



CNR: KAHC010678422023

NC: 2026:KHC:40322  
RSA No. 2191 of 2023

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

**DATED THIS THE 31<sup>ST</sup> DAY OF JULY, 2026**

**BEFORE**

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

**REGULAR SECOND APPEAL NO. 2191 OF 2023 (PAR)**

**BETWEEN:**

1. SRI VEERABHADRAPPA  
S/O GADIGYAPPA  
AGED 57 YEARS,
2. SRI SHASHIBHUSHAN  
S/O GADIGYAPPA  
AGED 48 YEARS,

BOTH ARE R/AT SHAKUNAVALLI VILLAGE,  
JADE HOBLI, SORABA TALUK,  
SHIVAMOGGA DISTRICT - 577 419

...APPELLANTS

(BY SRI. MAHESH R. UPPIN, ADVOCATE FOR  
SRI. VEERESH MAHESH UPPIN, ADVOCATE)

**AND:**

1. SMT SUSHILAMMA  
W/O SUBHASH KADAPPANAVAR,  
AGED ABOUT 53 YEARS,  
OCC: HOUSEHOLD WORK,  
R/O SHAKUNAVALLI VILLAGE,  
JADE HOBLI, SORABA TALUK,  
SHIVAMOGGA DISTRICT - 577 419.
2. SMT BASAMMA  
W/O BASAVANTHAPPA  
AGE 58 YEARS,

Digitally signed  
by  
ANNAPURNA  
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Location: High  
Court of  
Karnataka



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R/O BENGARI VILLAGE  
PLOT NO.9  
HUBLI - 580 020.

3. SRI SHANMUKHAPPA  
S/O MALLAPPA BANAPPANAVAR,  
AGED 72 YEARS,  
R/O SHAKUNAVALLI VILLAGE,  
JADE HOBLI, SORABA TALUK,  
SHIVAMOGGA DISTRICT - 577 419.

...RESPONDENTS

(BY SRI. PRABHUGOUDA V.B., ADVOCATE FOR C/R1)

THIS RSA IS FILED UNDER SECTION 100 OF CPC,  
AGAINST THE JUDGMENT AND DECREE DATED 15.09.2023  
PASSED IN RA.NO.14/2021 ON THE FILE OF THE SENIOR CIVIL  
JUDGE AND JMFC, SORABA, DISMISSING THE APPEAL AND  
CONFIRMING THE JUDGMENT AND DECREE DATED 12.02.2021  
PASSED IN O.S.NO.221/2015 ON THE FILE OF THE CIVIL  
JUDGE AND JMFC, SORABA.

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

CORAM: HON'BLE MR. JUSTICE V SRISHANANDA

### **ORAL JUDGMENT**

1. Heard Sri. Veeresh Mahesh Uppin, learned  
counsel for the appellants. None appears for the  
respondents.



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2. Defendants No.1 and 2 are the appellants challenging the decree passed in OS No.221/2015 granting share to the respondent No.1/plaintiff confirmed in R.A. No. 14/2021.

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

3.1. A suit for partition and separate possession of the in respect of the following properties (hereafter referred as suit properties) came to be filed by the plaintiff seeking 1/4<sup>th</sup> share in the suit properties.

ಎ-ಶೆಡ್ಯೂಲ್

1. ಸೊರಬ ತಾಲ್ಲೂಕು, ಜಡೆ ಹೋಬಳಿ, ಶಕುನವಳ್ಳಿ ಗ್ರಾಮದ ಸರ್ವೆ ನಂ. 125  
ಪಿ ರಲ್ಲಿ 3 ಎಕರೆ 24 ಗುಂಟೆ ಕೆರೆ ತರಿ ಜಮೀನು.

2. ಸೊರಬ ತಾಲ್ಲೂಕು, ಜಡೆ ಹೋಬಳಿ, ಶಕುನವಳ್ಳಿ ಗ್ರಾಮದ ಸರ್ವೆ ನಂ. 65  
ಪಿ 1 ರಲ್ಲಿ 2 ಎಕರೆ 10 ಗುಂಟೆ ಇದರಲ್ಲಿ 0-12 ಗುಂಟೆ ಖರಾಬುವಜಾಜಾತ 03  
ಎಕರೆ 13 ಗುಂಟೆ ಕೆರೆ ಜಮೀನು.

3. ಸೊರಬ ತಾಲ್ಲೂಕು, ಜಡೆ ಹೋಬಳಿ, ಶಕುನವಳ್ಳಿ ಗ್ರಾಮದ ಸರ್ವೆ ನಂ. 126  
ಪಿ ರಲ್ಲಿ 3 ಎಕರೆ 16 ಗುಂಟೆ ಇದರಲ್ಲಿ 0-03 ಗುಂಟೆ ಖರಾಬುವಜಾಜಾತ 03  
ಎಕರೆ 13 ಗುಂಟೆ ಖುಷ್ಕಿ ಜಮೀನು.



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4. ಸೊರಬ ತಾಲ್ಲೂಕು, ಜಡೆ ಹೋಬಳಿ, ಶಕುನವಳ್ಳಿ ಗ್ರಾಮದ ಸರ್ವೆ ನಂ. 228 ರಲ್ಲಿ 2 ಎಕರೆ 13 ಗುಂಟೆ ತರಿ ಜಮೀನು.

5. ಸೊರಬ ತಾಲ್ಲೂಕು, ಜಡೆ ಹೋಬಳಿ, ಶಕುನವಳ್ಳಿ ಗ್ರಾಮದ ಸರ್ವೆ ನಂ. 103 ರಲ್ಲಿ 0-27 ಗುಂಟೆ ಖುಷ್ಕಿ ಜಮೀನು.

6. ಸೊರಬ ತಾಲ್ಲೂಕು, ಜಡೆ ಹೋಬಳಿ, ಶಕುನವಳ್ಳಿ ಗ್ರಾಮದ ಸರ್ವೆ ನಂ. 51/1 ಪಿ ರಲ್ಲಿ 4 ಎಕರೆ 09 ಗುಂಟೆ ಇದರಲ್ಲಿ 1 ಎಕರೆ 01 ಗುಂಟೆ ಇದರಲ್ಲಿ ಗುಂಟೆ ಖರಾಬು ವಜಾಜಾತ 03 ಎಕರೆ 01 ಗುಂಟೆ ಖುಷ್ಕಿ ಜಮೀನು.

7. ಸೊರಬ ತಾಲ್ಲೂಕು, ಜಡೆ ಹೋಬಳಿ, ಶಕುನವಳ್ಳಿ ಗ್ರಾಮ ಪಂಚಾಯಿತಿ ವ್ಯಾಪ್ತಿಯ ಶಕುನವಳ್ಳಿ ಗ್ರಾಮದ ಖಾತೆ ನಂ. 116, ಆಸ್ತಿ ನಂ. 43 ಪಿ ರಲ್ಲಿರುವ 2 ವಾಸದ ಮನೆಗಳು ಮತ್ತು ಹಿತ್ತಲು ಮುಂಚೆ ಅಡಿಸ್ಸಳ ಇದಕ್ಕೆ ಚೆಕ್ಕುಬಂದಿ: ಪೂರ್ವಕ್ಕೆ: ದಾನಪ್ಪ ಬಿನ್ ಮಲ್ಲಪ್ಪನವರ ಮನೆ, ಪಶ್ಚಿಮಕ್ಕೆ ರುದ್ರಪ್ಪ ಬಿನ್ ರಾಜಪ್ಪ ಇವರ ಸ್ವತ್ತು, ಉತ್ತರಕ್ಕೆ: ಮಲ್ಲಿಕಾರ್ಜುನ ಹಿರೇಮಠ ಇವರ ಕುಟುಂಬದ ಆಸ್ತಿ, ದಕ್ಷಿಣಕ್ಕೆ: ಹಾದಿ ಮನೆ ಅಜ್ಜಪ್ಪ ಇವರ ಹಿತ್ತಲುಗಳು.

3.2. In the plaint, it is contented that plaintiffs No.1 to 3 are the siblings and they are all children of Gadigyappa and Bangaramma. After the death of Gadigyappa and Bangaramma, all the parties to the suit succeeded to the suit properties equally.



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3.3. Defendant No.3 was married and she is residing in her husband's place and plaintiff was married to Sri. Subhash and she is residing with him.

3.4. However, on account of strained matrimonial relationship, plaintiff started residing in Shakunavalli Village.

3.5. After death of Gadigyappa, defendant No.1 managed the suit properties as the kartha. When the plaintiff demanded share in the property, same was refused and therefore a legal notice was issued. Despite the service of notice there was no compliance to the callings of notice and thus sought for decreeing the suit.

3.6. Pursuant to the suit summons, defendant No.1 appeared and filed written statement contending that admitting the relationship and also the nature of property.

3.7. It is contended that marriage of the plaintiff and defendant No.3 was performed by spending the money



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from the joint family income and therefore they are not entitled for the share.

3.8. It is also contented that except Item No.5, other items of the properties are the ancestral properties, but at the time of marriage, gold and cash was given as dowry and therefore the plaintiff is not entitled for any share.

3.9. Learned trial Judge after raising necessary issues based on the rival contentions of the parties recorded the evidence of the parties and after hearing the arguments, decreed the suit of the plaintiff granting 1/4<sup>th</sup> share as prayed for.

3.10. Being aggrieved by the same, defendants No.1 and 2 filed an appeal before the First Appellate Court in R.A. No.14/2021.

3.11. Learned Judge in the First Appellate Court, after securing the records, heard the arguments of the



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parties and on re-appreciation of the material on record, dismissed the appeal.

4. Being further aggrieved by same, present second appeal is filed.

5. Sri. Veeresh Mahesh Uppin, learned counsel for the appellant reiterating the grounds urged in the appeal memorandum would contend that both the Courts failed to note the huge amount of dowry was given at the time of marriage of the plaintiff and defendant No.3, which has been suppressed by the plaintiff. Therefore, defendants No.1 and 2 are entitled to keep the family properties towards their share and thus not for admitting the appeal on the following substantial questions of law:

*(i) Whether both the courts below are erred in holding that the defendant No.1 not is entitled to the money spent on the marriage of Plaintiff and Defendant No.3 and the 7.5 Tolas of Gold paid to them at the time of marriage in their respective shares.*



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*(ii) Whether both the courts below are right in holding that the sale of item No.5 of the suit schedule property is not for family necessity.*

*(iii) Whether both the courts below are right in not considering the fact that the suit is barred by Limitation.*

6. Counsel for respondent is absent. Having heard the arguments of counsel for the appellant, this Court perused the material on record meticulously.

7. On such perusal of the material on record, if the defendants have spent money for the marriage expenses, which will work out to the share of the plaintiff to the extent of 1/4<sup>th</sup>, the same can be subject matter of enquiry into the mesne profits as is contemplated under Order XX Rule 18 of the Code of Civil Procedure in the Final Decree Proceedings.

8. Mere meeting the expenses for the marriage would not take away the legal right of the plaintiff seeking partition in the suit properties.



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9. Accordingly, this Court does not find any merit in the substantial questions of law. Hence, following order is passed:

**ORDER**

- (i) Admission declined.
- (ii) Regular Second Appeal is ***dismissed***.

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

SNC  
List No.: 1 Sl No.: 42