



CNR: KAHC010356542006

NC: 2026:KHC:51828
RSA No. 1904 of 2006

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

REGULAR SECOND APPEAL NO. 1904 OF 2006 (DEC/INJ)

BETWEEN:

1. BHEEMAKKA
W/O HULIYAPPA
AGED ABOUT 55 YEARS
2. DAKSHAYANI
AGED ABOUT 31 YEARS
3. RAMACHANDRA
AGED ABOUT 29 YEARS
SINCE DEAD BY LRs
- 3(A) SMT. NIRMALA
AGED ABOUT 35 YEARS
W/O LATE SRI. RAMACHANDRA
- 3(B) MS. RAJASHREE
AGED ABOUT 14 YEARS
D/O LATE SRI. RAMACHANDRA
- 3(C) SRI. RATHNA KUMAR
AGED ABOUT 12 YEARS

3(B) AND 3(C) ARE MINORS
REP. BY THEIR MOTHER
APPELLANT NO. 3(A)
SMT. NIRMALA

ALLA RE R/AT KORATAGERE TALUK
KALLUGUTTARAHALLI, AGRAHARA POST
TUMKUR-572 101.

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4. VIJAYAKUMAR
AGED ABOUT 25 YEARS

ALL ARE RESIDING AT KALLUGUTTARAHALLI
C.N.DURGA HOBLI, KORATAGERE TALUK
TUMKUR DISTRICT-572129

...APPELLANTS

(BY SRI. A. SAMPATH, ADVOCATE)

AND:

1. LAKSHMAKKA
W/O RAMAIAH
SINCE DEAD, REP BY LRs ALREADY
ON RECORD
2. SIDDARAMAIAH
S/O KARIYANNA
SINCE DEAD, REP BY HIS LRs R3 TO R6
3. RAMACHANDRAIAH
S/O SIDDARAMAIAH
4. SIDDARAJU
S/O SIDDARAMAIAH
5. PUTTAMMA
S/O SIDDARAMAIAH
6. SIDDAMMA
D/O SIDDARAMAIAH

ALL ARE RESIDENT OF VEERALAGUNDI
PAVAGADA TALUK, C.N.DURGA HOBLI
KORATAGERE TALUK
TUMKUR DISTRICT, TUMKUR-572129.

7. SMT RANGAMMA
W/O SANJEEVAIAH

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MAJOR
RESIDENT OF ASWATHANARAYA ROPPA
MADAKASIRA TALUK
ANANATHAPUR DISTRICT (A.P)

8. CHENNIGARAMAKKA
W/O GOPALAPPA
MAJOR
R/O AMARAVATHI, KASABA
MADHUGIRI TALUK-572 128.
9. SIDDAGANGAMMA
W/O CHIKKARAMAIAHMAJOR,
MAJOR
R/O MUDDARAMAIAHNAVALYA
TUMKUR TALUK-572 129.
10. SRI RAMAIAH
SON OF LATE RAMAIAH
AGED ABOUT 50 YEARS
K.E.B LINEMAN
R/O KALLUGUTTARAHALLI
KORATAGERE TALUK-572129
SINCE DEAD BY LRS
- 10(A) SUMITHRA
AGED ABOUT 45 YEARS
D/O LATE RAMAIAH
R/AT SUBEDARPALYA, CHIKKATOTHUKERE POST
KORA HOBLI, TUMKUR DIST.-572 101.
- 10(B) RAMAKKA
AGED ABOUT 40 YEARS
W/O DODDAIAH
R/AT NAVILKURKE, AGRAHARA POST
D.N. DURGA HOBLI, KORATAGERE TALUK
TUMKUR DIST.-572 101.
- 10(C) NAGARATHNA
AGED ABOUT 38 YEARS

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W/O NARASIMHARAJU
R/AT JAMPENAHALLI, AGRAHARA POST
C.N. DURGA HOBLI, KORATAGERE TALUK
TUMKUR-572 101.

10(D) MAHALAKSHMI
AGED ABOUT 35 YEARS
W/O DODDAIAH
R/AT BENDONE MALEKAV POST
C.N. DURGA HOBLI, KORATAGERE TALUK
TUMKUR-572 101.

10(E) MANJUNATH
AGED ABOUT 28 YEARS
S/O LATE SRI. RAMAIAH
R/AT JAMPENAHALLI, AGRAHARA POST
D.N. DURGA HOBLI, KORATAGERE TALUK
TUMKUR-572 101.

11 SRI. KUMUTESH .T.C
S/O CHIKKARAMAIAH T.M
AGED ABOUT 62 YEARS

12. SMT. SOUNDARYA T.K
D/O KUMUTESH T.C.
W/O KIRAN .N
AGED ABOUT 30 YEARS

BOTH ARE R/AT APOORVA
BANASHANKARI 2ND STAGE
KUMTAIAH LAYOUT, TUMKUR-572 102.

13. SRI. V.M. VENKATAREDDY
S/O SRI. V. MUDDAPPA
AGED ABOUT 56 YEARS
R/AT NO.55, 3RD CROSS, 2ND MAIN ROAD
CHBS LAYOUT, VIJAYANAGARA
BENGALURU-560 040.



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14. SRI. GOUTHAM .M
S/O SRI. G.V. MANJUNATH
AGED ABOUT 35 YEARS
R/AT NO.24, 9TH A CROSS
RANGADASAPPA LAYOUT
AUDUGODI POST, BENGALURU-560 030.

...RESPONDENTS

(BY SRI. N. SUBBA SHASTRY, ADVOCATE FOR R1;
SRI. P.M. SIDDAMALLAPPA, ADVOCATE FOR R10(A TO E);
SRI. KISHAN .G.S, ADVOCATE FOR PROPOSED
IMPLEADING R11 AND R12;
R3, R4, R5, R6, R7, R8, R9 ARE SERVED AND
UNREPRESENTED;
V/O DATED 18.03.2016 R3 TO R6 ARE TREATED AS LRs OF
DECEASED R2;
V/O DATED 14.10.2025 APPEAL AGAINST R1 ABATED;
SRI. C.R. RAGHAVENDRA REDDY, ADVOCATE FOR
PROPOSED IMPLEADING R13 AND R14)

THIS RSA IS FILED U/S 100 CPC AGAINST THE
JUDGMENT AND DECREE DATED 15.4.2006 PASSED IN
RA.NO.80/2004 (OLD RA.NO.76/95) ON THE FILE OF THE III
ADDL.DISTRICT JUDGE, TUMKUR, DISMISSING THE APPEAL
AND CONFIRMING THE JUDGMENT AND DECREE
DATED 26.6.1995 PASSED IN OS.NO. 141/1989 ON THE FILE
OF THE MUNSIFF & JMFC, KORATAGERE.

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

CORAM: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM



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ORAL JUDGMENT

The captioned second appeal is by defendant No.2/Bheemakka and her children questioning the concurrent judgments of the Courts below.

2. For the sake of brevity, parties are referred to as per their rank before the trial Court.

3. The facts leading to the case are as under:

The plaintiffs, namely, Smt. Balakka and her daughter Smt. Lakshmakka, instituted the suit seeking a declaration that they are the absolute owners of the suit schedule properties and for consequential relief of permanent injunction. The plaintiffs specifically disputed the relationship claimed by the original defendant with the family and, on the premise that the plaintiffs have exclusive right, title and interest over the suit schedule properties, sought for a decree as prayed for.

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4. The original defendant, Huliappa, who is the husband of plaintiff No.2-Balakka, entered appearance and filed his written statement, stoutly denying the plaint averments. He contended that he had acquired right, title and interest in the suit schedule properties along with his wife, plaintiff No.2-Balakka, through his father-in-law Chikkaramaiah, pursuant to the testamentary disposition made by Chikkaramaiah under a Will dated 10.11.1947. In the alternative, the original defendant contended that he had perfected his title to the suit schedule properties by way of adverse possession. On these grounds, he sought for dismissal of the suit.

5. During the pendency of the suit, the original defendant-Huliappa died. His legal representatives were accordingly brought on record and the proceedings were continued against them.

6. The parties went to trial and adduced both oral and documentary evidence in support of their respective



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claims. Upon appreciation of the evidence on record, the learned Trial Court decreed the suit and declared plaintiff No.2-Balakka to be the absolute owner of the suit schedule properties. Aggrieved by the said judgment and decree, the legal representatives of the original defendant-Huliyappa preferred an appeal before the learned Lower Appellate Court in R.A.No.80/2004. The learned Lower Appellate Court, upon re-appreciation of the material on record, dismissed the appeal and affirmed the judgment and decree passed by the Trial Court.

The concurrent findings recorded by the Courts below are assailed by the legal representatives of the original defendant in the present second appeal.

7. This Court, by order dated 19.06.2023, admitted the appeal for consideration of the following substantial questions of law:



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“(I) Whether the trial Court and the first appellate Court were justified in granting decree of declaration of title in respect of suit schedule properties only in favour of plaintiff No.2-Balakka when it is held that she is the co-owner along with her sister Ramakka and Huliappa son of Ramaiah and grandson of Chennigappa?

(II) Whether the Courts below erred in appreciating the correct relationship between the parties?”

8. Heard the learned counsel appearing for the legal representatives of the original defendant, the learned counsel appearing for the subsequent purchasers claiming through the original plaintiffs, namely, Balakka and Lakshmakka, and the learned counsel appearing for the impleading applicants.



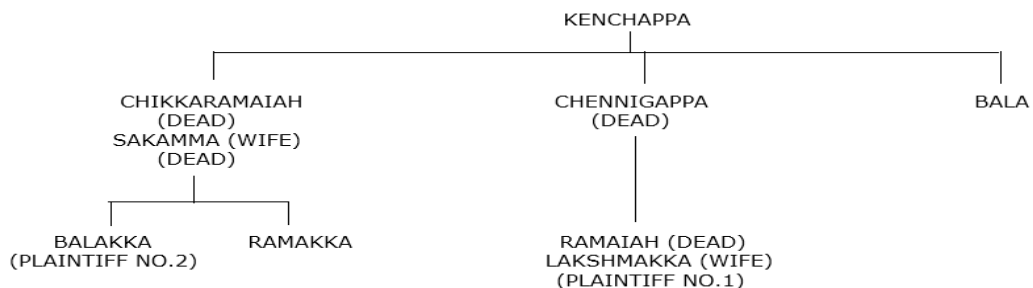
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Findings of substantial questions of law (I) and (II)

9. Before advertng to the substantial questions of law framed for consideration, it would be appropriate to first notice the pleadings of the parties. The plaint, as presented, is extremely cryptic and contains only skeletal averments in support of the claim. For a proper appreciation of the controversy involved in the present appeal, it is necessary to extract the relevant pleadings. Accordingly, paragraphs 2 and 3 of the plaint, which are germane to the controversy, are extracted hereinbelow:

"2. Schedule property belongs to the plaintiffs. They having got it through their respective fathers and in turn they inherited the property. A pedigree table is given hereunder to show the correct position of the parties.



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3. The defendant has nothing to do with the property in question. Still he has been causing annoyance and harassment to the plaintiffs. Hence this suit."

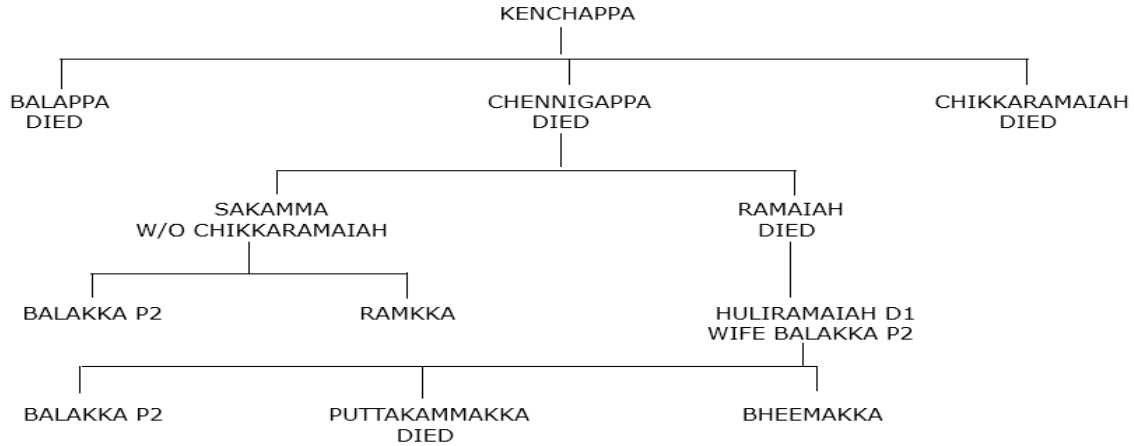
10. On perusal of the genealogy furnished by the plaintiffs, it is forthcoming that one Kenchappa is the common propositus and that he had three sons, namely, Chikkaramaiah, Chennigappa and Bala. Plaintiff No.2-Balakka and one Ramakka are the daughters of Chikkaramaiah through his wife Sakamma. The second wife of the original defendant, namely, Bheemakka, has also furnished, along with the written statement, a genealogy tracing the lineage of the family of Kenchappa. In view of the rival genealogies placed on record and having regard to the controversy involved in the present appeal, it would be apposite to extract the genealogy furnished by the original defendant, which is reproduced hereinbelow:

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A comparison of the genealogy furnished by the defendant with that relied upon by the plaintiffs gives rise to certain inconsistencies which require to be noticed. In the genealogy furnished by defendant No.2-Sakamma, the person shown as Sakamma in the plaintiffs' genealogy, described therein as the wife of the elder son Chikkaramaiah, is shown as the daughter of Chennigappa, the second son of Kenchappa. Likewise, Ramaiah, who is shown in the plaintiffs' genealogy as the son of Chennigappa, is also shown as the son of Chennigappa in the genealogy produced by the defendants. The genealogy, however, assumes greater significance and



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becomes somewhat complicated when the original defendant-Huliyappa is shown as the son of Ramaiah.

11. The impleading applicants, who claim title through the original plaintiffs, namely, Balakka and Lakshmakka, have consistently and emphatically contended that the original defendant-Huliyappa was merely the son-in-law of Chikkaramaiah and, therefore, had no blood relationship or other right in the family of the propositus-Kenchappa. According to the impleading applicants, Huliyappa could not claim any right, title or interest in the suit schedule properties merely by virtue of his relationship as the son-in-law of Chikkaramaiah.

12. In the backdrop of the aforesaid rival contentions, it becomes necessary to examine the stand taken by the original defendant himself in his written statement. His specific pleadings assume considerable significance, particularly in determining the nature of his relationship with the family of Kenchappa and the basis on



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which he claimed right and interest in the suit schedule properties. In this regard, paragraphs 6 and 7 of the written statement filed by the original defendant are relevant and are extracted hereinbelow:

"6. This defendant submits that the suit schedule properties and some other properties were the properties of Chikkaramaiah, the father-in-law of this defendant and the father of the 2nd plaintiff, the 2nd plaintiff and the defendant being the wife and husband, who bequeathed the same in favour of the 2nd plaintiff and this defendant under a Will dated: 10-11-1947 in the presence of the witnesses mentioned therein, who have attested the same. The said Chikkaramaiah had executed the said Will, which was his last will, in sound and disposing state of mind and on his free will and volition. After the death of the Chikkaramaiah, the Testator the Will came into force and this defendant became the owner in possession and enjoyment of the suit schedule properties and the other properties mentioned in the said Will. Due to strained relationship and misunderstandings, which was irreconcilable the 2nd plaintiff withdrew from the Society of this defendant and abandoned her right to the extent of her half share in the suit items 1 and 2 and the land in Sy.No.119 of Bukkapatna Since 15 years, which she got under the aforesaid Will and since she did not recover the

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possession of her half share in the said properties from the possession of this defendant, the plaintiff's right if any, is extinguished and thereby this defendant, who has been in uninterrupted possession and enjoyment of the plaintiffs' half share in the said properties, has perfected his title thereto by adverse possession and became the owner thereof. The defendant's possession and enjoyment was much against the interest of one and all and against the plaintiffs. Thus, he had exercised his right of ownership for over 12 years. Thus, the defendant has become the owner in possession and enjoyment of the suit schedule items 1 and 2 to the full extent and to the half extent of suit item No.3 which is a house and to the full extent of the land in Sy.No.119 situated at Bukkapatna. However the 2nd plaintiff is in possession of the 3rd item of the suit property on the northern half portion and the defendant being in possession of the southern half portion by putting partition wall. However another property bequeathed under the said Will i.e. Sy.No.205 of Bukkapatna remained in the joint possession and cultivation of Plain-tiff No.2 and this defendant. Sreeramiah the son-in-law of this defendant is cultivating the said item on behalf of plaintiff No.2 along with this defendant, for which a separate suit will be filed.

7. Alternatively this defendant submits that he has also perfected his title to the remaining half extent in all the suit schedule properties by the Law of adverse possession. Thus, he is the owner in possession of the



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*entire Items. 1 and 2 and the half extent in suit Item
No.3."*

(emphasis supplied)

On a careful reading of the opening portion of paragraph 6 of the written statement, it is evident that the original defendant-Huliyappa alias Huli Ramaiah has candidly admitted that the suit schedule properties originally belonged to his father-in-law Chikkaramaiah, who is the father of plaintiff No.2-Balakka. The original defendant further asserted that he, along with plaintiff No.2, who is his wife, succeeded to the suit schedule properties under a Will dated 10.11.1947. Having set up a testamentary disposition as the source of his alleged right and title, the original defendant was required to establish the execution and contents of the said Will. However, the Will dated 10.11.1947 has not been produced before the Court.

13. At this juncture, it is also necessary to notice the genealogy subsequently furnished by defendant No.2-



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Bheemakka, the second wife of the original defendant. The said genealogy does not accord with the specific stand taken by the original defendant in his written statement. On the contrary, an attempt appears to have been made, by placing Huliyappa in the genealogy as the son of Ramaiah and grandson of Chennigappa, to project him as a descendant of Kenchappa and, consequently, as a member of the family of the propositus. This stands in direct contrast to the specific pleading of the original defendant in paragraph 6 of his written statement, wherein he unequivocally traced his alleged right to the suit schedule properties through his father-in-law Chikkaramaiah under the Will dated 10.11.1947.

14. Though the genealogy relied upon by the defendants came to be furnished after the death of the original defendant-Huliyappa by his second wife-Bheemakka, the same cannot displace or override the categorical admission made by Huliyappa in his written

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statement. The original defendant, who was himself the contesting party and was alive when the written statement was filed, consciously set up a specific source of title and claimed to have derived his right through his father-in-law Chikkaramaiah. Significantly, he did not assert that he was a descendant of Kenchappa or that he had an independent right in the suit schedule properties as a member of Kenchappa's family.

15. The consequence of the aforesaid pleading is significant. Having founded his claim on the Will dated 10.11.1947, the original defendant was required to establish the testamentary disposition in accordance with law. However, no such Will has been produced or proved. Both the Courts below, upon appreciation of the oral and documentary evidence on record, have concurrently held that the original defendant failed to establish his alleged title under the testamentary disposition. The alternative



plea of adverse possession has also been concurrently negated by both the Courts below.

16. Therefore, the genealogy subsequently furnished by defendant No.2-Bheemakka, projecting Huliappa as the son of Ramaiah and grandson of Chennigappa, cannot be read in isolation or treated as displacing the specific admission contained in the written statement filed by Huliappa himself. The substantial question of law, insofar as it proceeds on the basis of the said genealogy, therefore, has to be examined in the context of the admitted position emerging from the pleadings of the original defendant. The genealogy relied upon by the legal representatives cannot be permitted to run contrary to the categorical stand taken by their predecessor-in-interest during his lifetime.

17. It is also material that the concurrent findings recorded by the Courts below are founded upon appreciation of the evidence led by the parties. The Courts



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below have found that the original defendant failed to establish title either under the alleged Will dated 10.11.1947 or by way of adverse possession. These findings are further fortified by the fact that the original defendant himself traced his alleged right and title through his father-in-law Chikkaramaiah and did not independently assert any right as a member of the family of the propositus-Kenchappa.

18. In view of the aforesaid discussion, this Court finds that the substantial questions of law, insofar as they proceed on the basis of the genealogy furnished by defendant No.2 and seek to project the original defendant-Huliyappa as a descendant of Kenchappa, cannot be answered in favour of the appellants. The said genealogy is inconsistent with the specific pleading of the original defendant and does not dislodge the concurrent findings recorded by the Courts below. Accordingly, the substantial question of law (I) is answered in the ***affirmative*** and

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against the legal representatives of the original defendant-Huliyappa and the substantial question of law (II) is answered in the **negative** and against the legal representatives of original defendant.

19. For the foregoing reasons, no ground is made out for interference with the concurrent judgment and decree passed by the Courts below. The second appeal is accordingly **dismissed**.

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(SACHIN SHANKAR MAGADUM)
JUDGE

ALB
List No.: 3 Sl No.: 2