



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 06TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

REGULAR SECOND APPEAL No.1835 OF 2017(PAR)

BETWEEN:

1. K. B. RUDRAPPA @ RUDRAMUNIYAPPA
S/O KOPPE GOWDA,
SINCE DECEASED BY HIS LEGAL REPRESENTATIVES
- 1(a) INDIRAMMA
W/O LATE RUDRAPPA @ RUDRAMUNIYAPPA
AGED ABOUT 50 YEARS
R/AT HIREMALLANAHOLE VILLAGE
JAGALUR TALUK
DAVANAGERE DISTRICT – 577 528
- 1(b) PUSHPAVATHI
W/O B.THIPPESWAMY
D/O LATE RUDRAPPA @ RUDRAMUNIYAPPA
R/AT MALEBENNUR POST
HARIHARA TALUK
DAVANAGERE DISTRICT – 577 530
- 1(c) R.THIPPESWAMY
S/O LATE RUDRAPPA @ RUDRAMUNIYAPPA
R/AT HIREMALLANAHOLE VILLAGE
JAGALUR TALUK
DAVANAGERE DISTRICT – 577 528
- 1(d) PUNITHAMMA
W/O MALLIKARJUNA
D/O LATE RUDRAPPA @ RUDRAMUNIYAPPA
R/AT KUNEBELAKERI POST
HARIHARA TALUK
DAVANAGERE DISTRICT – 577 601
2. K B VIRUPAKSHAPPA

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signed by
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Location:
HIGH
COURT OF
KARNATAKA



NC: 2026:KHC:33710
RSA No. 1835 of 2017

S/O KOPPE BASAPPA,
AGED ABOUT 51 YEARS,
R/O HIREMALLANAHOLE VILLAGE,
JAGALUR TALUK,
DAVANAGERE DISTRICT-577 528

...APPELLANTS

(BY SMT.NIREEKSHA.D.J FOR
SRI SHOWRI H R, ADVOCATES)

AND:

1. GOWRAMMA
W/O KALLAPPA,
SINCE DEAD THERE ARE NO
LEGAL REPRESENTATIVES

2. CHANDRAMMA
D/O KOPPE BASAPPA,
AGED ABOUT 60 YEARS,

BOTH ARE RESIDENT OF
HIREMALLANAHOLE VILLAGE,
JAGALUR TALUK,
DAVANAGERE DISTRICT-577 528

3. THIPPAKKA
W/O MAHANTHESHA
AGED ABOUT 42 YEARS
R/O MALLOORAHATTI VILLAGE
CHALLAKERE TALUK
CHITRADURGA DISTRICT.

...RESPONDENTS

(BY SRI S V PRAKASH, ADVOCATE FOR R2 ;
R3 -SERVED;
VIDE ORDER DATED 17.06.2026, THERE ARE NO LEGAL
REPRESENTATIVES OF DECEASED RESPONDENT NO.1)

THIS RSA IS FILED UNDER SECTION 100 OF CIVIL
PROCEDURE CODE, AGAINST THE JUDGMENT AND DECREE DATED
14.07.2016 PASSED IN R.A.NO.134/2015 ON THE FILE OF THE PRL.
SENIOR CIVIL JUDGE, DAVANAGERE, DISMISSING THE APPEAL AND
CONFIRMING THE JUDGMENT AND DECREE DATED 01.10.2015
PASSED IN O.S.NO.117/2011 ON THE FILE OF THE CIVIL JUDGE AND
JMFC, JAGALURU.



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

CORAM: HON'BLE MR. JUSTICE V SRISHANANDA

ORAL JUDGMENT

Learned counsel for the appellants would submit that despite instructing the appellants to appear before the Court to find out the feasibility of amicable settlement, appellants have not shown any interest in arriving at an amicable settlement. He would submit that that the matter can be disposed of on merits.

2. Respondent No.2 and her counsel Sri S.V.Prakash are present.

3. Since there is no settlement, matter is heard on merits.

4. Defendant Nos.1 and 2 are the appellants in this Second Appeal challenging the decreeing of the suit in O.S No.117/2011 dated 01.10.2015 on the file of the Civil Judge and JMFC, Jagalur, confirmed in R.A No.134/2015 dated 14.07.2016 on the file of the Prl. Senior Civil Judge, Davanagere.



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

6. A suit for partition and separate possession in respect of the following properties came to be filed, which are hereinafter referred to as 'suit properties'.

SCHEDULE-A

The landed property bearing Sy.No.21/P2 measuring 11 acres 13 guntas situated at Hiremallanahole village, Jagalur Taluk, the suit schedule property is divided into two different boundaries of the same survey number.

1. *The land bearing Sy.No.21/P2 measuring 08 acres 10 guntas is bounded by:*

*East: Land of Adivajji,
West: Kereyangala,
North: Land of K.B.Chandrappa,
South: Land of Jayamma.*

2. *The land bearing Sy.No.21/P2 measuring 03 acres 03 guntas is bounded by:*

*East: Land of Korachara Yakrappa,
West: Kere and Halla,
North: Kere and Halla,
South: Land of Banappa.*



3. The land bearing Sy.No.150/1P2 measuring 02 acres 05 guntas situated at Hiremallanahole village, Jagalur Taluk, is bounded by:

East: Share of K.B.Chandrappa's land,
West: Land of Talkerappa & Agasara Siddappa,
North: Kere and Halla,
South: Land of Basappa (Brother of Koppe Basappa).

4. The land property bearing Sy.No.14 measuring 0.10 ½ guntas situated at Hiremallanahole village, Jagalur Tq. is bounded by:

East: Land of Siddalingappa,
West: Land of B.C.Rajashekharappa,
North: Land of Narayanamma,
South: Gowdra Kallappa's land.

SCHEDULE-B

1. The Malige house bearing site No.28 measuring East-West 12 feet, North-South 25 feet situated at Hiremallanahole village, Jagalur Taluk, is bounded by:

East: House of B.C.Rajashekharappa,
West: House of Virupakshappa,
North: House of K.B.Rudramuniyappa,
South: Oni.



2. A vacant site bearing Old No.148/A, New No.3 measuring East-West 25 feet(7 meters), North-South 91 feet(26 meters) situated at Hiremallanahole village, Jagalur Taluk, is bounded by:

East: Vacant site of Virupakshappa,
West: House of K.B.Chandrappa,
North: Road,
South: House of Prakash.

3. A Malige house bearing site No.10 K.No.27 measuring East-West 25 feet, North-South 40 feet situated at Hiremallanahole village, Jagalur Taluk, is bounded by:

East: House of B.C.Rajashekharappa,
West: House of K.B.Chandrappa,
North: Oni,
South: House of Virupakshappa,

4. The site bearing old No.10, K.No.27 measuring East-West 25 feet, North-South 40 feet situated at Hiremallanahole village, Jagalur Taluk, is bounded by:

East: House of Ningamma,
West: House of K.B.Chandrappa,
North: House of Rudramuniyappa,
South: Oni.



5. A kana bearing No.148/B new No.2 measuring East-West 25 feet, North-South 91 feet situated at Hiremallanahole village, Jagalur Taluk, is bounded by:

East: Vacant site of Lokanna,

West: Vacant site of Rudramuniyappa,

North: Road,

South: Vacant site of Sharanamma.

7. According to the plaint averments, Sri Basappa, son of Kopperudrappa is the common propositus who had a wife by name Ningamma. They had children by name Gowramma, K.B.Chandrappa, Jayamma, Rudramuni, Thippakka, Chandramma and Virupakshappa. Among them, K.B. Chandrappa had a wife by name Shivanamma. They have got three children namely K.C.Basavaraja, K.C.Sudhakara and K.C. Sarvamangala.

8. It is the case of plaintiffs (Gowramma and Chandramma) that they being the children of Basappa S/o Kopperudrappa, are entitled for share in the suit properties.

9. Plaintiffs claimed that the suit properties are the joint family properties of Basappa having succeeded from his



ancestors. Therefore, they have got equal share in the suit properties and denying the share to the plaintiffs has resulted in injustice. Therefore, sought for decreeing of the suit.

10. Among the children, one daughter by name Jayamma died without marriage and issues. Sri K.B.Chandrappa elder son of Basappa got released his share on 06.02.1979 and remaining parties were thus enjoying the suit properties as joint family members.

11. Pursuant to the suit summons, it is defendants Nos.1 and 2 i.e., Rudramuni and Virupakshappa who opposed the suit claim by filing written statement contending that on 24.04.2013 there was a partition between Chandrapa, Rudrapa and Virupakshappa. Rights of plaintiffs are thus not in existence and thus sought for dismissal of the suit.

12. Learned Trial Judge raised necessary issues and after recording the evidence of the parties, noted that admittedly plaintiffs and defendant No.3-Thippakka were not parties to the said registered alleged partition deed dated 24.04.2013 and thus decreed the suit of the plaintiffs.



13. The Trial Court also noted that K.B.Chandrappa having left the family on 06.02.1979 could not have been member of the joint family again in the alleged partition that took place on 24.04.2013 and as such, the said document did not take away the rights of the plaintiffs.

14. The Trial Court also noted that even assuming that the partition dated 24.04.2013 is entered into by Chandrappa, Rudrappa and Virupakshappa, in the absence of the daughters being the made as party to the said partition, is not binding on the shares of the plaintiffs and therefore decreed the suit of the plaintiffs.

15. Pertinently, plaintiffs did not include the share of Chandrappa who took his share and went away from the joint family in the year 1979.

16. Being aggrieved by the same, it is defendant Nos.1 and 2 who filed the appeal before the First Appellate Court in R.A No.134/2015.

17. Learned Judge in the First Appellate Court after securing the records, heard the arguments of the parties and on re-



appreciation of the material on record dismissed the Appeal of the defendants and upheld the decree granting share to the plaintiffs.

18. Being further aggrieved by the same, defendant Nos.1 and 2 are before this Court in the Second Appeal.

19. Miss Nireekhsa D.J. advocate for Sri H.R.Showri, learned counsel for the appellants reiterating the grounds urged in the appeal memorandum would contend that both the Courts have not taken note of the probative value of Exhibit D-3 which is the registered partition deed dated 24.04.2013, wherein Chandrapa, Rudrappa and Virupakshappa are the parties.

20. Therefore, decreeing the suit has resulted in miscarriage of justice and sought for admitting the appeal on following substantial questions of law.

"(i) Whether the courts below were proper in ignoring the previous partition for which the respondent/plaintiffs were parties?"

"(ii) Whether plaintiffs/respondents were entitled to partition after getting their share and already having possession and enjoyment of the same?"



(iii) Whether the impugned judgments were passed against the law and settled legal position applicable to the facts in issue?

(iv) Whether the impugned judgments are perverse and illegal?

21. *Per contra*, Sri S.V.Prakash, learned counsel for the plaintiffs/contesting respondents would support the impugned judgments.

22. Sri Prakash would also submit that during pendency of the present appeal, first plaintiff-Gowramma died, who had executed a Will in favour of her nephew.

23. Therefore, insofar as the share of Gowramma which can be separated in the final decree proceedings, separate suit would be filed by the legatee under Gowramma in accordance with law and therefore sought for dismissal of the appeal.

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



25. On such perusal of the material on record, it is noted that there is no dispute as to the relationship among the parties and also nature of properties.

26. Among the children of Basappa, first son namely K.B.Chandrappa separated away from the joint family by taking his share on 06.02.1979.

27. Further, the remaining members continued as joint family members. As a defence to the suit claim, defendant Nos.1 and 2 contended that there was a registered partition deed among defendant Nos.1, 2 and Chandrappa, who separated away in the year 1979.

28. Therefore, plaintiffs are not entitled for the share in the suit properties.

29. Admittedly, after Chandrappa got severed from the joint family and started living separately, plaintiffs having not claimed share in the properties that has been allotted to Chandrappa. As such, there could not have been one more partition among Chandrappa and present appellants, excluding



the plaintiffs who are the daughters of Basappa (original propositus) from the registered partition.

30. Thus, decreeing of the suit by the Trial Judge, as prayed for by the plaintiffs, confirmed by the First Appellate Court, needs no interference.

31. Hence, the following:

ORDER

(i) Admission declined.

(ii) Appeal ***dismissed***.

(iii) However, share of Gowramma/first plaintiff when separated out in the final decree proceedings, beneficiary of the Will executed by Gowramma can work out his remedy in accordance with law.

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

kcm
List No.: 1 Sl No.: 75