



CNR: KAHC010508492025

NC: 2026:KHC:39673
RP No. 318 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE H.P.SANDESH

REVIEW PETITION NO.318 OF 2025

IN

R.S.A.No.844/2024 (PAR)

BETWEEN:

1. SMT. SHYLAJA
W/O LATE SRIDHARA
AGED ABOUT 51 YEARS
2. PAWAN @ PAVAN SAGAR S.,
S/O LATE SRIDHARA
AGED ABOUT 30 YEARS
3. SMT. POOJA
D/O LATE SRIDHARA
AGED ABOUT 27 YEARS

Digitally signed
by DEVIKA M
Location: HIGH
COURT OF
KARNATAKA

ALL ARE RESIDING BEHIND D.C. COMPOUND
NEAR MANDARA SCHOOL, BASAVANAGUDI
SHIVAMOGGA CITY-577201.

...PETITIONERS

(BY SRI. A.V.GANGADHARAPPA, ADVOCATE)

AND:

1. SMT. SUVARNA
W/O MANJAPPA,
AGED ABOUT 56 YEARS,
HOUSEHOLD WORK
RESIDENT OF BEDARA HOSAHALLI,



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BULLAPURA POST,
SHIVAMOGGA TALUK AND DISTRICT-577216.

SMT. SUSHEELAMMA
W/O LATE THIMMAPPA,
REPRESENTED BY LEGAL REPRESENTATIVES

2. SMT. CHANDRAMATHI
W/O SREENIVASA,
D/O THIMMAPPA,
AGED ABOUT 49 YEARS,
PRESENTLY RESIDING AT NO.129,
11TH MAIN ROAD, BNCC LAYOUT
CHANDRA LAYOUT,
BENGALURU-560040.
3. SMT. VASUMATHI
W/O ASHOK,
D/O LATE THIMMAPPA,
AGED ABOUT 47 YEARS,
PRESENTLY RESIDENT OF
C/O SRI RENUKA NILAYA,
HOUSE NO.44, 1ST CROSS,
DOMINIC LAYOUT,
BACK SIDE OF SAIBABA TEMPLE,
SEEGEHALLI, SHITE CITY, K.R. PURAM,
BENGALURU 560049.
4. SMT. RAMYA
W/O PRAVEEN,
D/O LATE THIMMAPPA,
AGED ABOUT 34 YEARS,
PRESENTLY RESIDING AT ROOM NO.1,
FIRE OFFICE, OPPOSITE TO Z.P.
CHIKKAMAGALURU-577101.
5. MISS. RASHMI
D/O LATE THIMMAPPA,
AGED ABOUT 34 YEARS,
PRESENTLY RESIDENT OF KASHIPURA,



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RANGANATHASWAMY TEMPLE ROAD,
KALLAHALLI, NEAR TANK BUND,
SHIVAMOGGA CITY-577204.

6. SMT. RANJITHA
W/O CHIRANJEEVI,
D/O LATE THIMMAPPA,
AGED ABOUT 33 YEARS,
PRESENTLY RESIDING AT NO.953,
DEVAPRIYA, 8TH MAIN ROAD,
NAGALINGESHWARA TEMPLE ROAD,
THONACHIKOPPALU LAYOUT
MYSORE-570009.
7. MANJUNATHA
S/O LATE THIMMAPPA,
AGED ABOUT 30 YEARS,
RESIDENT OF KASHIPURA,
RANGANATHASWAMY TEMPLE ROAD,
KALLAHALLI, NEAR TANK BUND,
SHIVAMOGGA CITY-577204.

...RESPONDENTS

(BY SRI. P.N.HARISH, ADVOCATE FOR R1;
NOTICE TO R2 AND R6 H/S V/O DT.10.07.2026;
R3, R4, R5 AND R7 ARE SERVED AND UNREPRESENTED)

THIS REVIEW PETITION IS FILED UNDER ORDER 47 RULE 1 OF CPC 1908, PRAYING TO REVIEW THE JUDGMENT DATED 18.06.2025, PASSED IN RSA No.844/2024 AND CONSEQUENTLY ALLOW THE APPEAL AS PRAYED FOR IN THE RSA, IN THE INTEREST OF JUSTICE AND ETC.

THIS PETITION COMING ON FOR ADMISSION THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE H.P.SANDESH



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ORAL ORDER

This petition is filed to review the order dated 18.06.2025 passed in R.S.A.No.844/2024.

2. The grounds urged before this Court in this review petition is that impugned judgment and decree passed in RSA No.844/2024 suffers from errors apparent on the face of record inasmuch as the Hon'ble Court has failed to notice that the succession opened on the death of Hulugappa survived by son and daughters. If the notional partition is construed immediately to death, the son will get half share and additional half share as successor to the estate of the deceased Hulugappa. As such, the impugned judgment and decree is liable to be set reviewed. The other ground urged before this Court is that the Court has failed to notice that Hulugappa died on 28.10.1992 as a member of the undivided Hindu coparcenary leaving behind him, his only son as sole surviving coparcener. Since daughters had married much prior to his death, the plaintiff and second defendant cannot be construed as coparceners, making them entitled to share in the suit property. Hence, the suit should have been dismissed. The other ground



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urged before this Court is that this Court has failed to notice that Hulugappa, his wife and son, for legal necessity and for benefit of the family, have sold some portions of the property to meet the marriage expenses of the plaintiff and second defendant. As such, said sales are binding on plaintiff and second defendant. Therefore, they cannot seek their share in the remaining property of the family. This aspect of the matter has not been taken into consideration while passing the impugned judgment and decree. Hence, this Court has to review the order passed by this Court.

3. The counsel appearing for the respondents in this argument would vehemently contend that this argument is canvassed for the first time and no such pleading was made before the Trial Court and also before the First Appellate Court. That too, after disposal of this second appeal, the counsel for the petitioner contending that there are errors apparent on the face of record and the same is not found.

4. Having considered the submission of the learned counsel appearing for the respective parties, it discloses that the main ground urged before this Court is that if a notional



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partition is construed immediately prior to death, the son will get half share and additional share as successor to the estate of the deceased Hulugappa. Hence, the judgment and decree is liable to be reviewed. The counsel for the petitioners also brought to the notice of this Court that father died on 28.10.1992. Since, daughters are married much prior to his death, the plaintiff and second defendant cannot be construed as co-parceners. This argument is that only if a notional partition is construed immediately prior to death, the said proposition is put forth in this review petition. But this Court while considering the appeal taken note of the material available on record and also the reasons and grounds urged in the second appeal. In paragraph 6 of the judgment, this Court taken note of the fact that marriage was taken place in the year 1979 and also 1985 for the plaintiff and second defendant and even though defence was taken that the property was sold for the marriage of both the daughters, both the Courts not accepted the contention and fact finding was given by both the Courts that same cannot be accepted and only comes to the conclusion that in respect of the remaining properties are



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concerned, they are entitled for the share of the said property. Thus, not touched upon with regard to the sale earlier made. When the property has been sold for family necessities, it is binding on all sharers. Hence, there cannot be a ground to say that in respect of other properties, the co-parceners have no right to claim the share. Also taken note of that the property was sold subsequent to the marriage of the daughters and hence, equal share has been given in the remaining properties which are available in the family for the partition. This Court also taken note that they are entitled for 1/3rd share and given the same and also taken note of the death of the father in the year 1992 and the mother in the year 1993 and the same is also not in dispute. This Court while disposing of the appeal also taken note of the reasoning of the Trial Court as well as the First Appellate Court as there was no partition till filing the suit. Hence, the ground urged in this petition cannot be entertained to review the order only on the ground that if it were notional partition immediately after the death of the father. When such being the case, now the grounds urged before this Court for review the judgment contending that this



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Court committed an error apparent of record cannot be accepted as there is no such error. Hence, I do not find any grounds to entertain this review petition.

5. The counsel for the petitioners also relied upon the judgment of the Apex Court reported in **(2020) 9 SCC 1** in the case of **VINEETA SHARMA vs RAKESH SHARMA AND OTHERS** and also brought to notice of this Court paragraph 137.4 wherein the Apex Court held that the statutory fiction of partition created by the 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 I as specified in the Schedule to the 1956 Act are 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.



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6. The counsel relying upon this judgment would vehemently contend that not disputing that daughters are entitled for share but they are entitled only in the share of the father who died in the year 1992 but not as 1/3rd share, they are entitled for the share of 1/8th i.e., out of the share of their father.

7. Having taken note of this contention raised in this review petition, when the suit was filed for the relief of partition as there was no partition even subsequent to the death of their father and mother, when they claim for 1/3rd share in the property and even the counsel now contend before the Court that if it is a notional partition immediately after the death of the father in the year 1992 and also mother died in the year 1993 only to that extent they are entitled. That argument cannot be accepted for the reason that there was no such any partition even subsequent to the death of the father in the year 1992 and mother in the year 1993. As on the date of filing of the suit, property remains as co-parcenary property and the suit was filed in the year 2020. When such being the case, the arguments put forth by the review petitioners cannot be



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accepted and even considering the paragraph 137.4 of the judgment referred supra also, the judgment passed by this Court cannot be reviewed as there is no error.

**Sd/-
(H.P.SANDESH)
JUDGE**

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