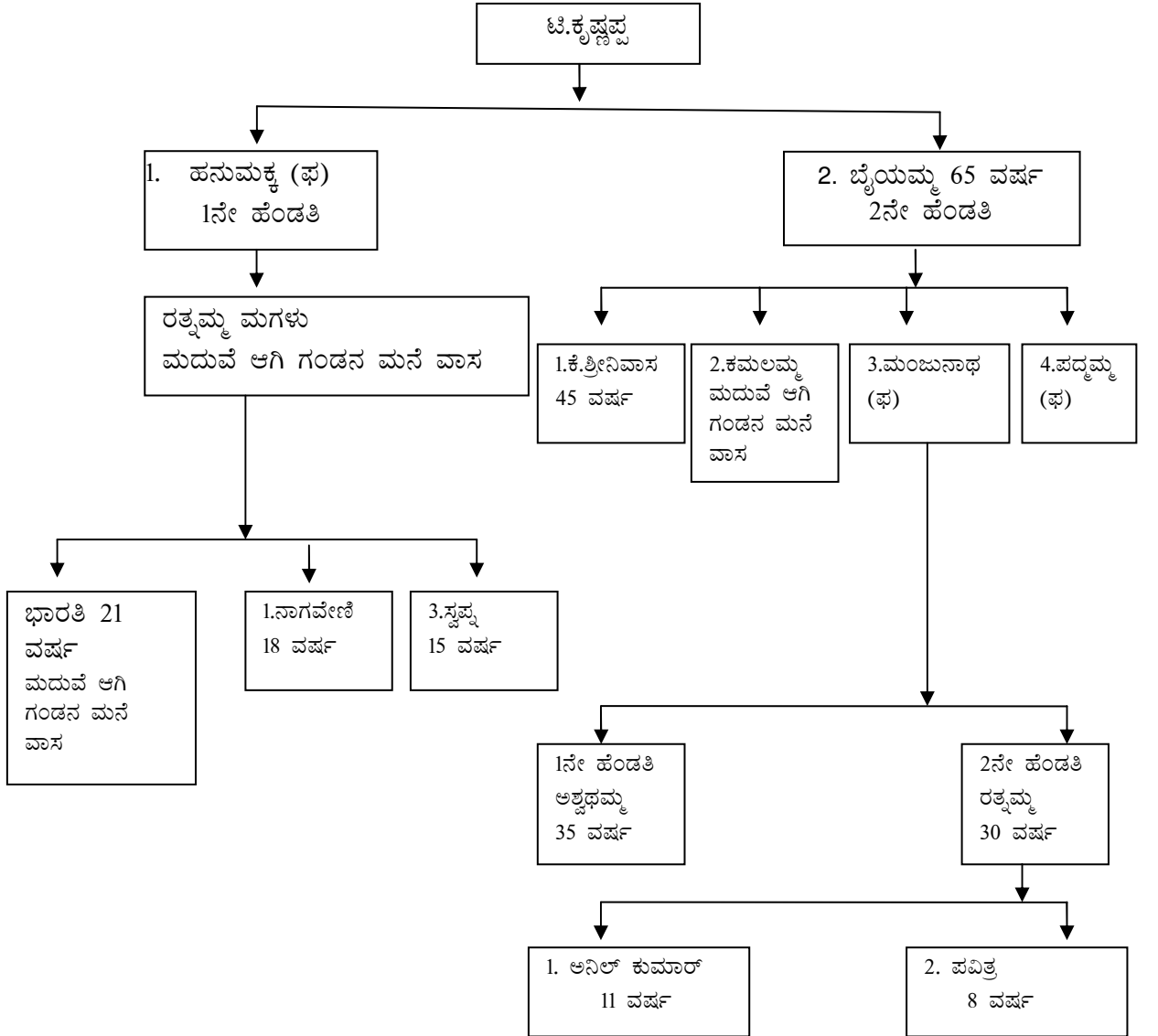
4. Facts which are utmost necessary for disposal of the present appeal are as under:



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5. As per the family genealogical tree that has been placed on record, Common prepositous is Sri Krishnappa. For ready reference, the genealogical tree is culled out hereunder:





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6. Present appellant is the daughter of the first wife of T.Krishnappa namely, Hanumakka. T.Krishnappa had a second wife by name Bayyamma, who had four children. Among the children of T. Krishnappa and Bayyamma, third child namely, K.Manjunatha died. He had two wives namely, Ashwathamma and Ratnamma. Ashwathamma is the plaintiff who has sought for share of Manjunatha. From the second wife Ratnamma, Manjunatha had two children namely, Anilkumar and Pavitra.

7. Plaintiff contended that suit property is the ancestral property of Krishnappa and she being the wife of one of the sons of Krishnappa and second wife Bayyamma is entitled for share in the suit property and the same was refused by the defendants and as such she was constrained to file the suit.

8. Suit on contest came to be decreed as referred to supra.

9. Being aggrieved by the same, it is the second defendant, K. Venkatesha @ Srinivasa who filed the appeal before the First Appellate Court.

10. Admittedly, present appellant was a party respondent in the said appeal as respondent No.4.



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11. Pertinently, the present appellant did not even contest the suit by filing the written statement before the Trial Court. She had adopted written statement filed by K. Venkatesha @ Srinivasa.

12. The present appellant was the respondent No.2 before the First Appellate Court, who neither filed cross appeal or cross objections nor get herself transposed as an appellant to challenge the decree of the Trial Court.

13. In other words, insofar as the present appellant is concerned decree of the trial Court became final.

14. Learned Judge in the First Appellate Court after securing the records, heard the arguments of the parties and on re-appreciation of the material on record, modified the decree of the Trial Court as referred to supra by reducing the share of the plaintiff.

15. Plaintiff has not challenged the order of The First Appellate Court and therefore, insofar as plaintiff is concerned, said judgment has become final.

16. It is the second respondent before the First Appellate Court and third defendant before the Trial Court who



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is now aggrieved by the order of the First Appellate Court and has challenged the same in this second appeal on the following grounds and substantial questions of law.

- *"That, the Judgment and Decree of the Appellate Court setting aside the Judgment and Decree of the Trial Court modifying the half a share allotted in favour of the Appellant/Defendant No.3 is erroneous, illegal and opposed to law, thus, the impugned Judgment and Decree of the Appellate Court is liable to be set aside.*
- *That the Appellate Court has committed a grave illegality by setting aside well reasoned judgment of the Trial Court in interpreting the right/share of the illegitimate children under Sec.16 of the Hindu Marriage Act, 1955 in respect of ancestral or co-parcenary joint family property by granting an equal share to the said illegitimate children i.e., begotten from Smt. Byamma, not being the legally wedded wife, the partition if any between such children and T. Krishnappa is not binding on this Appellant/Defendant no.3 as the illegitimate children do not have any right in the ancestral /co-parcenor joint family property, thus, the finding given at point No.2 to 6 at para No.77, that the said Manjunath i.e., Plaintiff's husband had already effected partition with T. Krishnappa is not binding on this Appellant/Defendant No.3, as rightly observed by the Trial Court which correctly granted half a share being the only surviving legitimate daughter of T. Krishnappa and Hanumakka/legally wedded wife of T. Krishnappa, thus, the*



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appellate Court ought not to have interfered in the findings and order of Trial Court.

- *That the Appellate Court ought to have noted that the said Plaintiff has admitted that the said Byamma was taken by T. Krishnappa during the life time of Smt. Hanumakka, which is forthcoming from her evidence.*
- *That the Appellate Court upon confirming the finding of the trial court that suit schedule properties are joint family properties, but it is erroneous and opposed to Sec.16 of the Hindu Marriage Act read with Sec.6 read with Sec.3(1)(j) of the Hindu Succession Act, which specifically defines, "related by legitimate kinship" by holding at para 74 that, Appellant/Defendant No.3 to Defendant No.12 are joint family members, as the Appellant/Defendant No.3 being the daughter of legally wedded wife Smt. Hanumakka, cannot be related by legitimate kingship with Defendants No.2 to 12 as they have been begotten from Byamma, not being a legally wedded wife of T. Krishnappa.*
- *That by virtue of Sec.3(1)(g) of Hindu Succession Act 1956, illegitimate children are excluded from the definition and explanation, "related by legitimate kinship", thus, Appellant/Defendant No.3 along with her father being the only daughter, is entitled for half a share as per the Hindu Succession Act, 1956, thus, the Defendant No.2 to 12 have no right of being recognized for equal share and further, any partition or division between the deceased Manjunath/husband of Plaintiff and T. Krishnappa if any is not binding on the Appellant/Defendant No.3.*
- *That the Appellate Court has committed a grave illegality by not considering the definition of Sec.3(1)(j) of Hindu*



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Succession Act, 1956, thereby erroneously granting equal share on persons who have been begotten from voidable marriage or such illegal marriage, which is not recognized under law.

- *That, the Appellant/Defendant no.3 is solely entitled for half a share and if any illegitimate children begotten from Smt. Byamma is restricted only to the extent of notional share of T. Krishnappa in respect of his half a share in the suit schedule properties, thus, the judgment and decree of the Appellate Court required to be set aside.*
- *That this Appellant/Defendant No.3 is also entitle for 1/5th share being the notional share out of the half a share of her father T. Krishnappa and the findings or Interference by the Appellate Court in respect of her legitimate share was not warranted, Illegal and liable to be set aside.*
- *That the findings of the Appellate Court is contrary to Sec.3(1)(j) of Hindu Succession Act 1956 read with Sec.6 of the Hindu Succession Act 1956 and Sec.16 of the Hindu Marriage Act.*
- *That the inclusion of the Appellant/Defendant No.3 as part of joint family with illegitimate children is opposed to the law laid down by the Hon'ble Supreme Court, as such illegitimate children are not entitled for any right by birth in the ancestral/co-parcener joint family property and that their right is restricted to the share allotted to the deceased upon a notional partition, if it had taken place by way of survivorship.*
- *That the Appellant/Defendant No.3 being the only surviving coparcenor is entitled to take half a share in the suit schedule properties and alienations if any ought to be*



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restricted to the share of Defendants No.2 to 12 in respect of the share allotted out of notional partition, thus, any alienations or revolution by the illegitimate children or the mutation entry thereupon is not binding on the legitimate children of T. Krishnappa i.e., Appellant/defendant No.3.

- *That the appellate court having failed to note that none of the subsequent purchasers have challenged the judgment and decree of the trial court ought not to have interfered in respect of alienations made by defendant No.2 in respect of half a share of this appellant/defendant No.3.*
- *That this Appellant craves leave of this Hon'ble Court to place any additional grounds during the course of arguments in the above appeal.*
- *If this Hon'ble Court does not allow the above appeal, it will cause prejudice and great hardship to this Defendant/Appellant and her family members."*

Substantial questions of law

- *"Whether the appellate Court committed an illegality in interfering with the Judgment and Decree of the Trial Court by granting equal share to illegitimate children in ancestral joint family property as a co-parcener by birth?*
- *Whether the Appellate Court was right in granting equal share to the illegitimate children by treating them on par with legitimate children in respect of right in ancestral Hindu joint family property who are not 'related by legitimate kinship' as per Sec.3(1)(j) of the Hindu Succession Act, 1956?*



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- *Whether the appellate court committed an illegality by upholding the partition between illegitimate children at the exclusion of legitimate children and holding the same being binding against the legitimate the children i.e., Appellant/Defendant No.3 on alienations made by the illegitimate children?"*

17. Sri Ajay N, learned counsel for the appellant reiterating the grounds urged in the appeal memorandum would contend that the sharing pattern adopted by both the Courts and granting the decree to the daughter-in-law of Second wife of Krishnappa is totally uncalled for and has resulted in miscarriage of justice and sought for admitting the appeal on the aforesaid substantial questions of law.

18. Per contra, all the respondents including the plaintiff would support the judgment of the Trial Court including the appellant before the First Appellate Court.

19. Having heard the arguments of both sides, this Court has noted the fact that the present appellant did not even choose to contest the preliminary decree passed by the Trial Court.



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20. As such, the appellant cannot maintain a second appeal on the modified decree passed by the First Appellate Court.

21. If at all, if anybody is aggrieved by the judgment of the First Appellate Court, it is K.Venkatesh @ Srinivasa who is party/respondent No.1 in the present appeal.

22. Pertinently, he did not choose to challenge the order of the First Appellate Court and he wants to now assail with the plaintiff and remaining respondents, possibly so because of the reduction of the share of the plaintiff by the First Appellate Court.

23. Having regard to the above factual aspects and the present appellant having adopted the written statement of the appellant before the First Appellate Court namely K.Venkatesh @Srinivasa, no independent right is available for the appellant either to challenge the judgment of the First Appellate Court as there was no separate written statement filed by the present appellant before the Trial Court.

24. It is also to be noted that the Ventesh @ Srinivasa in his written statement before the Trial Court did not take a



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contention that plaintiff is not having right over the suit property. Said stand was adopted by appellant herein and no separate written statement was filed.

25. Under such circumstances, this Court does not find merit in any one of the substantial questions of law raised in the appeal memorandum.

26. Consequently, the following:

ORDER

- (i) Admission is declined.
- (ii) Appeal is dismissed.

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

MR
List No.: 1 SI No.: 71