



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 05TH DAY OF MARCH, 2026

BEFORE

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

REGULAR SECOND APPEAL NO.1514 OF 2016 (PAR)

BETWEEN:

1. GANGADHARA POOJARY
S/O VANAJA POOJARTHI,
AGED ABOUT 49 YEARS.
 2. KALPANA POOJARTHY
D/O VANAJA POOJARTHI,
AGED ABOUT 47 YEARS.
 3. SHRIKANTH POOJARY
S/O VANAJA POOJARTHI,
AGED ABOUT 44 YEARS.
 4. RAMANI POOJARTHY
D/O VANAJA POOJARTHI,
AGED ABOUT 34 YEARS.
- ALL ARE RESIDING AT:
NEAR BRAHMASTHANA,
HEJAMADI VILLAGE AND POST,
UDUPI TALUK,
UDUPI DISTRICT - 576 201.

...APPELLANTS

(BY SRI. K. PRASANNA SHETTY, ADVOCATE)

AND:

1. SANJEEVA POOJARY
S/O DOOMA POOJARY,
AGED ABOUT 67 YEARS,
R/AT PADMA NILAYA,
PADUKERE, HEJAMADY,
UDUPI TALUK,
UDUPI DISTRICT - 576 201.



2. MONAPPA
AGED ABOUT 62 YEARS.
3. JAYA
AGED ABOUT 60 YEARS.
4. INDIRA
AGED ABOUT 55 YEARS.
5. GEETHA
AGED ABOUT 53 YEARS.
6. CHANDRA
AGED ABOUT 50 YEARS.
7. PANDU
AGED ABOUT 47 YEARS.
8. VASANTHI
AGED ABOUT 44 YEARS.

RESPONDENTS 2 TO 8 ARE
CHILDREN OF LATE JANAMMA POOJARY,
R/AT HEJAMADY VILLAGE AND POST,
UDUPI TALUK,
UDUPI DISTRICT - 576 201.

9. KARGI POOJARTHI
AGED ABOUT 64 YEARS.
10. RAMA POOJARY
AGED ABOUT 44 YEARS.
11. SHANKARA POOJARY
AGED ABOUT 42 YEARS.
12. KALU POOJARY
AGED ABOUT 40 YEARS.
13. MEENAKSHI POOJARTHI
AGED ABOUT 37 YEARS.



14. SHEKARA POOJARY
AGED ABOUT 34 YEARS.
RESPONDENT NO.9 IS WIFE AND
RESPONDENTS 10 TO 14 ARE THE
CHILDREN OF LATE VASU POOJRY,
R/AT HEJAMADY VILLAGE AND POST,
UDUPI TALUK,
UDUPI DISTRICT - 576 201.
15. GIRIJA POOJARTHY
D/O LATE AKKU POOJARTHI
AGED ABOUT 74 YEARS,
R/AT HEJAMADY VILLAGE AND POST,
UDUPI TALUK,
UDUPI DISTRICT - 576 201.
16. SUNDARI
AGED ABOUT 64 YEARS.
17. SHELA
AGED ABOUT 42 YEARS.
18. HARISHA
AGED ABOUT 40 YEARS.
19. SULOCHANA
AGED ABOUT 38 YEARS.
20. HARINI
AGED ABOUT 36 YEARS.
21. PRAMEELA
AGED ABOUT 34 YEARS.
22. SANTHOSH
AGED ABOUT 29 YEARS.
23. RAJESH
AGED ABOUT 26 YEARS.

RESPONDENTS 16 TO 23 ARE
CHILDREN OF LATE BHOJA POOJARY,



R/AT HEJAMADY VILLAGE AND POST,
UDUPI TALUK,
UDUPI DISTRICT - 576 201.

24. MADHAVA POOJARY
AGED ABOUT 70 YEARS.

25. LAXMI POOJARTHI
AGED ABOUT 64 YEARS.

RESPONDENTS 24 AND 25 ARE
CHILDREN OF LATE AKKU POOJARTHI,
R/AT HEJAMADI VILLAGE AND POST,
UDUPI TALUK,
UDUPI DISTRICT - 576 201.

26. RADHU POOJARTHI
AGED ABOUT 74 YEARS.

27. BHASKARA POOJARY
AGED ABOUT 52 YEARS.

28. NALINI POOJARTHI
AGED ABOUT 51 YEARS.

RESPONDENTS 26 TO 27 ARE
R/AT HEJAMADI VILLAGE AND POST,
UDUPI TALUK,
UDUPI DISTRICT - 576 201

29. SEETHA
AGE: MAJOR.

30. DIVYA
AGE: MAJOR.

31. DEEPTHI
AGE: MAJOR.

32. DEEKSHA
AGE: MAJOR.



RESPONDENT NO.29 IS THE
WIFE AND RESPONDENTS 30 TO 32
ARE CHILDREN OF LATE VAMANA POOJARY,
R/AT HEJAMADY VILLAGE AND POST,
UDUPI TALUK,
UDUPI DISTRICT - 576 201.

33. SUMATHI POOJARTHI
AGED ABOUT 47 YEARS.

34. JAGANNATHA POOJARY
AGED ABOUT 45 YEARS.

35. VENKATESH POOJARY
AGED ABOUT 43 YEARS.

RESPONDENTS 33 TO 35 ARE
CHILDREN OF LATE MUDANNA POOJARY,
R/AT HEJAMADI VILLAGE AND POST,
UDUPI TALUK,
UDUPI DISTRICT - 576 201

36. H. DAMODARA BANGERA
S/O GOPALA P. AMIN,
AGED ABOUT 55 YEARS,
R/AT NITYANANDA SADANA,
HEJAMADY VILLAGE AND POST,
UDUPI TALUK,
UDUPI DISTRICT - 576 201.

37. THEJAPPAL SUVARNA
AGED ABOUT 45 YEARS,
R/AT NALINI BHAVAN,
HEJAMADY VILLAGE AND POST,
UDUPI TALUK,
UDUPI DISTRICT 576 201.

...RESPONDENTS

(BY SRI. VYASA RAO K.S., ADVOCATE FOR
R9, R10, R12, R13, R36 AND R37;
V/O DATED 24.01.2024, APPEAL AGAINST R1, R11, R15
AND R26 TO R29 ABATES;
R15 TO R24 AND R30 TO R34-SERVED AND UNREPRESENTED;



V/O DATED 31.01.2026, NOTICE TO R2 TO R8, R25 AND R35
IS HELD SUFFICIENT;
V/O DATED 06.02.2026, SERVICE OF NOTICE TO R14 IS
DISPENSED WITH)

THIS REGULAR SECOND APPEAL IS FILED UNDER
SECTION 100 OF THE CODE OF CIVIL PROCEDURE, AGAINST
THE JUDGMENT AND DECREE DATED 21ST APRIL, 2016 PASSED
IN REGULAR APPEAL NO.81 OF 2012 ON THE FILE OF
PRINCIPAL SENIOR CIVIL JUDGE, UDUPI, DISMISSING THE
APPEAL AND CONFIRMING AND THE JUDGMENT AND DECREE
DATED 17TH AUGUST, 2012 PASSED IN ORIGINAL SUIT NO.187
OF 2001 ON THE FILE THE PRINCIPAL CIVIL JUDGE AND JMFC.,
UDUPI.

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

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

ORAL JUDGMENT

This appeal is preferred by the plaintiffs challenging the
judgment and decree dated 21st April, 2016 passed in Regular
Appeal No.81 of 2012 on the file of the Principal Senior Civil
Judge, Udupi (for short, hereinafter referred to as '*First
Appellate Court*'), dismissing the appeal and confirming the
judgment and decree dated 17th August, 2012 passed in
Original Suit No.187 of 2001 on the file of the Principal Civil
Judge and JMFC., Udupi (for short, hereinafter referred to as
'*Trial Court*'), wherein the suit of plaintiffs came to be
dismissed.



2. For the sake of convenience, the parties in this appeal are referred to as per their ranking before the Trial Court.

3. The relevant facts for adjudication of this appeal are that the Plaint 'A' Schedule Property is the Chalageni of Dooma Poojary and his sister Akku Poojarthi. The said Dooma Poojari had children namely Sanjeeva Poojari and Vanaja Poojarthi. Dooma Poojari and Akku Poojarthi are no more. Defendants 2 to 7 are the children of the said Akku Poojarthi and plaintiffs are the children of Vanaja Poojarthi.

4. It is the case of plaintiffs that the suit schedule properties are in cultivation of the children of Dooma Poojari during the life time of Dooma Poojari and his sister Akku Poojarthi and the children of Akku Poojarthi have colluded with each other to grab the schedule property. The defendant No.3- Vasu Poojari filed application before the competent authority seeking occupancy right and accordingly, the Land Tribunal, Udupi by its order dated 05th July, 1979 registered the defendants 1 and 3 as occupants of the plaint schedule properties. It is also stated that the plaintiffs, being the



children of Vanaja Poojarthi are members of undivided family to which schedule properties were granted by the Land Tribunal and therefore, made a claim for share in the suit schedule properties and same was refused by the defendants. It is also contended that the defendants have sold the portion of the suit schedule property in favour of defendants 15 and 16 and therefore, the plaintiffs filed the instant suit, seeking relief of declaration and partition in respect of the suit schedule properties.

5. After service of summons, defendants entered appearance. The defendant No.3 has filed detailed written statement admitting the relationship with the plaintiffs however, disputes that the suit schedule properties are the joint family properties of Dooma Poojari and Akku Poojarthi. The remaining defendants adopt the written statement filed by the defendant No.3.

6. The Trial Court, based on the pleadings on recorded, formulated issues for its consideration.

7. In order to establish their case, plaintiffs examined 2 witness as PW1 and PW2 and got marked 10 documents as



Exhibits P1 to P10. On the other hand, defendants examined 1 witness as DW1 and got marked 19 documents as Exhibits D1 to D19.

8. The Trial Court, after considering the material on record, by its judgment and decree dated 17th August, 2012, dismissed the suit. Being aggrieved by the same, plaintiffs preferred Regular Appeal No.81 of 2012 before the First Appellate Court. The First Appellate Court, after re-appreciating the material on record, dismissed the appeal and confirmed the judgment and decree passed by the Trial Court. Being aggrieved by the same, plaintiffs preferred the present appeal.

9. Heard Sri. K. Prasanna Shetty, learned counsel appearing for appellants and Sri. Vyasa Rao K.S., learned counsel appearing for respondents 9, 10, 12, 13, 36 and 37.

10. Sri. K. Prasanna Shetty, learned counsel appearing for appellants contended that the suit schedule properties are granted to the joint family consisting of Dooma Poojari and his sister Akku Poojarthi and therefore, the plaintiffs have share in the suit schedule properties. It is also argued that, both the



Courts below committed an error in appreciating the oral evidence of the parties and solely based on Form No.7 filed by defendant No.3-Vasu Poojari, arrived at a conclusion that the suit schedule properties are the exclusive properties of children of Akku Poojarthi, which is erroneous finding. Therefore, sought for interference of this Court.

11. Per contra, learned counsel appearing for respondents sought to justify the impugned judgment and decree passed by the Courts below.

12. In the light of submission made by learned counsel appearing for the parties, it is the case of plaintiffs that the suit schedule properties are the joint family properties of Dooma Poojari and his sister Akku Poojarthi. On the other hand, defendants claiming that the suit schedule properties are the granted land in favour of the children of Akku Poojarthi.

13. On careful consideration of Exhibit D2-Form No.7 filed by the defendant No.3-Vasu Poojari, seeking grant of suit schedule property and Exhibit D1-Partition Deed, the same is evidencing the partition effected between the branch of Dooma Poojari and Akku Poojarthi, wherein *one-half* portion each was



granted to the members of the joint family of Dooma Poojari and Akku Poojarthi. It is not in dispute that, Form No.10 (Exhibit D3) stands in the name of the defendant No.3-Vasu Poojari. Perusal of the finding recorded by the Trial Court would indicate that, nothing is stated in Form No.7 or in the order of the Land Tribunal (Exhibit D19) about the grant of the suit schedule property is made in favour of the joint family consisting of Dooma Poojary. It is also to be noted that the plaintiffs are the children of Vanaja Poojarthi. If the contention of the plaintiffs is accepted as the suit schedule property is the joint family property, however, no claim has been made by the brother of Vanaja Poojarthi viz. Sanjeeva Poojari, which makes it clear that the finding recorded by both the Courts below is just and proper. Therefore, the entire material on record has been appreciated by the Trial Court and the First Appellate Court, after re-appreciating the evidence on record and as such, rightly confirmed the judgment and decree passed by the Trial Court, dismissing the suit. Therefore, as there is no perversity in the judgment and decree passed by the Courts below, the appeal requires to be dismissed as the appellants have not made out a case for formulation of substantial



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question of law as required under Section 100 of the Code of Civil Procedure. Accordingly, at the stage of Admission itself, Regular Second Appeal is ***dismissed***.

**SD/-
(E.S. INDIRESH)
JUDGE**

ARK
List No.: 1 Sl No.: 54