



CNR: KAHC010260992018

NC: 2026:KHC:39898
RSA No. 2525 of 2018

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

REGULAR SECOND APPEAL NO. 2525 OF 2018 (PAR)

BETWEEN:

1. SMT CHIKKAMMA
AGED ABOUT 68 YEARS
W/O LATE SIDDARAJU,
R/AT THONACHANAHALLI
CHELUR HOBLI,
GUBBI TALUK,
TUMKUR DISTRICT.
2. SMT. MAHESHWARI
D/O LATE VIJAY KUMAR,
AGED ABOUT 20 YEARS
R/AT THONACHANAHALLI,
CHELUR HOBLI,
GUBBI TALUK,
TUMKUR DISTRICT.

...APPELLANTS

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signed by
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Location: (BY SRI. M.B. CHANDRACHOODA, ADVOCATE)

HIGH
COURT OF
KARNATAKA

AND:

1. SRI HANUMANTHAIAH
S/O LATE ANJANAPPA,
AGED ABOUT 63 YEARS
R/AT THONACHANAHALLI,
CHELUR HOBLI, GUBBI TALUK,
TUMKUR DISTRICT - 572 216.



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2. SRI.SANJEEVAIAH
AGED ABOUT 61 YEARS
S/O LATE ANJANAPPA,
R/AT MALLASANDRA,
KASBA HOBLI, TUMKUR TALUK,
TUMKUR DISTRICT - 572 101.
3. SRI. CHIKKANNA
S/O LATE ANJANAPPA,
AGED ABOUT 56 YEARS
WORKING AS SECURITY POLICE,
HIGH COURT OF KARNATAKA,
BENGALURU - 560 001.
4. SRI. VIRUPAKSHIAH
S/O LATE ANJANAPPA,
AGED 45 YEARS
R/OF KURIPALYA,
TUMKUR TOWN - 572 101

...RESPONDENTS

(BY SRI. SUNIL KUMAR PATEL, ADVOCATE FOR R1

R2 - SERVED

SRI. NAIK RAMACHANDRA RAMA, ADVOCATE FOR R3

VIDE ORDER DATED 08.07.2026, R4 HAS DIED AND
NO ISSUES)

THIS RSA IS FILED UNDER SECTION 100 OF CPC,
AGAINST THE JUDGMENT AND DECREE DATED 14.09.2018
PASSED IN RA.NO.17/2015 ON THE FILE OF THE SENIOR CIVIL
JUDGE, GUBBI, ALLOWING THE APPEAL AND MODIFYING THE
JUDGMENT AND DECREE DATED 13.03.2015 PASSED IN
O.S.NO.215/2008 ON THE FILE OF THE PRINCIPAL CIVIL
JUDGE AND JMFC, GUBBI.



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

CORAM: HON'BLE MR. JUSTICE V SRISHANANDA

ORAL JUDGMENT

1. Heard Sri.M.B.Chandrachooda, Sri.Sunil Kumar Patel and Sri.Naik Ramachandra Rama, learned counsel appearing for the parties.

2. Though the matter is listed for admission, it is taken up for final disposal in view the judgment of the Hon'ble Apex Court in the case of ***Prakash v. Phulavati*** reported in ***2016 (2) SCC Page 36***.

3. Facts which are utmost necessary for disposal of the present appeal are as under;

A suit for partition came to be filed by the plaintiffs who are the daughter and grand daughter of common prepositus Anjanappa.

4. There is no dispute with regard to the nature of property. It is a joint family property. Anjanappa had a wife by name Lakshmamma and they had six children



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namely Chikkamma, Hanumantaiah, Sanjeevaiah, Chikkanna, Vijaykumar and Virupaksha. Vijaykumar died and the second plaintiff is the daughter of said Vijaykumar. Chikkamma is the first plaintiff. Hanumantaiah is the second defendant in this suit. Sanjeevaiah, Chikkanna and Virupaksha are defendant Nos.3 to 5 in this suit. First defendant is mother - Lakshmamma.

5. The suit, on contest, came to be decreed granting $1/7^{\text{th}}$ share as there was no dispute with regard to the relationship and nature of property.

6. Second defendant filed an appeal before the First Appellate Court in R.A.No.17/2015. Learned Judge in the First Appellate Court following the dictum of the Hon'ble Apex Court in the case of ***Prakash versus Phualavati*** reported in ***2016 (2) SCC Page 36***, allowed the appeal in part by altering the share, holding that there was a notional partition.



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7. Being aggrieved by the same, plaintiffs are before this Court.

8. Sri.M.B.Chandrachooda, learned counsel for the appellant reiterating the grounds urged in the appeal memorandum, would contend that the judgment of the Hon'ble Apex Court in the case of *Prakash Vs. Phulavathi*, *supra* is over-ruled in view of the pronouncement of the judgment in the case of ***Vineeta Sharma vs. Rakesh Sharma*** reported in ***(2020) 9 SCC 1.***

9. *Per contra*, learned counsel for the respondents support the judgment of the First Appellate Court.

10. Having heard the arguments of both sides, for disposal of the appeal, the sole substantial question of law that would arise is; "*whether the judgment of the Hon'ble Apex Court in the case of Vineeta Sharma supra would over-ride the principles of law enunciated in Prakash Vs. Phulavati, supra and thus, judgment of the trial Court needs to be restored by allowing the appeal?*"



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11. It is to be noticed that before the First Appellate Court, suit as was decreed by the Trial Court was modified by following the principles of law enunciated in *Prakash Vs. Phulavathi, Supra*.

12. In view of the judgment of the Hon'ble Apex Court in the case of *Vineeta Sharma*, all other judgments on the question of consideration of amended Section 6 of Hindu Succession Act, 1956 stood impliedly over-ruled.

13. The authoritative principles enunciated in *Vineeta Sharma's* case is called out in Paragraph 129 of the judgment, which reads as under;

"129. Resultantly, we answer the reference as under:

(i) The provisions contained in substituted Section 6 of the Hindu Succession Act, 1956 confer status of coparcener on the daughter born before or after amendment in the same manner as son with same rights and liabilities.

(ii) The rights can be claimed by the daughter born earlier with effect from 9.9.2005 with savings as



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provided in Section 6(1) as to the disposition or alienation, partition or testamentary disposition which had taken place before 20th day of December, 2004.

(iii) Since the right in coparcenary is by birth, it is not necessary that father coparcener should be living as on 9.9.2005.

(iv) The statutory fiction of partition created by proviso to Section 6 of the Hindu Succession Act, 1956 as originally enacted did not bring about the actual partition or disruption of coparcenary. The fiction was only for the purpose of ascertaining share of deceased coparcener when he was survived by a female heir, of Class-1 as specified in the Schedule to the Act of 1956 or male relative of such female. The provisions of the substituted Section 6 are required to be given full effect. Notwithstanding that a preliminary decree has been passed the daughters are to be given share in coparcenary equal to that of a son in pending proceedings for final decree or in an appeal.

(v) In view of the rigor of provisions of Explanation to Section 6(5) of the Act of 1956, a plea of oral partition cannot be accepted as the statutory recognised mode of partition effected by a deed of partition duly registered under the provisions of the



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Registration Act, 1908 or effected by a decree of a court. However, in exceptional cases where plea of oral partition is supported by public documents and partition is finally evinced in the same manner as if it had been affected by a decree of a court, it may be accepted. A plea of partition based on oral evidence alone cannot be accepted and to be rejected outrightly.

12. On careful consideration of the above, the Hon'ble Supreme Court has ruled that daughters would be entitled to share in the property as that of a male coparcener, the judgment of the First Appellate Court needs to be set aside and judgment of the Trial Court needs to be restored.

13. Accordingly, in the case on hand, since there is no dispute as to the relationship and nature of property, the judgment of the First Appellate Court which is impugned in the present appeal needs to be set aside by answering the substantial question of law in favour of the appellant. Consequently, the judgment and decree passed by the Trial Court needs to be restored.



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14. Hence, the following;

ORDER

(i) The appeal is ***allowed***.

(ii) The judgment and decree of the First Appellate Court passed in R.A.No.17/2015 dated 14.09.2018 is *set aside* and judgment of the Trial Court passed in O.S.No.215/2008 dated 13.03.2015 is restored.

Ordered accordingly.

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

GH
List No.: 1 Sl No.: 47