



CNR: KAHC010538062013

NC: 2026:KHC:36416
RSA No. 1874 of 2013

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 15TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE ASHOK S.KINAGI

REGULAR SECOND APPEAL NO. 1874 OF 2013

(DEC/INJ)

BETWEEN:

1. MUNIRAJU
S/O MUNIHANUMIAH,
AGED ABOUT 38 YEARS,
R/O KANASAWADI VILLAGE,
MADHURE HOBLI,
DODDABALLAPURA TALUK,
BANGALORE RURAL DISTRICT-561 203
2. RAGHAVENDRA
S/O MUNIHANUMIAH,
AGED ABOUT 35 YEARS,
R/O KANASAWADI VILLAGE,
MADHURE HOBLI,
DODDABALLAPURA TALUK,
BANGALORE RURAL DISTRICT-561 203

...APPELLANTS

(BY SRI. GANGADHARAPPA A V., &
SRI. G RAVISHANKAR, ADVOCATES)

AND:

1. SMT HANUMANANARASAMMA
W/O LATE VENKATANARASIMHAIAH,
SINCE DEAD REP. BY HER LEGAL REPRESENTATIVES

Digitally signed
by KIRAN
KUMAR R.
Location: HIGH
COURT OF
KARNATAKA



NC: 2026:KHC:36416
RSA No. 1874 of 2013

CNR: KAHC010538062013

- 1(A) DASEGOWDA
S/O LATE VANKATANARASIMHAIAH
AGED ABOUT 70 YEARS
R/AT BACHCHENAHATTI VILLAGE (POST)
MAGADI TALUK
RAMANAGARA DISTRICT – 562 120
- 1(B) SMT. LAKSHMAMMA
W/O LATE NARASIMHARAJU
AGED ABOUT 53 YEARS
- 1(C) MISS NALINA
D/O LATE NARASIMHARAJU
AGED ABOUT 27 YEARS
- 1(B) AND 1(C) ARE R/AT
ARASINAKUNTE VILLAGE
KASABA HOBLI
NELAMANGALA TALUK
BANGALORE RURAL DISTRICT-562 123
- 1(D) SMT. LAVANYA
W/O SANDEEP
AGED ABOUT 30 YEARS
R/AT No.31, 3RD CROSS, MUNESHWARA LAYOUT
ATTURU VILLAGE (POST)
YALAHANKA HOBLI
BANGALORE DISTRICT – 560 064
- 1(E) SMT. SIDDAMMA
W/O RAMESH
D/O LATE VENKATANARASIMHAIAH
AGED ABOUT 55 YEARS
NANDARAMAYYANAPALYA
NAGARURU VILLAGE
ARASINAKUNTE POST
DASANAPURA HOBLI
NELAMANGALA TALUK
BANGALORE RURAL DISTRICT – 562 123



NC: 2026:KHC:36416
RSA No. 1874 of 2013

CNR: KAHC010538062013

2. SMT. V LAKSHMAMMA
W/O LATE UDAYAKUMAR
D/O LATE VENKATANARASIMHAIAH
AGED ABOUT 40 YEARS
R/AT No.3/3, 10TH CROSS
MAGADI ROAD
BANGLAORE – 560 023.

...RESPONDENTS

(BY SRI. VEERABHADRA SWAMY H P., ADVOCATE FOR R1
SRI. M.S. NARAYANA RAO, ADVOCATE FOR R1 & R2
SRI. HANUMANTHARAYAPPA, ADVOCATE FOR R1 & R2
SRI. MANJUNATH R P, M/S LEGAL INK FOR R1(A-E))

THIS RSA IS FILED UNDER SEC.100 OF CPC., AGAINST
THE JUDGMENT AND DECREE DATED 1.8.2013 PASSED IN
R.A.NO.35/2011 ON THE FILE OF THE IV ADDL. DISTRICT &
SESSIONS JUDGE, DODDABALLAPUR, BANGALORE RURAL
DISTRICT, BANGALORE, DISMISSING THE APPEAL AND
CONFIRMING THE JUDGMENT AND DECREE DATED 27.11.2010
PASSED IN O.S.NO.103/2002 ON THE FILE OF THE SENIOR
CIVIL JUDGE & JMFC., DODDABALLAPUR.

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



**NC: 2026:KHC:36416
RSA No. 1874 of 2013**

CORAM: HON'BLE MR. JUSTICE ASHOK S.KINAGI

ORAL JUDGMENT

This Regular Second Appeal is filed by the appellants challenging the judgment and decree dated 01.08.2013 passed in RA No.35/2011 by the Court of learned IV Additional District and Sessions Court, Doddaballapur, Bangalore Rural District, Bangalore.

2. For convenience, the parties are referred to based on their rankings before the Trial Court. The appellants were the plaintiffs and deceased respondent No.1 was the defendant.

3. Brief facts leading rise to the filing of this appeal are as follows:

3.1. The plaintiffs filed a suit for declaration of title and permanent injunction restraining the defendant from interfering with the possession and enjoyment of the suit schedule property. It is the case of the plaintiffs that they



NC: 2026:KHC:36416
RSA No. 1874 of 2013

CNR: KAHC010538062013

are the absolute owners of the suit schedule property having got the same by virtue of registered Will dated 15.03.1982 executed by their grandfather by name Muniyappa in favour of the plaintiffs with respect to the suit schedule property and other five properties. The said Muniyappa made one Munihanumanthaiah i.e., the natural father of the plaintiffs as their guardian in the above said Will as the plaintiffs were then minors. Muniyappa was died on 28.03.1982 and after his death, the guardian i.e., natural father of the plaintiffs continued in the possession and enjoyment of the suit land. The defendant residing with her husband at Bachanahatti village and she has no right, title or interest over the suit land. The defendant with her supporters who are enimical to the plaintiffs making attempts to create false documents in her favour and got her name in the suit land in collusion with local revenue authorities. Muniyappa has cancelled the settlement deed by executing registered cancellation deed dated 15.03.1982 and thereafter, the said Muniyappa has



CNR: KAHC010538062013

executed registered Will in favour of the plaintiffs. It is contended that the plaintiffs have stated about the revenue proceedings and so also the writ petition filed before this Court and same came to be dismissed with liberty to the parties to file civil suits for appropriate reliefs. Pursuant to the liberty granted by this Court, the plaintiffs filed a suit. It is further contended that one Chikkarudraiah filed a suit in O.S.No.85/1982 on the file of Munsiff and JMFC, Doddaballapur against the defendant and father of the plaintiffs on the basis of agreement of sale and the said suit was dismissed on 04.06.1987. The judgment passed in the said suit has attended the finality. It is contended that the plaintiffs are the lawful owners and in possession and enjoyment of the suit schedule property. Hence, a cause of action arose for the plaintiffs to file a suit for declaration.

3.2. The defendant filed a written statement denying the averments made in the plaint and contended that the



NC: 2026:KHC:36416
RSA No. 1874 of 2013

CNR: KAHC010538062013

suit filed by the plaintiffs is not maintainable. It is denied that the plaintiffs are the owners of the suit schedule property. There is no cause of action to file the suit. The cause of action shown in the plaint are false and imaginary. It is contended that the defendant is the owner of half portion of the suit schedule property and she is in possession and enjoyment of the same. The said property given to her share by way of registered settlement deed dated 24.07.1957 and the plaintiffs have no manner of right, title or interest over the suit land and the question of executing the Will does not arise. The defendant also contended that after looking to the documents and giving opportunity to the parties, the revenue authorities have changed the mutation entries. It is denied that Muniyappa had cancelled the settlement deed and executed the registered Will dated 15.03.1982 in favour of the plaintiff. Hence, prays to dismiss the suit.



CNR: KAHC010538062013

3.3. The Trial Court, based on the rival pleadings of the parties, framed the following issues:

- "1) *Whether plaintiffs prove their title over the suit schedule property by virtue of the Will dated 15.03.1982?*
- 2) *Whether plaintiffs further prove they are defendant created passed document in her favour and got entered her name in the mutation register?*
- 3) *Whether plaintiffs further prove that they are in lawful possession of schedule property as on the date of suit?*
- 4) *Whether defendants prove that she became the owner of the schedule property by virtue of the settlement deed and she in possession of and enjoyment of the half portion of schedule property?*
- 5) *What order or decree?*

Recasted Issue No.2:

- 1) *Whether plaintiffs further prove that defendant is created document in her favour and got entered her name in the mutation register?*

3.4. The plaintiffs, to substantiate their case, plaintiff No.1 was examined as PW1, examined four



NC: 2026:KHC:36416
RSA No. 1874 of 2013

CNR: KAHC010538062013

witnesses as PW2 to PW5 and marked 28 documents as Exs.P1 to P28. In rebuttal, power of attorney holder of the defendant was examined as DW.1, examined two witnesses as DW.2 and DW.3 and got marked 11 documents as Exs.D1 to D11. The Trial Court, after recording the evidence, hearing both sides and after assessing the verbal and documentary evidence, answered issue Nos.1 to 3 in the negative, issue No.4 in the affirmative, issue No.5 as per the final order. Consequently, the suit of the plaintiffs was dismissed vide judgment dated 27.11.2010.

3.5. The plaintiffs, aggrieved by the dismissal of the suit in O.S.No.103/2002 dated 27.11.2010, preferred an appeal in R.A.No.35/2011 on the file of the IV Additional District and Sessions Court, at Doddaballapur, Bangalore Rural District, Bangalore.



3.6. The First Appellate Court, after hearing the learned counsel for the parties, framed the following points for consideration:

- "1. *Whether the judgment and decree passed by the trial Court is perverse, capricious and arbitrary and it calls for any interference by this Court?*
2. *Whether the appellant has made out ground to allow I.A.No.2 as prayed?*
3. *What Order or Decree?"*

3.7. The First Appellate Court, after re-appreciating the entire evidence on record, answered point No.1 in the affirmative, point No.2 in the negative and point No.3 as per the final order. The appeal was dismissed with cost and confirmed the judgment and decree passed by the trial Court in O.S.No.103/2002 dated 27.11.2011 on the file of learned Sr. Civil Judge, Doddaballapur.

3.8. The plaintiffs, aggrieved by the impugned judgment, filed this Regular Second Appeal.



4. Heard the arguments of the learned counsel for the plaintiffs, and also learned counsel for the defendant.

5. Learned counsel for the plaintiffs submits that the First Appellate Court being final fact finding Court is required to re-appreciate the entire evidence on record and has to frame the proper points for consideration. He submits that the First Appellate Court has not framed the proper points for consideration and without re-appreciating the entire evidence on record upheld the judgment and decree passed by the trial Court. He also submit that the plaintiffs have examined five witnesses and marked 28 documents as Exs.P1 to P28 and the defendant examined three witnesses as DW.1 to DW.3 and marked 11 documents as Exs.D1 to D11. He submits that the First Appellate Court has not re-appreciate the evidence placed on record. He submits that the judgment and decree passed by the First Appellate Court is not in compliance



with Order XLI Rule 31 of CPC. Hence, on these grounds, he prays to allow the appeal.

6. *Per contra*, learned counsel for the defendant supported the impugned judgment and submits that the First Appellate Court has re-appreciated the entire evidence on record and the judgment and decree passed by the First Appellate Court is in compliance with Order XLI Rule 31 of CPC. Hence, on these grounds, he prays to dismiss the appeal.

7. This Court, vide order dated 28.07.2014, admitted the appeal to consider the following substantial questions of law:

"(1) Whether the settlement deed profounded by the defendants dated 24.07.1957 could be construed as legally executed document in the absence of any proof that the circumstances then warranted such execution?"

(2) Whether the Courts below were justified in holding that Muniyappa did not have capacity to



*execute cancellation deed Ex.P6 and his Will
Ex.P21?*

8. **Reg. Substantial Questions of Law Nos.1**

and 2: Substantial questions of law Nos.1 and 2 are inter-linked with each other, hence, taken together for a common discussion, to avoid repetition of facts.

9. From the perusal of the judgment passed by the First Appellate Court, the First Appellate Court framed the following points for consideration:

- "1. *Whether the judgment and decree passed by the trial Court is perverse, capricious and arbitrary and it calls for any interference by this Court?*
2. *Whether the appellant has made out ground to allow I.A.No.2 as prayed?*
3. *What Order or Decree?"*

10. In an identical case, this Court had an occasion to consider the similarly framed issues for determination in



the case of ***Bangarappa Vs. Rudrappa and Another¹***, wherein in the said case, the First Appellate Court has framed the points for consideration in paragraph No.12, which reads as follows:

"12. The lower appellate Court, however, framed the following point for determination:

"Whether judgment of the trial Court requires interference?" "

11. Admittedly, in the instant case, the First Appellate Court has framed an identical point for adjudication. Order XLI Rule 31 of CPC reads as follows:

"31. Contents, date and signature of judgment.- *The judgment of the Appellate Court shall be in writing and shall state-*

(a) the points for determination;

(b) the decision thereon;

(c) the reasons for the decision; and

(d) where the decree appealed from is reversed or varied, the relief to which the appellant is entitled;

and shall at the time that it is pronounced be signed and dated by the judge or by the judges concurring therein."

¹ 2012 SCC OnLine Kar 1185



12. Order XLI Rule 31 of CPC provides guidelines for the Appellate Court as to how the Court has to proceed and decide the appeal. It is further observed that, the provision should be read in such a way as to require that the various particulars mentioned therein should be taken into consideration. Thus, it must be evident from the judgment of the Appellate Court that Court has properly appreciated the facts/evidence, applied its mind and decide the case considering the material on record. This would amount to substantial compliance with the provisions of Order XLI Rule 31 of CPC.

13. The Appellate Court has to independently assess the entire evidence and all aspects of the matter to ensure findings of the First Appellate Court are well founded and quite convincing. It is mandatory for the First Appellate Court to independently assess the evidence of the parties and consider the relevant points that arise for adjudication, along with the bearing of the evidence on



CNR: KAHC010538062013

NC: 2026:KHC:36416
RSA No. 1874 of 2013

those points. In the instant case, the First Appellate Court has not properly framed the points for adjudication. The judgment and decree passed by the First Appellate Court is not in compliance with Order XLI Rule 31 of CPC.

(Emphasis supplied)

14. The Hon'ble Apex Court in the case of ***H. Siddiqui (Dead) by Lrs Vs. A.Ramalingam***² (supra) has, in paragraph No.21, held as follows:

"21. It is mandatory for the appellate court to independently assess the evidence of the parties and consider the relevant points which arise for adjudication and the bearing of the evidence on those points. Being the final court of fact, the first appellate court must not record mere general expression of concurrence with the trial court judgment rather it must give reasons for its decision on each point independently to that of the trial court. Thus, the entire evidence must be considered and discussed in detail. Such exercise should be done after formulating the points for consideration in terms of the said provisions and the court must proceed in adherence to the requirements of the said statutory provisions."

15. The First Appellate Court, without framing the proper point for adjudication in regard to the limitation, as

² 2011(4) SCC 240



well as the saving clause as per proviso to sub-section (1) of Section 6 of the Hindu Succession Act, and also without framing the point as to how the plaintiff is entitled for a share in the suit 'B' schedule property, has proceeded to pass the impugned judgment. Hence, the judgment and decree passed by the First Appellate Court is not in compliance with Order XLI Rule 31 of CPC and is in contrary to the propositions laid down by the Hon'ble Apex Court in the cases of **H. Siddiqui** (supra) and **Bangarappa** (supra). As the matter requires reconsideration by the First Appellate Court, in view of the above discussion, I answer the substantial questions of law in the **affirmative**.

16. Accordingly, I proceed to pass the following:

ORDER

- i. The regular second appeal is **allowed**;
- ii. The impugned judgment and decree dated 01.08.2013 passed in RA No.35/2011 by the



CNR: KAHC010538062013

Court of learned IV Additional District and Sessions Court, Doddaballapur, Bangalore Rural District, Bangalore is hereby set aside;

- iii. The appeal in RA No.35/2011 is restored to its original file;
- iv. The parties are directed to appear before the First Appellate Court on **17.09.2026** without awaiting any further notice;
- v. The First Appellate Court is directed to frame proper points for adjudication, and thereafter, pass an appropriate judgment in accordance with law;
- vi. It is made clear that this Court has not made any adjudication on merits of the issues;
- vii. All the contentions of the parties are kept open;
- viii. The Registry is directed to transmit the entire records to the First Appellate Court forthwith;
- ix. The appellants seeks leave of the Court to withdraw I.A.No.2/2016 with liberty to file the said application before the First Appellate Court.



NC: 2026:KHC:36416
RSA No. 1874 of 2013

CNR: KAHC010538062013

The submission is placed on record.

I.A.No.2/2016 is ***dismissed as withdrawn***
with the aforesaid liberty.

Sd/-
(ASHOK S.KINAGI)
JUDGE

SSB