



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 1ST DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE E.S.INDIRESH

REGULAR SECOND APPEAL NO.1549 OF 2017 (PAR)

C/W

REGULAR SECOND APPEAL NO.2081 OF 2015

IN RSA No. 1549/2017

BETWEEN:

SMT. LAKSHMAMMA
D/O. GANGANNA,
(SINCE DECEASED REPRESENTED BY LRS)

1. SRI. LAKSHMINARASIAH
HUSBAND OF LAKSHMAMMA,
S/O LATE DODDANARASIMHAIAH
AGED ABOUT 70 YEARS.
2. SRI. RAVIKUMAR
S/O LAKSHMINARASIAH & LAKSHMAMMA,
AGED ABOUT 42 YEARS
3. SMT. MANJAMMA
D/O LAKSHMINARASIAH & LAKSHMAMMA
AGED ABOUT 25 YEARS
4. SRI. LAKSHMINARAYANA
S/O LAKSHMINARASIAH & LAKSHMAMMA
AGED ABOUT 23 YEARS

ALL ARE R/AT
TUBUGUNTE VILLAGE,
KOLIGERE POST,



NC: 2026:KHC:17864
RSA No. 1549 of 2017
C/W RSA No. 2081 of 2015

DODDABALLAPUR - 561 204.

...APPELLANTS

(BY SRI. SHIVARAMU H.C., ADVOCATE)

AND:

1. SRI. LAKSHMAIAH
S/O. GANGANNA
AGED ABOUT 66 YEARS
R/AT TUBUGUNTE VILLAGE,
KOLIGERE POST,
DODDABALLAPUR TALUK -561 204.

...RESPONDENT

(BY SRI. ABHINAV R., ADVOCATE)

THIS REGULAR SECOND APPEAL IS FILED UNDER SECTION 100 OF CODE OF CIVIL PROCEDURE, AGAINST THE JUDGMENT AND DECREE DATED 12.06.2017 PASSED IN R.A. NO. 74/2007 ON THE FILE OF THE IV ADDITIONAL DISTRICT AND SESSIONS JUDGE, DODDABALLAPURA, PARTLY ALLOWING THE APPEAL AND PARTLY MODIFYING THE JUDGMENT AND DECREE DATED 12.10.2007 PASSED IN O.S. NO. 113/2005 ON THE FILE OF THE PRINCIPAL CIVIL JUDGE(JR. DVN) AND JMFC, DODDABALLAPURA.

IN RSA NO. 2081/2015

BETWEEN:

1. SRI. LAKSHMAIAH
S/O GANGANNA,
AGED ABOUT 50 YEARS,



NC: 2026:KHC:17864
RSA No. 1549 of 2017
C/W RSA No. 2081 of 2015

R/O THUBUNKUNTE,
KOLIGERE POST,
DODDABELAVANGALA HOBLI,
DODDABALLAPUR TALUK-561203.

...APPELLANT

(BY SRI. ABHINAV R., ADVOCATE)

AND:

1. SRI. LAKSHMINARASIAH
HUSBAND OF LATE LAKSHMAMMA
AGED ABOUT 71 YEARS,
2. SRI. RAVIKUMAR
S/O LATE LAKSHMAMMA
AGED ABOUT 43 YEARS,
3. SMT. MANJAMMA
D/O LATE LAKSHMAMMA
AGED ABOUT 39 YEARS,
4. SRI. LAKSHMINARAYANA
S/O LATE LAKSHMAMMA
AGED ABOUT 23 YEARS,

ALL ARE RESIDENTS OF
THUBUNKUNTE VILLAGE,
DODDABELAVANGALA HOBLI,
DODDABALLAPUR TALUK-561203.

...RESPONDENTS

(BY SRI. SHIVARAMU H.C., ADVOCATE)

THIS REGULAR SECOND APPEAL IS FILED UNDER
SECTION 100 OF CODE OF CIVIL PROCEDURE, AGAINST



THE JUDGMENT AND DECREE DATED 02.07.2014 PASSED IN R.A. NO.76/2007 ON THE FILE OF THE IV ADDL. DISTRICT AND SESSIONS JUDGE, DODDABALLAPUR, BENGALURU RURAL DISTRICT ALLOWING THE APPEAL AND SETTING ASIDE THE JUDGMENT AND DECREE DATED 12.10.2007 PASSED IN O.S. NO.113/2005 ON THE FILE OF THE PRL. CIVIL JUDGE (JR.DVN) AND JMFC., DODDABALLAPURA.

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

CORAM: HON'BLE MR. JUSTICE E.S.INDIRESH

ORAL JUDGMENT

1. RSA No.1549/2017 is filed by the plaintiff challenging the Judgment and Decree dated 12.06.2017 passed in R.A.No.74/2007 on the file of the IV Addl. Dist. and Sessions Judge at Doddaballapura, allowing the appeal in part and modifying the Judgment and Decree dated 12.10.2007 in O.S.No.113/2005 on the file of the Principal Civil Judge and JMFC, Doddaballapura, decreeing the suit of the plaintiff, in part.



2. RSA No.2081/2015 is filed by the defendant challenging the Judgment and Decree dated 02.07.2014 passed in R.A.No.76/2007 on the file of the IV Addl. Dist. and Sessions Judge at Doddaballapura, Bengaluru Rural District, Bengaluru, allowing the appeal in part and modifying the Judgment and Decree dated 12.10.2007 in O.S.No.113/2005 on the file of the Principal Civil Judge and JMFC, Doddaballapura, decreeing the suit of the plaintiff in part.

3. For the sake of convenience, the parties in this appeal shall be referred to in terms of their status and ranking before the Trial Court.

4. The plaint averments are that, the plaintiff and defendant are the children of Ganganna and Hanumakka. The father of the plaintiff and defendant - Ganganna acquired the schedule properties along with his brothers. Item Nos.1 to 4 are the properties fallen to the share of the father of the plaintiff and defendant. Item Nos.5 to 8 have been acquired by the father of the plaintiff and



defendant, during his life time. It is the case of the plaintiff that, father of the plaintiff has retained his daughter (plaintiff) and son-in-law in his house. It is the case of the plaintiff that, the husband of the plaintiff has contributed towards the improvement of the suit schedule properties. It is the grievance of the plaintiff that she demanded partition in the suit schedule properties, however, the same was denied by the defendant and as such, the plaintiff has preferred O.S.No.113/2005 before the Trial Court, seeking the relief of partition and separate possession in respect of the suit schedule properties.

5. After service of summons, defendant entered appearance and has filed written statement denying the plaint averments and further contended that, the plaintiff is the elder sister of the defendant and she got married about 38 years back and was residing with her husband in the same Village. It is the case of the defendant that, the plaintiff and defendant are residing separately and therefore, sought for dismissal of the suit.



6. On the basis of the rival pleadings, the Trial Court has formulated the issues for its consideration. In order to establish her case, plaintiff examined three witnesses as P.W.1 to P.W.3 and produced 33 documents which were got marked as Exs.P1 to P33. On the other hand, the defendant has examined four witnesses as D.W.1 to D.W.4 and produced 19 documents which were marked as Exs.D1 to D19.

7. The Trial Court, after considering the material on record, by its Judgment and Decree dated 12.10.2007, decreed the suit of the plaintiff in part and being aggrieved by the same, the plaintiff has preferred Regular Appeal in R.A.No.76/2007 and the defendant has preferred R.A.No.74/2007 on the file of First Appellate Court. The First Appellate Court, after re-appreciating the facts on record in R.A.No.74/2007, by its Judgment and Decree dated 12.06.2007, allowed the appeal in part. The First Appellate Court in R.A.No.76/2007, allowed the appeal in part by Judgment and Decree dated 02.07.2014. Being



aggrieved by the Judgment and Decree passed by the Courts below, the plaintiff has preferred RSA No.1549/2017 and the defendant has preferred RSA No.2081/2015 before this Court.

8. This Court, vide order dated 31.01.2026, formulated the following substantial questions of law:

" 1. Whether the First Appellate Court was justified in passing the impugned order without passing any order on the application filed by the legal representatives of deceased plaintiff?

*2. Whether the appellants prove that the Judgment and Decree passed by the First Appellate Court is against a dead person and is contrary to the proposition of law laid down by the Hon'ble Apex Court in the case of **Vikram Bhalchandra Ghongade Vs. The State of Maharashtra and Others** reported in **2025 SCC OnLine SC 2360**?"*



9. I have heard the learned counsel appearing for the parties and perused the records.

10. On careful perusal of the findings recorded by both the Courts below, wherein, two Regular Appeals are preferred by both the plaintiff and defendant against the Judgment and Decree passed by the Trial Court in O.S.No.113/2005. It is also to be noted that, the modification of the shares of the parties in respect of the suit schedule properties differ in the Judgment and Decree passed by the Courts below. Therefore, I am of the view that, it is a fit case to remand the appeals preferred by the parties to the First Appellate Court for fresh consideration. Accordingly, the substantial question of law is answered as to remand the matter to the First Appellate Court for fresh consideration.

11. In the result, I pass the following:

ORDER

(i) The Appeals are allowed.



NC: 2026:KHC:17864
RSA No. 1549 of 2017
C/W RSA No. 2081 of 2015

(ii) The Judgment and Decree dated 12.06.2017 passed in R.A.No.74/2007 on the file of the IV Addl. Dist. and Sessions Judge at Doddaballapura and the Judgment and Decree dated 02.07.2014 passed in R.A.No.76/2007 on the file of the IV Addl. Dist. and Sessions Judge at Doddaballapura, Bengaluru Rural District, Bengaluru are hereby set aside, and the matter is remitted to the First Appellate Court for fresh consideration by clubbing both the appeals together and to pass appropriate orders in accordance with law.

(iii) Since the parties have appeared through their learned counsel, parties are directed to appear before the IV Addl. Dist. and Sessions Judge at Doddaballapura, Bengaluru Rural District, Bengaluru, on 03.06.2026 at 11.00 a.m., without waiting for further notice from the Court.

Sd/-
(E.S.INDIRESH)
JUDGE

sac
List No.: 1 Sl No.: 57