NC: 2024:KHC-D:17846
RSA No. 188 of 2008
C/W RSA No. 1347 of 2007

**IN THE HIGH COURT OF KARNATAKA,
DHARWAD BENCH**

DATED THIS THE 4TH DAY OF DECEMBER, 2024

BEFORE

THE HON'BLE MRS JUSTICE K.S.HEMALEKHA

**RSA NO. 188 OF 2008 (DEC/INJ)
C/W
REGULAR SECOND APPEAL NO. 1347 OF 2007**

IN RSA NO.188/2008:

BETWEEN:

1. LAXMAN S/O. SIDDAPPA KURNI,
AGED ABOUT 26 YEARS,
R/AT SANAL VILLAGE,
JAMKHANDI TALUK- 587301.

2. SMT. PADMAWWA
W/O. LAKKAPPA KURANI,

SINCE DECEASED BY HIS LRS.,
ALREADY ON RECORD AS APPELLANT NOS.3 TO 5.

3. MUTTAPPA LAKKAPPA KURANI
AGED ABOUT 35 YEARS,
R/AT SANAL VILLAGE,
JAMKHANDI TALUK- 587301.

4. SMT. MUTTAWWA W/O. HANUMANT SAVANUR,
AGED ABOUT 40 YEARS,
R/AT KUMBAR GALLI,
JAMKHANDI-587301.

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5. SMT. KASTURI W/O. KALLAPPA ALAGUR,
AGED ABOUT 38 YEARS,
R/AT. CHIKKALAKI,
JAMKHANDI TALUK-586113.

6. BHIMAPPA S/O. TAMANNA KURANIR
AGED ABOUT 45 YEARS,
R/AT. SANAL VILLAGE,
JAMKHANDI TALUK-587301.

7. RAMAPPA S/O. TAMMANNA KURANI,
AGED ABOUT 40 YEARS,
R/AT. SANAL VILLAGE,
JAMKHANDI TALUK-587301.

8. LAXMAN S/O. TAMMANNA KURANI,
AGED ABOUT 36 YEARS,
R/AT. SANAL VILLAGE,
JAMKHANDI TALUK-587301.

9. SANGAPPA S/O. TAMMANNA KURANI,
AGED ABOUT 35 YEARS,
R/AT. SANAL VILLAGE,
JAMKHANDI TALUK-587301.

10. PARASAPPA KAMANNA KURANI
SINCE DECEASED APPELLANT NO.11 TO 14 ARE
HIS LEGAL REPRESENTATIVES.

11. NAGAPPA PARASAPPA KURANI
AGED ABOUT 40 YEARS,
R/AT. KAVATAGI,
JAMKHANDI TALUK-587301.

12. MAHADEV PARASAPPA KURANI
AGED ABOUT 38 YEARS,
R/AT. SANAL VILLAGE,
JAMKHANDI TALUK-587301.

13. SADASHIV PARASAPPA KURANI
AGED ABOUT 36 YEARS,
R/AT. SANAL VILLAGE,
JAMKHANDI TALUK-587301.

14. ISHWAR PARASAPPA KURANI
AGED ABOUT 34 YEARS,
R/AT. SANAL VILLAGE,
JAMKHANDI TALUK-587301.

… APPELLANTS

(BY SRI. ANAND ASHTEKAR, ADVOCATE)

AND:

1. BALACHANDRA S/O SHANKARRAO GHORPADE
SINCE DECEASED BY HIS LRS.,

1A. SMT. LATA W/O. BALACHANDRA GHORPADE,
AGE: 48 YEARS, OCC. HOUSEHOLD,
R/O. SANAL-587301, TQ. JAMAKHANDI,
DIST. BAGALKOTE.

1B. SANTOSH S/O. BALACHANDRA GHORPADE,
AGE: 16 YEARS, OCC. STUDENT,
BEING MINOR REPRESENTED BY HIS NATURAL MOTHER
PROPOSED GUARDIAN
SMT. LATA W/O. BALACHANDRA GHORPADE,
RESPONDENT NO.1A.

1C. JAYASHRI D/O. BALACHANDRA GHORPADE,
AGE: 14 YEARS, OCC. STUDENT,
BEING MINOR REPRESENTED BY HIS NATURAL MOTHER
PROPOSED GUARDIAN
SMT. LATA W/O. BALACHANDRA GHORPADE,
RESPONDENT NO.1A.

1D. RAJASHRI D/O. BALACHANDRA GHORPADE,
AGE: 12 YEARS, OCC. STUDENT,
BEING MINOR REPRESENTED BY HIS NATURAL MOTHER
PROPOSED GUARDIAN
SMT. LATA W/O. BALACHANDRA GHORPADE,
RESPONDENT NO.1A.

1E. DHANASHRI D/O. BALACHANDRA GHORPADE,
AGE: 10 YEARS, OCC. STUDENT,
BEING MINOR REPRESENTED BY HIS NATURAL MOTHER
PROPOSED GUARDIAN
SMT. LATA W/O. BALACHANDRA GHORPADE,
RESPONDENT NO.1A.

2. NARENDRA S/O. SHANKARRAO GHORPADE,
AGE: MAJOR, R/AT. SANAL VILLAGE,
JAMKHANDI TALUK-587301.

3. BALASAB S/O. SHANKARRAO GHORPADE,
AGE: MAJOR, R/AT. SANAL VILLAGE,
JAMKHANDI TALUK-587301.

4. BABURAO S/O. SHANKARRAO GHORPADE,
SINCE DECEASED BY HIS LRS.,

4A. SMT. ROHINI W/O. BABURAO GHORPADE,
AGE: 30 YEARS, OCC. HOUSEHOLD,
R/O. SANAL-587301, TQ. JAMAKHANDI,
DIST. BAGALKOTE.

4B. MASER AVADHOOT BABURAO GHORPADE
AGE: 6 YEARS, OCC. STUDENT,
BEING MINOR REPRESENTED BY HIS NATURAL MOTHER PORPOSED GUARDIAN,
SMT. ROHINI W/O. BABURAO GHORPADE,
RESPONDENT NO.4A.

4C. MASTER ADITYA BABURAO GHORPADE
AGE: 3 YEARS, OCC. STUDENT,
BEING MINOR REPRESENTED BY HIS NATURAL
MOTHER PORPOSED GUARDIAN,
SMT. ROHINI W/O. BABURAO GHORPADE,
RESPONDENT NO.4A.

5. SMT. BEBI W/O. JAYASINGRAO PATIL,
AGE: MAJOR, R/AT KOHALLI-591248,
ATHANI TALUK, DIST. BELAGAVI.

6. SMT. AKKATAI W/O. RAOSAHEB JADHAV,
AGE: MAJOR, R/AT. KRISHNA KITTUR-591303,
ATHANI TALUK, DIST. BELAGAVI.

7. RAVINDRA S/O. SHANKARRAO GHORPADE,
AGE: MAJOR, R/AT. SANAL VILLAGE-587301,
JAMKHANDI TALUK.

8. SMT. ANASUYA W/O. SUBBANRAO GHORPADE,
AGE: MAJOR, R/AT. DADDI-591254,
HUKKERI TALUK, BELAGAVI DISTRICT.

9. SMT. SULOCHANA W/O. VILASRAO MANE,
AGE: MAJOR, R/AT. GHORPADE GALLI,
JAMKHANDI-587301.

10. SMT. SAKKUBAI W/O. DILIP KHANOLKAR,
AGE: MAJOR, C/O. JAYA RADIO HOUSE,
RAIBAG-591315, DIST. BELAGAVI.

11. SMT. SAROJINI W/O. KAMAKAR PATIL,
AGE: MAJOR, R/O. TAKKA-416108,
TALUK: SHIROL,
DIST. KOLHAPUR.

12. GANPATRAO SUBANRAO GHORPADE
AGE: MAJOR, R/AT. JAYA RADIO HOUSE,

RAIBAG-591315, DIST. BELAGAVI.

13. SMT. MAYAVVA W/O. SIDDAPPA KURANI,
AGE: MAJOR,
R/AT. SANAL VILLAGE-587301,
JAMKHANDI TALUK.

14. MADAPPA GANGAPPA HALINGALI
AGE: MAJOR, R/AT. SANAL VILLAGE-587301,
JAMKHANDI TALUK.

15. SMT. GOWRAWWA W/O. HANUMANT KALLAPPA YALAGOAN,
AGED ABOUT 42 YEARS,
R/AT SANAL VILLAGE-587301,
JAMKHANDI TALUK.

16. SHRISAIL W/O. HANUMANT KALLAPPA YALAGOAN
AGED ABOUT 21 YEARS,
R/AT. SANAL VILLAGE-587301,
JAMKHANDI TALUK.

17. SMT. BOURAWWA W/O. VITHAL SHEGUNASHI,
AGED ABOUT 19 YEARS,
R/AT. SANAL VILLAGE-587301,
JAMKHANDI TALUK.

… RESPONDENTS

(BY SRI. SRINAND A PACHCHAPURE, ADVOCATE FOR R15-R17;
R1(A TO C), R2 AND R7-NOTICE SERVED; R3-DEAD;
R11 TO R14-NOTICE SERVED; R8 TO R10 - DISPENSED WITH)

THIS RSA IS FILED U/S 100 OF CPC AGAINST THE JUDGEMENT AND DECREE DATED 12.10.2007 PASSED IN RA.NO.129/2005 ON THE FILE OF THE PRESIDING OFFICER, FAST TRACK COURT, JAMKHANDI, DISMISSING THE APPEAL AND CONFIRMING THE JUDGEMENT AND DECREE DATED 30.10.2004 PASSED IN OS.NO.484/1989

ON THE FILE OF THE PRL. CIVIL JUDGE (JR.DN.) JAMKHANDI.

IN RSA NO.1347/2007:

BETWEEN:

MADAPPA S/O. GANGAPPA HALINGALI,
AGED ABOUT 45 YEARS,
R/AT. SANAL TALUK, JAMKHANDI,
DISTRICT: BAGALKOTE-587301.

... APPELLANT

(BY SRI. MRUTYUNJAY TATA BANGI, ADVOCATE)

AND:

SHANKAR RAO YESHWANTRAO GHORPADE
DEAD BY LRS.,

1. BHALACHANDRA S/O. SHANKARARAO GHAORPADE,
   AGED ABOUT 50 YEARS,
   R/AT. SANAL TALUK, JAMKHANDI,
   DISTRICT: BAGALKOTE-587301.

2. NARENDRA S/O. SHANKARARAO GHAORPADE,
   AGED ABOUT 48 YEARS,
   R/AT. SANAL TALUK, JAMKHANDI,
   DISTRICT: BAGALKOTE-587301.

3. BALASAHEB S/O. SHANKARARAO GHAORPADE,
   AGED ABOUT 45 YEARS,
   R/AT. SANAL TALUK, JAMKHANDI,
   DISTRICT: BAGALKOTE-587301.

4. BABURAO S/O. SHANKARARAO GHAORPADE,
   AGED ABOUT 44 YEARS,
   R/AT. SANAL TALUK, JAMKHANDI,

DISTRICT: BAGALKOTE-587301.

5. SMT. BEBI W/O. JAYASHINGRAO PATIL
AGE ABOUT 42 YEARS,
R/AT. KOHALLI TALUK, ATHANI,
DISTRICT: BELAGAVI.

6. SMT. AKKATAI W/O. RAOSAHEB JADHAV,
AGED ABOUT 40 YEARS,
R/AT. SANAL TALUK, JAMKHANDI,
DISTRICT: BAGALKOTE-587301.

7. RAVINDRA S/O. SHANKARARAO GHAORPADE,
AGED ABOUT 51 YEARS,
R/AT. SANAL TALUK, JAMKHANDI,
DISTRICT: BAGALKOTE-587301.

… RESPONDENTS

(APPEAL AGAINST R1 AND R3 IS ABATED;
R2, R6 AND R7 - NOTICE SERVED)

THIS RSA IS FILED U/S. 100 OF CPC AGAINST THE JUDGEMENT & DECREE DATED 15.02.2007 PASSED IN R.A.NO 195/2004 ON THE FILE OF THE PRL. CIVIL JUDGE, (SR.DN), JAMAKHANDI, DISMISSING THE APPEAL AND CONFIRMING THE JUDGEMENT AND DECREE DATED 30.10.2004 PASSED IN OS 484/1989 ON THE FILE OF THE PRL. CIVIL JUDGE (JR.DN), JAMAKHANDI, PARTLY DECREEING THE SUIT FOR DECLARATION & CONSEQUENTIAL RELIEF OF INJUCTION & FOR POSSESSION.

THESE APPEALS, COMING ON FOR ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: THE HON'BLE MRS JUSTICE K.S.HEMALEKHA

ORAL ORDER

This Court on 30.01.2024 passed the following order:

*"**ORDER IN R.S.A. No. 188/2008***

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vii) Counsel for the appellant is directed to take appropriate steps to serve the unserved respondents within a week from today, failing which, the appeal shall stand dismissed against the said respondents and consequently the entire appeal shall stand dismissed.

ORDER IN R.S.A. No.1347/2007

The court notice issued to respondents no. 2, 6 and 7 is served. Office is directed to show their names in the cause list as served.

ii) One week time is granted to take out process to issue notice to respondent nos.4 and 5, failing which, the appeal against the said respondents shall stand dismissed and consequently the appeal in its entirety shall stand dismissed."

The matter is listed for dismissal of the appeal against the unserved respondents and for dismissal of the appeal in entirety in light of the order passed by this Court on 30.01.2024 and the appellants having not taken any

steps to serve upon the unserved respondents, this Court has no option than to dismiss both the appeals ***for non-prosecution***.

Sd/-
(JUSTICE K.S.HEMALEKHA)

RH
CT:PA
LIST NO.: 1 SL NO.: 1