



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 10<sup>TH</sup> DAY OF JUNE, 2026**

**BEFORE**

**THE HON'BLE MR. JUSTICE V SRISHANANDA**

**REGULAR SECOND APPEAL NO.347 OF 2017 (PAR)**

**BETWEEN:**

1. SRI H N SINGAIAH  
S/O LATE NANJAIAH  
AGED ABOUT 77 YEARS,  
R/AT DASAGOWDARA STREET,  
KOTE, HOLENARASIPURA,  
HASSAN DISTRICT-573 211.
2. SRI. H.N. NAGARAJA  
S/O LATE NANJUNDAIAH,  
AGED ABOIUT 61 YEARS,  
R/AT DASAGOWDARA STREET,  
KOTE HOLENARASIPURA,  
HASSAN DISTRICT-573 211.
3. SRI. GOKULA H.N  
S/O LATE NANJUNDAIAH,  
AGED ABOUT 59 YEARS,  
R/AT DASAGOWDARA STREER,  
KOTE, HOLENARASIPURA,  
HASSAN DISTRICT-573 211.
4. SRI. H.N. SHANKARA  
S/O LATE NANJUNDAIAH,  
AGED ABOUT 55 YEARS,  
R/AT DASAGOWDARA STREET,  
KOTE, HOLENARASIPURA,  
HASSAN DISTRICT-573 211.
5. SRI. H.N. RAMESHA  
S/O LATE NANJUNDAIAH,

Digitally  
signed by  
MALATESH  
K C

Location:  
HIGH  
COURT OF  
KARNATAKA



AGED ABOUT 51 YEARS,  
R/AT DASAGOWDARA STREET, KOTE,  
HOLENARASIPURA,  
HASSAN DISTRICT-573 211.

...APPELLANTS

(BY SRI GURURAJ R FOR SRI SANTHOSH R. NELKUDURI,  
ADVOCATES)

**AND:**

SIDDALINGAIAH  
DEAD BY HIS LRS.

1. SMT. ERAMMA  
W/O LATE SIDDALINGAIAH,  
AGED ABOUT 80 YEARS,  
R/AT DASAGOWDARA BEEDI,  
KOTE, HOLENARASIPURA TOWN,  
HASSAN DISTRICT – 573 211.
2. SMT. SINGAMMA  
W/O LATE BASAPPA  
AGED ABOUT 55 YEARS,  
R/AT BALEGARARABEEDHI,  
KOTE, HOLENARASIPURA TOWN,  
HASSAN DISTRICT – 573 211.
3. SRI. MAHALINGA  
S/O LATE SIDDALINGAIAH,  
AGED ABOUT 58 YEARS,  
OCC: D GROUP EMPLOYEE,  
CHAMARAJENDRA TECHNICAL INSTITUTE  
(TRAINING CENTER)  
OPPOSITE K.R. HOSPITAL,  
MYSORE – 570 001.

SMT. JAYAMMA  
DEAD BY HER LRS.



4. SRI. SINGANNA  
S/O NAGARAJU,  
AGED ABOUT 23 YEARS,  
R/AT GYARADALA VILLAGE,  
K.R. NAAR TALUK,  
CHAMARAJANAGAR DISTRICT- 571 313.
5. SMT. SINGAMMA  
S/O NAGARAJU,  
AGED ABOUT 18 YEARS,  
R/AT GYARADALA VILLAGE,  
K.R. NAGAR TALUK,  
CHAMARAJANAGAR DISTRICT-571 313.
6. SRI NAGARAJU  
S/O NAGARAJU  
AGED ABOUT 53 YEARS  
R/AT GYARADALA VILLAGE  
K.R.NAGAR TALUK  
CHAMARAJANAGAR DISTRICT – 571 313
7. SRI SHANKAR  
S/O LATE SIDDALINGAIAH  
AGED ABOUT 48 YEARS  
R/AT DASAGOWDARA BEEDI  
KOTE, HOLENARASIPURA TOWN  
HASSAN DISTRICT – 573 211
8. SRI NANJUNDA  
S/O LATE SIDDALINGAIAH  
AGED ABOUT 46 YEARS  
R/AT DASAGOWDARA BEEDI  
KOTE, HOLENARASIPURA TOWN  
HASSAN DISTRICT – 573 211
9. SMT.PUSHPA  
W/O VENKATESHA  
AGED ABOUT 44 YEARS  
R/AT KANCHANAHALLI VILLAGE  
ARKALGUD TALUK



HASSAN DISTRICT- 573 211

10. SMT.MANJULA  
W/O NAGARAJU  
AGED ABOUT 42 YEARS  
R/AT HOSAHOLALU VILLAGE  
K.R.PET TALUK  
CHAMARAJANAGAR DISTRICT – 573211
11. SMT.BHARATHI  
W/O JAYANNA  
AGED ABOUT 40 YEARS  
R/AT NAYAKARAHALLY VILLAGE  
KATTAYA HOBLI  
HASSAN TALUK AND DISTRICT – 573 211
12. SMT.KAVITHA  
W/O PUTTA @ PUTTARAJA  
AGED ABOUT 38 YEARS  
R/AT KASHIPURA VILLAGE  
KASABA HOBLI  
ARKALGUD TALUK  
HASSAN DISTRICT – 573 211

...RESPONDENTS

(BY SMT.VIJAYA M.N, ADVOCATE FOR R1 TO R12;

VIDE ORDER DATED 04.06.2026, APPEAL AGAINST R1 TO R3  
AND R7 DISMISSED AS ABATED)

THIS RSA IS FILED UNDER SECTION 100 OF CIVIL  
PROCEDURE CODE, 1908 AGAINST THE JUDGMENT AND  
DECREE DATED 10.11.2016 PASSED IN RA No.181/2011 ON  
THE FILE OF THE 5<sup>TH</sup> ADDL. DISTRICT AND SESSIONS JUDGE,  
HASSAN DISMISSING THE APPEAL AND CONFIRMING THE  
JUDGMENT AND DECREE DATED 19.10.2011 PASSED IN OS  
NO.16/2005 ON THE FILE OF THE SENIOR CIVIL JUDGE AND  
JMFC, HOLENARASIPURA.

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



CORAM: HON'BLE MR. JUSTICE V SRISHANANDA

**ORAL JUDGMENT**

Heard Sri Gururaj R, learned counsel for the appellants and Smt. Vijaya M.N., learned counsel for the respondent Nos.1 to 12.

2. Unsuccessful plaintiffs are the appellants in the second appeal challenging the dismissal of the suit in O.S.No.16/2005 on the file of Senior Civil Judge and JMFC., Holenarasipura and confirmed in R.A.No.181/2011, on the file of V Additional District and Sessions Judge at Hassan.

3. Facts of the case in the nutshell which are utmost necessary for disposal of the present appeal are as under:

3.1. A suit came to be filed by the plaintiffs for partition and declaration of their share in respect of the following properties (hereinafter referred to as 'suit properties').

“ಎ” ಅನುಸೂಚಿ

ಹೊಳೆನರಸೀಪುರ ತಾಲೋಕು, ಹೊಳೆನರಸೀಪುರ ಗ್ರಾಮದ ಸರ್ವೆ ನಂ: 50 ರಲ್ಲಿ 0-20 ಗುಂಟೆ ಜಮೀನಿಗೆ ಚಕ್ಕುಬಂದಿ:-

|            |   |                        |
|------------|---|------------------------|
| ಪೂರ್ವಕ್ಕೆ  | : | ಬಸವರಾಜು ರವರ ಬಾಬು ಜಮೀನು |
| ಪಶ್ಚಿಮಕ್ಕೆ | : | ಆಶ್ರಯ ಬಡಾವಣೆ           |



ಉತ್ತರಕ್ಕೆ : ಗೋಕುಲ ರವರ ಬಾಬು ಜಮೀನು  
ದಕ್ಷಿಣಕ್ಕೆ : ನಂಜುಂಡಪ್ಪ ನವರ ಬಾಬು ಜಮೀನು  
"ಬಿ" ಅನುಸೂಚಿ

ಹೊಳೆನರಸೀಪುರ ತಾಲೋಕು, ಹೊಳೆನರಸೀಪುರ ಗ್ರಾಮದ ಸರ್ವೆ ನಂ:  
50 ರಲ್ಲಿ 0-10 ಗುಂಟೆ ಜಮೀನಿಗೆ ಚಕ್ಕುಬಂದಿ:-

ಪೂರ್ವಕ್ಕೆ : ಬಸವರಾಜು ರವರ ಬಾಬು ಜಮೀನು  
ಪಶ್ಚಿಮಕ್ಕೆ : ಆಶ್ರಯ ಬಡಾವಣೆ  
ಉತ್ತರಕ್ಕೆ : ಗೋಕುಲ ರವರ ಬಾಬು ಜಮೀನು  
ದಕ್ಷಿಣಕ್ಕೆ : ಪ್ರತಿವಾದಿಯ ಬಾಬು ಜಮೀನು  
"ಸಿ" ಅನುಸೂಚಿ

ಹೊಳೆನರಸೀಪುರ ತಾಲೋಕು, ಹೊಳೆನರಸೀಪುರ ಗ್ರಾಮದ ಸರ್ವೆ ನಂ:  
50 ರಲ್ಲಿ 0-15 ಗುಂಟೆ ಜಮೀನಿಗೆ ಚಕ್ಕುಬಂದಿ:-

ಪೂರ್ವಕ್ಕೆ : ಬಸವರಾಜು ರವರ ಬಾಬು ಜಮೀನು  
ಪಶ್ಚಿಮಕ್ಕೆ : ಆಶ್ರಯ ಬಡಾವಣೆ  
ಉತ್ತರಕ್ಕೆ : ವಾದಿಯ ಬಾಬು ಜಮೀನು  
ದಕ್ಷಿಣಕ್ಕೆ : ಪ್ರತಿವಾದಿಯ ಬಾಬು ಜಮೀನು  
"ಡಿ" ಅನುಸೂಚಿ

ಹೊಳೆನರಸೀಪುರ ತಾಲೋಕು, ಹೊಳೆನರಸೀಪುರ ಗ್ರಾಮದ ಸರ್ವೆ ನಂ:  
50/17 ರಲ್ಲಿ 0-15 ಗುಂಟೆ ಜಮೀನಿಗೆ ಚಕ್ಕುಬಂದಿ:-

ಪೂರ್ವಕ್ಕೆ : ಬಸವರಾಜು ರವರ ಬಾಬು ಜಮೀನು  
ಪಶ್ಚಿಮಕ್ಕೆ : ಆಶ್ರಯ ಬಡಾವಣೆ  
ಉತ್ತರಕ್ಕೆ : ಗೋಕುಲ ರವರ ಬಾಬು ಜಮೀನು  
ದಕ್ಷಿಣಕ್ಕೆ : ನಂಜುಂಡಪ್ಪ ನವರ ಬಾಬು  
ಜಮೀನು"

3.2. Plaintiffs laid the claim on the suit properties by  
contending that Chennamadhaiah was the original prepositous  
who had three sons namely, Basavaiah, Nanjaiah and



Channaiah. First plaintiff is the son of Nanjaiah, plaintiff Nos.2 to 5 are the sons of Nanjundiah. In other words, they are the nephews of plaintiff No.1. Defendant No.1 Siddalingaiah is the son of Basavaiah, who died leaving behind defendant No.1(a) to 1(j) as his only legal representatives.

3.3. Deceased Nanjaiah was in possession and enjoyment of the land bearing Sy.No.50 of Holenarasipura which was originally belonged to Goddess Singapatlamma. First defendant father Basavaiah un-authorisedly occupied the said property, then his brothers - Channaiah and Nanjaiah approached the Amildar of Holenarasipura by filing necessary application.

3.4. Amildar visited the said land in Sy.No.50 on 29.07.1947 and noted that there is a rival claim with regard to the enjoyment of the property and also offering pooja to the deity, directed that pooja to be performed to Goddess Singapatlamma for a period of 15 days by rival claimants on rotation basis and granted 10 guntas of land in favour of Basavaiah and 10 guntas of land in favour of Nanjaiah out of total extent of 5 acres 35 guntas in Sy.No.50.



3.5. It is thus contented that Basavaiah and Nanjaiah were performing pooja to Goddess Singapatlamma and started enjoying there 10 guntas of land each as per the orders of the Amildar.

3.6. It is further contented by the plaintiffs that after death of Basavaiah, first defendant and his brothers got divided said property and 'C' schedule property had fallen to the share of Basavaiah and he was in possession and enjoyment of the 'C' schedule property during his lifetime.

3.7. Further contention of the plaintiffs that after death of Nanjaiah, plaintiffs are in possession and enjoyment of 'B' schedule property.

3.8. It is also alleged by the plaintiffs that in order to knock off 'B' schedule property, the defendants got transferred 15 guntas in their name and it was re-phoded as Sy.No.50/17 and plaintiffs approached the defendants for leaving 'B' schedule property. But, when they refused to partition the property leaving 'B' schedule property in favour of the plaintiffs, suit came to be instituted.



4. In pursuance to the suit summons, defendants entered their appearance and filed written statement contending that suit is bad for non-joinder of necessary parties.

5. It is also contended that the land in Sy.No.50 originally belonged to Goddess Singapatlamma. But the contentions urged on behalf of the plaintiffs that Amildar had visited the spot on 29.07.1947 and directed that pooja to be performed on rotation basis for a period of 15 days each by granting 10 guntas of land to Basavaiah and Nanjaiah is incorrect.

6. It is further contented that Basavaiah was in possession of the properties of 15 guntas of land in Sy.No.50 and after death of Basavaiah, his sons Shivananjaiah, Siddalingaiah, Thammaiah and Krishnaiaha got divided the said land in the year 1982-83 through paluparith and defendant got 15 guntas of land in Sy.No.50 in the said partition and revenue authorities having accepted the report given in that regard, re-phoded the land as 50/17 and the defendant is performing the pooja to Singapatlamma for a period of 15 days on rotation basis and therefore plaintiffs have no right over the suit property and sought for dismissal of the suit.



7. Thereafter learned Trial Judge after raising necessary issues and recording the evidence of the parties, heard the arguments of the parties and dismissed the suit holding that plaintiffs failed to make out any right, title or interest over the suit properties especially in view of the fact that plaintiffs have also got 25 guntas of land in the same serial number as per Ex.P8.

8. Being aggrieved by the same, plaintiffs filed an appeal before the First Appellate Court in R.A.No.181/2011.

9. Learned Judge in the First Appellate Court after securing the records heard the arguments of the parties in detail and on re-appreciation of the material evidence on record, dismissed the appeal of the plaintiffs by upholding the reasons recorded by the learned Trial Judge and also supplementing the additional reasons while upholding the order of the learned Trial Judge.

10. Before the First Appellate Court, additional documentary evidence were permitted to be placed on record by allowing item No.3 filed under Order XLI Rule 27 of Code of Civil Procedure and First Appellate Court did consider the effect



of the additional documents and still dismissed the appeal by *inter alia* holding in paragraph 19 as under:

*"19. Now coming to the next aspect of another application filed by the Appellant under Section 151 of CPC seeking the leave of the court to permit him to carry out the amendment of the plaint. It is pertinent to note that the plaintiff had filed an application under Order 6 Rule 17 of CPC seeking for the amendment of the plaint. The said application came to be allowed by a considered order passed by this court on I.A.III on 11.11.2014. In fact the plaintiff had carried out the amendment on 16.12.2014. Subsequently, the learned counsel for the Respondent had filed a memo stating that the amendment which was carried out by the Appellant was not in consonance with his application and as such the amendment which he was carried out was entirely different from what was permitted by this court. After hearing both the parties my predecessor had passed detailed order on 13.8.2015 wherein the amendment carried out is rejected. Subsequently, on 23.9.2015 the Appellant had filed another application under Section 151 of CPC seeking the leave to carry out the amendment by setting aside the order passed by this court on 13.8.2015. After hearing both the parties and after affording sufficient opportunity to both the parties, this court had passed another order on 6.1.2016 wherein the said application filed by the Appellant was dismissed. Challenging the said orders the Appellant has preferred a writ petition before the Hon'ble High Court of Karnataka at Bangalore in WP no.8797/16, dated:*



*11.4.2016. The Hon'ble High Court of Karnataka was pleased to dismiss the writ petition by passing considered and detailed order and had upheld the orders passed by this court in rejecting the application filed by him. The Appellant has once again filed a similar application under Section.151 of CPC on 8.7.2016 seeking the very same relief. The learned counsel for the Respondent has opposed the same and filed the statement of objection. I have carefully considered the averments made in his affidavit. When the application filed by the Appellant on the similar grounds was dismissed by this court on the earlier occasion which was upheld by the Hon'ble High Court of Karnataka then the plaintiff has to explain how another application on the similar facts and grounds seeking the similar relief is maintainable. I am of the considered opinion that the said application is devoid of merits and it is nothing but abuse of process of law, which deserves to be dismissed."*

11. Being further aggrieved by the same, plaintiffs are before this court.

12. Sri Gururaj R, learned counsel for the appellants reiterating the grounds urged in the appeal memorandum would contend that both the Courts have failed to note that when pooja is being performed by the defendants on the rotation basis and it is highly unbelievable that the 10 guntas of land were given by the Amildar and thus, sought for admitting the appeal on the following substantial questions of law:



- a) *Whether the courts below were right in dismissing the suit of the plaintiffs even inspite of production of Ex.P3, P5 & P7 which indicates above possession of 10 guntas in Sy.No.50 by plaintiffs' ancestors?*
- b) *Whether the lower appellate court was right in dismissing the application filed under Order 41 Rule 27 of CPC for production of additional documents without considering the same on its merits?*
- c) *Whether the lower appellate court was right in dismissing appeal even inspite of observation in its judgment that documents produced at the end of arguments are essential for proper adjudication of dispute?*
- d) *Whether the lower appellate court was right in dismissing I.A. filed by plaintiffs/appellants under Order 41 Rule 27 of CPC by holding that, proper reasons were not assigned though it opined that some of the documents produced by appellants are essential for proper adjudication in dispute?*
- e) *Whether the courts below were right in dismissing the suit of the plaintiff for alternative relief of declaration in spite of production of documentary evidence?*
- f) *Whether the courts below were right in dismissing the suit of the plaintiffs in its entirety?*



- g) Whether the courts below were right in not considering the admission given by the DW1 in cross-examination regarding pooja of the goddess on rotation and grant of land under the Inams Abolition Act in favour of original propositor?*
- h) Whether the courts below were right in dismissing the suit filed by the plaintiffs holding that suit is bad for non-joinder of necessary parties without considering that parties can be added even at a later stage and relief can be moulded in the suit accordingly?"*

13. Sri Gururaj would also contend that both the Courts have not taken into consideration the relevant aspects of the matter that at an undisputed point of time it is the ancestors of the parties who performed the pooja to Goddess Singapatlamma at Holeanarasipura and based on the same, the pooja rites were divided so also 10 guntas of land were given to Basvaiah and Nanjaiah. Plaintiffs claiming right under Nanjaiah, are thus entitled for 10 guntas of land and therefore, sought for admitting the appeal for further consideration.

14. Per contra, Smt. Vijaya M.N., learned counsel for contesting respondents, would support the impugned judgments.



15. She would invite the attention of this Court to Ex.P8 wherein 25 gunthas of land has been allotted to Nanjundaiah S/o Nanjaiah. In the teeth of such a documentary evidence placed on record on behalf of the plaintiffs itself, the contra arguments made on behalf of the plaintiffs cannot be countenanced in law which has been rightly considered by both the Courts and therefore sought for dismissal of the appeal.

16. Having heard the arguments of both sides, this Court perused the material on record meticulously.

17. On such perusal of the material on record, contention of the plaintiffs that 10 guntas of land were allotted to Basavaiah and Nanjaiah by the Amildar on 29.07.1947 is not established by placing necessary material evidence on record. Ex.P7 is a document that has been placed on record by the plaintiffs themselves.

18. No such division of 10 guntas of land in Sy.No.50 of Holenarasipura Village is forthcoming in any one of the records that has been placed on record by the plaintiffs.

19. Admittedly, plaintiffs were not present when the alleged division of the land of 10 guntas has taken place among



Basavaiah's family and Nanjaiah's family and having performed the pooja to deity Singapatlamma.

20. No doubt, defendants have admitted that they are doing pooja to Singapatlamma on rotation basis for a period of 15 days. But, that itself would not be sufficient enough to hold that the plaintiffs' ancestors were given 10 guntas of land along with Basavaiah.

21. Moreover, Najundaiah who is the father of plaintiffs No.2 to 5 has been granted 25 guntas of land as could be seen from Ex.P8.

22. It is not in dispute that said 25 guntas of land is divided among themselves.

23. If it is so, the averments that there was 10 guntas of land that was granted and they are entitled for the share in the suit properties cannot be countenanced in law.

24. Said aspect has been rightly appreciated by both the Courts and the additional evidence placed on record is also taken note of by the First Appellate Court in paragraph 19 as referred to supra including the writ proceedings before this Court and thereafter negated the claim of the plaintiffs.



25. Having regard to the fact that both the Courts have passed a concurrent finding with regard to the factual aspects that the plaintiffs failed to make out a right in respect of the suit properties, the substantial questions of law raised in the appeal memorandum would not merit for further consideration.

26. Accordingly, the following:

**ORDER**

- (i) Admission is declined.
- (ii) Appeal is dismissed.

**Sd/-  
(V SRISHANANDA)  
JUDGE**

MR  
List No.: 1 SI No.: 91