

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 06TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

RSA NO. 1359 OF 2007 (DEC/INJ)

BETWEEN:

1 . SRI KONDAPPA
SINCE DEAD BY LRs

1(A) VENKATALAKSHMAMMA
W/O LATE KONDAPPA
AGED ABOUT 70 YEARS

1(B) K. SRINIVASAIAH
S/O LATE KONDAPPA
AGED ABOUT 57 YEARS

1(C) K. NAGARAJ
S/O LATE KONDAPPA
AGED ABOUT 53 YEARS

1(D) K. MANJUNATH
S/O LATE KONDAPPA
AGED ABOUT 47 YEARS

1(A) TO 1(D) ARE R/AT
MUGALORE VILLAGE
SARJAPURA HOBLI, KUGUR POST
ANEKAL TALUK
BANGALORE URBAN

1(E) SMT. SUJATHA
D/O LATE KONDAPPA
W/O SRI. VENKATACHALAPATHI
AGED ABOUT 50 YEARS

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SACHIN SHANKAR MAGADUM
Verified

R/AT ACHETNAHALLI VILLAGE
NARASAPURA HOBLI,
KOLAR TALUK AND DISTRICT-563 133.

...APPELLANTS

(BY SRI. AKASH .V.T, ADVOCATE FOR A1(A TO D)
SRI. G.A. SRIKANTE GOWDA, ADVOCATE FOR A1(E))

AND:

1. SRI A VASUDEVACHAR
SINCE DECEASED BY HIS LRS
- 1(A) SMT.RADHAMMA
W/O LATE VASUDEVACHAR
AGE MAJOR
- 1(B) V HEMALATHA
D/O LATE VASUDEVACHAR
AGE MAJOR
- 1(C) ROOPASHREE
D/O LATE VASUDEVACHAR
AGE MAJOR
- 1(D) SARASAVANI
D/O LATE VASUDEVACHAR
AGE MAJOR
- 1(E) PANKAJA
D/O LATE VASUDEVACHAR
AGE MAJOR
- 1(F) A B SOUNDARYALAKSHMI
D/O LATE VASUDEVACHAR
AGE MAJOR
- 1(G) SUMA
D/O LATE VASUDEVACHAR
AGE MAJOR

1(H) INDUMATHI
D/O LATE VASUDEVACHAR
AGE MAJOR

1(I) M V VANKATESH
S/O LATE VASUDEVACHAR
AGE MAJOR

ALL ARE R/AT ANJANEYASWAMY TEMPLE
MULBAGAL, KOLAR DISTRICT

2. RAJAPPA
S/O LATE CHIKKAYELLAPPA
AGE MAJOR
R/O SARJAPURA, ANEKAL TALUK – 562106.

3. MUNISWAMAPPA
S/O SANDOOR ACHHAPPA
MAJOR
R/AT MUGALUR, ANEKAL TALUK
BANGALORE RURAL DIST – 562106.

...RESPONDENTS

(BY SRI. T.M. VENKATA REDDY AND SRI. LAXMANA, ADVOCATE
FOR C/R2;

R1(A TO C), R1(F), R1(H), R1(I) ARE SERVED;
R3 SERVED;

V/O DATED 02.08.2013, NOTICE TO R1(D), R1(E AND G) ARE
HELD SUFFICIENT)

THIS RSA IS FILED U/S. 100 OF CPC AGAINST THE
JUDGEMENT & DECREE DATED 08.02.2007 PASSED IN R.A.NO
57/2003 ON THE FILE OF THE DISTRICT AND SESSIONS JUDGE &
PRESIDING OFFICER, FTC-V, BANGALORE RURAL DISTRICT,
BANGALORE, ALLOWING THE APPEAL AND SETTING ASIDE THE
JUDGEMENT AND DECREE DATED 14.01.2003 PASSED IN OS
431/93 ON THE FILE OF THE ADDL. CIVIL JUDGE (JR.DN), & JMFC,
ANEKAL, DISMISSING THE SUIT FOR DECLARATION AND
PERMANENT INJUNCTION.

THIS RSA HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 10.09.2026, THIS DAY JUDGMENT WAS PRONOUNCED THEREIN, AS UNDER:

CORAM: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

C.A.V JUDGMENT

The captioned second appeal is filed by the original defendant No.1-Kondappa, calling in question the judgment and decree passed by the learned Appellate Court, whereby the suit of the plaintiff came to be decreed by reversing the judgment and decree of the Trial Court, which had dismissed the suit on the ground that the plaintiff was not in lawful possession of the suit schedule property.

2. Pending consideration of the present second appeal, the original defendant-Kondappa died and his legal heirs have been brought on record. The legal heirs have filed a memo seeking permission to withdraw the present second appeal, except appellant No.1(e), who seeks liberty to prosecute the partition suit instituted by her and pending in O.S.No.117/2022 on the file of the learned Senior Civil Judge, Anekal.

3. Since appellant No.1(e) seeks liberty to pursue the said partition proceedings in respect of the properties which include the granted land bearing Sy.No.186, this Court has considered it necessary to examine the nature and identity of the land claimed by the original defendant–Kondappa. It is the specific case of the defendants that an extent of 2 acres was granted in favour of Kondappa in Sy.No.160 and that, pursuant to subsequent hissa proceedings, the said extent came to be assigned Sy.No.186, measuring 2 acres, whereas the original Sy.No.160 comprised a much larger extent of land, measuring more than 40 acres.

4. In order to ensure that the legal heirs of the original defendant do not, under the guise of pursuing the partition proceedings, reopen or relitigate the question of title and possession in respect of the land admittedly belonging to the plaintiff, this Court has carefully examined the order passed by this Court in W.P.No.6841/2010. In the said writ proceedings, the present original defendant–Kondappa was

arrayed as respondent No.5. It would be apposite to extract paragraphs 10 and 11 of the said order, which read as under:

"10. Having regard to the submissions made at the Bar, this Court is of the considered opinion that at any rate, the land granted originally in favour of Sri Vasudevachar which was later sold in favour of the petitioner herein could not have been cancelled by the Assistant Commissioner. Therefore, the impugned orders dated 03.09.2009 passed by the Special Deputy Commissioner in second appeal No.324/2008-09 and the earlier order passed by the Assistant Commissioner on 13.02.2009 in R.A.(A) No.116/2008-09 are hereby quashed and set aside. Consequently, the appeal filed at the hands of the petitioner herein before the Assistant Commissioner in R.A.(A) No.116/2008-09 is allowed, while quashing the order dated 27.02.2006 passed by the Tahsildar granting the land in question regularizing it in favour of Sri Kondappa.

11. However, in terms of the status report at Annexure 'R24' which was filed by the Tahsildar, Anekal Taluk, in consequence of the order dated 08.03.2016 passed in W.P.No.841/2010, which has been produced along with the statement of objections filed at the hands of respondent No.5, wherein the Tahsildar has opined that both the lands are quite different, separate as well as distinct, the fifth respondent is permitted to pursue their remedy before the Tahsildar, Anekal Taluk, to identify the said separate land not being the land belonging to the petitioner herein and reconsider the application for regularisation filed by the late

Kondappa and pass orders in accordance with law. The said exercise shall be completed as expeditiously as possible and at any rate, within a period of six months from the date of receipt of a copy of this order."

5. On perusal of the above extracted paragraphs, it is evident that the writ Court, upon consideration of the records, has recorded a categorical finding that the grant in favour of the plaintiff's predecessor was intact and, consequently, his title stood established. The writ Court further noticed that the subsequent sale deed executed by the original grantee, namely Vesudevachar. At the same time, respondent No.5-Kondappa was reserved liberty to approach the jurisdictional Tahsildar for identification of the land allegedly granted in his favour and to pursue such remedy before the Tahsildar, Anekal Taluk. The writ Court thus made it clear that respondent No.5 was required to identify his separate granted land and could not lay claim over the land belonging to plaintiff who traces his title through grant order.

6. In view of the aforesaid finding recorded by this Court in the writ proceedings, there is no impediment in

reserving liberty to appellant No.1(e) to prosecute the partition suit in O.S.No.117/2022 and to work out her legitimate rights therein, including in respect of the property described as Item No.2 in the plaint. However, the right of appellant No.1(e) to seek partition in respect of the said granted land shall necessarily be subject to her first securing appropriate orders from the jurisdictional Tahsildar, Anekal Taluk, identifying the land actually granted in favour of her father-Kondappa. Such proceedings shall be pursued strictly in accordance with the observations and directions contained in paragraph 11 of the order passed in W.P.No.6841/2010. It is further clarified that the liberty reserved herein shall not enable appellant No.1(e) or any other legal heir of Kondappa to reopen, question or lay claim over the land which has been held to belong to the plaintiff.

7. Accordingly, the memo filed by the legal heirs of the original defendant-Kondappa is accepted insofar as the withdrawal of the present second appeal is concerned. The second appeal is disposed of, reserving liberty to appellant

No.1(e) to prosecute the pending partition suit in O.S.No.117/2022 on the file of the learned Senior Civil Judge, Anekal, subject to the following clarification: insofar as the claim relating to the granted land is concerned, appellant No.1(e) shall first obtain appropriate orders from the Tahsildar, Anekal Taluk, identifying the land granted in favour of her father-Kondappa, strictly in accordance with the observations contained in paragraph 11 of the order passed in W.P.No.6841/2010. The liberty so reserved shall not extend to reopening or asserting any claim over the land belonging to the plaintiff, as identified and protected under the aforesaid order.

8. With the above observations and clarification, the second appeal stands ***disposed of***.

Pending interlocutory applications, if any, stand disposed of.

Digitally Signed By:
SACHIN SHANKAR MAGADUM
Verified

(SACHIN SHANKAR MAGADUM)
JUDGE

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