HC-KAR

NC: 2026:KHC:63254
RSA No. 1332 of 2018

CNR: KAHC010134932018

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

REGULAR SECOND APPEAL NO. 1332 OF 2018 (PAR)

BETWEEN:

1. MRS JAYAMMA
   D/O HANUMANTHARAYAPPA
   AGED ABOUT 52 YEARS,
   WIFE OF SRI MUNIYAPPA
   SINCE DEAD BY LR'S.

2. MRS RADHA
   D/O SRI MUNIYAPPA
   AGED ABOUT 33 YEARS,

3. SRI PRADEEP
   S/O SRI MUNIYAPPA
   AGED ABOUT 32 YEARS,

4. SMT SHOBA D/O SRI MUNIYAPPA
   AGED ABOUT 28 YEARS,

5. SMT ASHA D/O SRI MUNIYAPPA
   AGED ABOUT 27 YEARS,

6. SMT SUDHA D/O SRI MUNIYAPPA
   AGED ABOUT 25 YEARS,

7. SMT KEMPAMMA
   W/O LATE HANUMANTHARAYAPPA
   AGED ABOUT 79 YEARS,
   SINCE DEAD BY LRS.

   ALL ARE PRESENTLY RESIDENTS OF
   ARASHINAKUNTE KASABA HOBLI
   NELAMANGALA TALUK ,
   BENGALURU RURAL DISTRICT – 561 203.

…APPELLANTS

(BY SRI. T. PRAKASH, ADVOCATE FOR R-2 TO R-6
VIDE ORDER DATED: 19.08.2024 A-2 TO A-6 ARE
LR'S OF DECEASED A-1 & A-7)

Digitally signed by VANDANA S
Location: High Court of Karnataka

AND:

1. JAYARAMAIAH
S/O LATE THAMANAPPA
AGED ABOUT 89 YEARS

SINCE DEAD BY HER LR'S

1(a) SMT. NAGARATHNAMMA
D/O JAYARAMAIAH
AGED ABOUT 60 YEARS
W/O ASHWATHAGOWDA
RAMANTHAPURAKOIRA POST
KUNDANA HUBLI
DEVANAHALLI TALUK
BENGALURU RURAL DIST – 562 110.

1(b) H.J.KESHAVAMURTHY
S/O JAYARAMAIAH
AGED ABOUT 58 YEARS

1(C) H.J.MADHAVAMURTHY
S/O. JAYARAMAIAH
AGED ABOUT 57 YEARS

1(d) H.J.MUNEGOWDA
S/O. JAYARAMAIAH
AGED ABOUT 53 YEARS.

1(e) H.J.MANJUNATH
S/O LATE. JAYARAMAIAH
AGED ABOUT 47 YEARS
(b) to (e) ARE RESIDING AT
MAJARAHOSAHALLI, VEERAPURA POST
KASABA HOBLI, DODDABALLAPURA TALUK
BENGALURU RURAL DISTRICT – 562 163.

2. SRI. H.T. GOVINDAPPA
S/O LATE THAMANAPPA
AGED ABOUT 84 YEARS

SINCE DEAD BY HIS L.RS.

2(a) H.G. RAVICHANDRA
S/O LATE H.T. GOVINDAPPA
AGED ABOUT 63 YEARS

MAJARE HOSAHALLI VILLAGE
VEERAPURA POST
KASABA HOBLI
DODDABALLAPURA TALUK
BENGALURU RURAL DISTRICT – 561 203.

2(b) SMT. H.G. PARVATHAMMA
D/O LATE H.T. GOVINDAPPA
AGED ABOUT 58 YEARS
R/AT NO. 32/2, 2ND CROSS
NEAR VENKATESHWARA SCHOOL
CHIKKAJALA, BENGALURU – 562 157.

2(c) H.G.RAMESH
S/O LATE H.T. GOVINDAPPA
AGED ABOUT 55 YEARS
R/AT BEHIND DODDABALLAPURA
RURAL POLICE STATION
RAJIPURA, DODDABALLAPURA TOWN
BANGALORE RURAL DIST: 562 103.

3. SMT. H.T. JAYALAKSHMAMMA
D/O LATE. THAMANNAPPA
AGED ABOUT 82 YEARS
SINCE DEAD BY HER LR'S.

3(a) SMT. PUSPALATHA
AGED ABOUT 62 YEARS
D/O H.T. JAYALAKSHMAMMA

3(b) J. ANAND KUMAR
AGED ABOUT 60 YEARS
S/O H.T. JAYALAKSHMAMMA

3(c) J .VENUGOPAL
AGED ABOUT 56 YEARS
S/O H.T. JAYALAKSHMAMMA

3(d) J. GIRISH
AGED ABOUT 54 YEARS
S/O H.T. JAYALAKSHMAMMA

3(a) TO 3(d) ARE R/AT
NO. 13, 78/8, JAYALAKSHMINILAYA
THINDLU VILLAGE, VIDYARANYAPURA POST
BENGALURU – 560 097.

3(e) S. SUDHA J.
AGED ABOUT 49 YEARS
W/O H.J. KESHAVA MURTHY
D/O H.T. JAYALAKSHMAMMA
MAJARAHOSAHALLI
VEERAPURA POST, KASABA HOBLI
DODDABALLAPURA TALUK
BENGALURU RURAL DIST – 562 163.

4. SMT. MUNIRATHNAMMA
W/O LATE H.T. GOPALAKRISHNA
AGED ABOUT 69 YEARS.

5. SMT. NAGARATHNAMMA
W/O LATE H.R. GOPALAKRISHNA
AGED ABOUT 52 YEARS.

6. SRI. H.G. VIJAYA KUMAR
S/O LATE H.T. GOPALAKRISHNA
AGED ABOUT 49 YEARS.

7. SRI. H.G. RANGANATH
S/O LATE H.T. GOPALAKRISHNA
AGED ABOUT 46 YEARS.

8. SMT. PADMA
D/O LATE H.T. GOPALAKRISHNA
AGED ABOUT 44 YEARS.

9. SRI. SRINIVASA MURTHY
S/O LATE. THAMANAPPA
AGED ABOUT 72 YEARS.

ALL ARE RESIDENTS OF
MAJARE HOSAHALLI VILLAGE
KASABA HOBLI, DODDABALLAPURA TALUK
BENGALURU RURAL DISTRICT – 561 203.

SINCE DEAD BY LR'S

9(a) SMT. LALITHAMMA
AGED ABOUT 63 YEARS
W/O LATE SRINIVAS MURTHY

9(b) H.S. SUBRAMANYA SWAMY
AGED ABOUT 51 YEARS
S/O LATE. SRINIVAS MURTHY.

9(a) & 9(b) ARE RESIDING AT
MAJAREHOSAHALLI VILLAGE
KASABA HOBLI, DODDABALLAPURA TALUK
BENGALURU RURAL DISTRICT – 561 203.

9(c) SMT. H.S. JAYALAKSHMI
AGED ABOUT 49 YEARS
W/O A.M. RAJAKANTH
D/O LATE SRINVIASA MURTHY
R/O ANDARAHALLI VILLAGE
NAYANAHALLI POST
CHIKKABALLAPUR TALUK & DISTRICT.

9(d) H.S. VIJAYALAKSHMI
AGED ABOUT 49 YEARS
W/O P.K.NANDAKUMAR
D/O LATE SRINIVASA MURTHY
R/O PERESANDRA VILLAGE & POST
MANDIKALLU HOBLI
CHIKKABALLAPURA TALUK & POST.

9(e) SMT. H.S. VEENA
AGED ABOUT 45 YEARS
D/O LATE. SRINIVASAMURTHY.
R/O NO.13, 78/8, JAYALAKSHMINILAYA
TINDLU VILLAGE, VIDYARANYAPURA POST
BENGALURU – 560 097.

…RESPONDENTS

(BY SRI.C.M.NAGABHUSHAN, ADVOCATE FOR R-1(A TO E)
& R-9 (A TO E) & ALSO FOR R-2 (A TO C), R-4 TO R-8)

THIS RSA IS FILED U/S. 100 OF CPC., 1908 AGAINST THE JUDGEMENT AND DECREE DTD 19.02.2018 PASSED IN R.A.NO. 10188/2016 ON THE FILE OF THE IV ADDITIONAL DISTRICT AND SESSIONS JUDGE, DODDABALLAPURA, BENGALURU RURAL DISTRICT, ALLOWING THE APPEAL AND SETTING ASIDE THE ORDER DTD 27.10.2016 PASSED IN OS.NO. 244/2014 ON THE FILE OF THE CIVIL JUDGE AND JMFC DODDABALLAPURA.

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

CORAM: HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

ORAL JUDGMENT

The appellants 1 to 6 were the plaintiffs in O.S.No.244/2014, while appellant No.7 was the 2nd defendant in the aforesaid suit which was instituted against the deceased 1st defendant – Hanumantharayappa for partition and separate possession of the alleged share in the suit schedule immovable property and for other reliefs.

2. During the pendency of the said suit, the aforesaid Hanumantharayappa who was originally arrayed as the sole defendant in the aforesaid suit expired on 24.08.2015 and subsequently, plaintiff No.7 – Smt.Kempamma who was alleged widow of late Hanumantharayappa got herself transposed as 2nd defendant and the said suit culminated in a compromise decree dated 27.10.2016. Subsequently, the respondents herein challenged the said compromise decree by way of the instant appeal in R.A.No.10188/2016, which was contested by the appellants herein and culminated in the impugned judgment and decree, whereby the appeal filed by the respondents before the

First Appellate Court, which set aside the compromise decree dated 27.10.2016 passed in O.S.No.244/2014 by the Trial court. Aggrieved by the impugned judgment and decree dated 19.02.2018 passed by the First Appellate Court in R.A.No.10188/2016, the appellants are before this Court by way of the present appeal.

3. Heard learned counsel for the appellants and learned counsel for the respondents and perused the material on record.

4. It is a matter of record that the deceased appellant No.7 – Smt.Kempamma claims to be the widow of late Hanumantharayappa and deceased appellant No.1 – Smt.Jayamma claims to be the daughter of late Hanumantharayappa. It is also alleged that appellants 2 to 6 are the children of deceased appellant No.1 – Smt.Jayamma, who alleges that she was the daughter of late Hanumantharayappa. In the first instance, appellants 1 to 6 along with appellant No.7 instituted the aforesaid suit in O.S.No.244/2014 against the sole defendant late Sri.Hanumantharayappa, seeking partition and separate possession of their alleged share in the suit schedule

immovable property. The said suit was contested by Hanumantharayappa, who filed his written statement interalia disputing and denying the various allegations and claims made by the appellants – plaintiffs. The said Hanumantharayappa also disputed and denied the alleged relationship of the plaintiffs and contended that the plaintiffs are not related to him in any manner and neither plaintiff No.7 was his wife nor plaintiff No.1 his daughter as well as plaintiff Nos. 2 to 6 are his grand children and consequently, Hanumantharayappa sought for dismissal of the suit.

5. During the pendency of the aforesaid suit before the Trial court, a memo came to be filed on 28.09.2015 by the learned counsel who appeared on behalf of Hanumantharayappa reporting the demise of said Hanumantharayappa on 24.08.2015. Subsequently, on 16.02.2016, plaintiff No.7 filed an application I.A.No.19 seeking to transpose herself from the rank / status of plaintiff No.7 to the rank / status of 2nd defendant in the said suit; in addition thereto, plaintiffs 1 to 6 – appellants 1 to 6 filed a compromise petition along with the 2nd defendant (originally plaintiff No.7) reporting compromise / settlement of the dispute *inter se*

among themselves. The Trial court accepted the compromise said to be have been entered into between plaintiffs 1 to 6 and 2nd defendant and accordingly, disposed of the aforesaid suit vide compromise decree dated 27.10.2016.

6. Subsequently, the respondents herein who claims to be the brothers and other legal heirs / Class – II heirs of late Hanumantharayappa filed the instant appeal in R.A.No.10188/2016 challenging the compromise decree passed in O.S.No.244/2014 and putting forth various contentions including the contention of fraud, collusion etc., against the parties to the compromise decree. Before the First Appellate court, the appellants herein disputed and denied the various allegations made by the appellants in R.A.No.10188/2016 and sought for dismissal of the appeal. The appellants herein who are arrayed as respondents in the said appeal in R.A.No.10188/2016 also contended that since the respondents herein who are the appellants in R.A.No.10188/2016 were not parties to the suit in O.S.No.244/2014 or parties to the said compromise decree and the appeal was filed by non-parties to

the aforesaid suit / compromise decree, was not maintainable and the same was liable to be dismissed.

7. By the impugned judgment and decree, the First Appellate court allowed the appeal filed by the respondents herein by holding that the appeal was maintainable and that the compromise decree was liable to be set aside and consequently, proceeded to pass the impugned judgment and decree by setting aside the compromise decree entered into between the appellants 1 to 6 along with appellant No.7 herein. Aggrieved by the impugned judgment and decree of the First Appellate court setting aside the compromise decree, the appellants are before this Court by way of the present appeal, which was admitted on 04.09.2024 to consider the following substantial question of law;

> Whether the appeal under Section 96 of CPC is maintainable in R.A.No.10188/2016 filed by respondent Nos. 1 to 9 who are not parties before the trial Court in the original suit?

8. It is also a matter or record and an undisputed fact that during the pendency of appeal in R.A.No.10188/2016 before the First Appellate Court filed by the respondents herein, the

respondents have also instituted one more suit in O.S.No.140/2017, which is pending before the Prl.Senior Civil Judge, Doddaballapura and the same stands posted on 26.11.2026. The said suit was instituted by respondents 4 to 8 herein against respondents 1 and 2 and 8 and 9 herein, who are arrayed as defendants 1 to 4 in the said suit in O.S.No.140/2017, in which the present appellants are arrayed as defendants 5 to 11 and the said suit is pending adjudication. The plaint in the said suit is as under:-

IN THE COURT OF SENIOR CIVIL JUDGE,
DODDABALLAPURA

O.S.No.120/2017

***Between**:*

1. *Smt Munirathnamma*
   W/o late Sri H.T. Gopalakrishna
   Aged about 65 years.

2. *Smt H.G. Nagarathnamma*
   D/o late Sri H.T. Gopalakrishna
   Aged about 48 years

3. *Sri H.G. Vijayakumar*
   S/o late Sri H.T. Gopalakrishna
   Aged about 45 years

4. *Sri H.G. Ranganath*
   S/o late Sri H.T. Gopalakrishna
   Aged about 42 years

5. *Smt H.G. Padma*
   D/o late Sri H.T. Gopalakrishna
   Aged about 40 years

Plaintiffs 1 to 5 are R/at Majara Hosahalli
Virapura Post, Doddaballapura Taluk
Bengaluru Rural District – 562 103.

...Plaintiffs

And:

1. *Sri H.T. Jayaramaiah*
   S/o late Sri Thammanappa
   Aged about 85 years.

2. *Sri H.T. Govindappa*
   S/o late Sri Thammanappa
   Aged about 80 years.

3 *.Sri H.T. Srinivasamurthy*
   S/o late Sri Thammanappa
   Aged about 68 years.

   Defendants 1 to 3 are R/at Majara Hosahalli
   Virapura Post, Doddaballapura Taluk

   Bengaluru Rural District – 562 103.

4. *Smt H.T. Jayalakshmamma*
   W/o late Sri Janardhan
   D/o late Sri Thammanappa
   Aged about 78 years
   R/at No.13, Jayalakshmi Nilaya
   Thindlu Village, Vidyaranyapura Post,
   Bengaluru – 560 097.

5. *Smt Jayamma*
   W/o Sri Muniyappa
   Aged about 48 years

6. *Miss Radha*
   D/o Sri Muniyappa
   Aged about 29 years

7. Sri Pradeep
S/o Sri Muniyappa
Aged about 28 years

8. Miss Shobha
D/o Sri Muniyappa
Aged about 24 years

9. Miss Asha
D/o Sri Muniyappa
Aged about 23 years

10. Miss Sudha
D/o Sri Muniyappa
Aged about 21 years

11. Smt Kempamma
D/o Sri Anjanappa
Aged about 75 years.

Defendants 5 to 11 are R/at No.295,
Basaveshwara Nagara
Arishina Kunte Village & Post
Kasaba Hobli, Nelamangala Taluk
Bengaluru Rural District – 562 123.

...Defendants

UNDER ORDER 7 RULE 1 OF THE CODE OF CIVIL PROCEDURE

The plaintiffs above named submit as follows:-

1.The addresses of the parties for the purpose of service of summons/notice from this Hon'ble Court are as given above in the causetitle.

2.The plaintiffs 1 to 5 and defendants 1 to 4 are the members of the joint family and the joint family owns properties which are described in the schedule hereunder at item Nos.1 to 33.

3.The defendant No.5 is the mother of the defendants 6 to 10 whereas the 11th defendant is the mother of the 5th defendant.

4.The defendants 5 to 11 are not the members of the family of the plaintiffs 1 to 5 and the defendants 1 to 4 and the defendant 5 to 11 are total strangers to the family of the plaintiff and the defendants 1 to 4. However, the 11th defendant claims that she is the wife of Sri T. Hanumantharayappa who is the son of Sri Thammannappa and claims that the 5th defendant is born to her through Sri T. Hanumantharayappa and defendants 6 to 10 as aforesaid are the children of the 5th defendant Smt Jayamma and grandchildren of the 11th defendant.

5.Therefore under the circumstances, the plaintiff submit that the defendants 5 to 11 are not related to the plaintiffs 1 to 5 and defendants 1 to 4.

6.The plaintiffs submit that they have made the defendants 5 to 11 as parties to the present suit, since plaintiff No.11 along with the defendants 5 to 10 have played fraud on the court and also on the plaintiffs and defendants 1 to 4 in filing a suit in O.S.No.244/2014 for the relief of partition and separate possession with respect to the present suit schedule properties at items 2, 3, 5, 14 & 19 against late Sri T. Hanumantharayappa and during the pendency of the said suit, Sri T. Hanumantharayappa expired on 24.08.2015 and consequently, the suit ought to have been dismissed as abated but the 11th defendant herein who was the 7th plaintiff in the said suit, sought transposing herself as defendant and thereafter, the suit was compromised on 23.10.2016 with

respect to the 5 items of the properties in the said suit which are the properties at item No.2, 3, 5, 14 and 19 herein. As against the said decree which was obtained fraudulently without disclosing the true facts, the present plaintiffs herein and the defendant 1 to 4 together have filed Regular Appeal in RA No.10188/2016 and the same is pending on the file of the learned District and Sessions Judge, Doddaballapura for consideration and the learned District and Sessions Judge was pleased to grant stay on the said decree obtained by the defendants 5 to 11 and the said appeal is filed though they were not parties to the decree as a 3rd party appeal. Since, the fraud collusion and the like cannot be established in the appeal filed by the non-party to the decree and therefore, the plaintiffs have chosen to file the present suit for the relief of partition and separate possession and also for declaration that the decree dated 23.10.2016 passed by the Civil Judge (Sr.Dn.), Doddaballapura which is the subject matter of RA No.10188/2016 is not binding on the plaintiffs and that it is null and void.

7.The plaintiffs further submit that in fact, the defendants 1 & 2 herein have filed the suit in O.S.No.33/2009 on the file of the Senior Civil Judge, Doddaballapura for the relief of partition and separate possession with respect to 19 items of the suit schedule properties but the said suit was dismissed for non-prosecution and late Sri T. Hanumantharayappa and the 3rd defendant herein together filed the suit in O.S.No.107/2009 on the file of the Senior Civil Judge, Doddaballapura and the said suit was also dismissed for non prosecution by an order dated 27.02.2015. In both the suits,

the present defendants 5 to 11 were not parties as the defendants 5 to 11 are not the members of the joint family of the plaintiffs 1 to 5 and defendants 1 to 4 and it is the 11th defendant as aforesaid is falsely claiming that she is the wife of late Sri T. Hanumantharayappa, though Sri T. Hanumantharayappa died as a bachelor and in fact in the suit filed by the 11th defendant and defendants 5 to 10 for the relief of separate possession and in O.S.No.244/2014 late Sri T. Hanumantharayappa had filed the written statement denying such relationship with Smt Kempamma i.e., the 11th defendant herein.

8.Out of 33 suit schedule properties, items No.2 to 14 are the ancestral joint family properties and on the death of Sri Thamannappa, the pavathi katha was made in the name of Sri T. Hanumantharayappa as he was the eldest member of the joint family. However out of the nucleolus of the suit schedule items 2 to 14, the other properties were acquired, thus all the 33 items of the suit schedule properties are the joint family properties.

9.The item No.1 was purchased by the 1st defendant by name Sri H.T. Jayaramaiah under registered sale deed dated 30.10.1987 and items 15 to 19 properties were purchased by late Sri T. Hanumanatharayappa under registered sale deed dated 08.01.1979 and item No.20 was purchased in the name of the 3rd defendant by name Sri H.T. Srinivasamurthy and item No.21 was purchased in the name of the defendants 2 and 3 and item Nos.22 and 23 were purchased by late Sri H.T. Gopala Krishna father of the plaintiffs 2 to 5 and husband of the 1st plaintiff under reregistered sale deed 18.11.1987

and item No.24 was purchased by Sri H.T. Gopala Krishna under registered sale deed dated 31.08.1984 and items 25 and 26 were purchased by late Sri H.T. Gopala Krishna under registered sale deed dated 05.11.1974 similarly under registered sale deed dated 01.09.1994 and items 28 and 29 were purchased by late Sri H.T. Gopala Krishna under registered sale deed dated 26.09.1975 and items 30 to 32 were purchased by Sri H.T. Jayaramaiah, the 1st defendant and item No.33 was purchased by Sri H.T. Srinivasamurthy i.e., 3rd defendant herein.

10. So much so, though the properties were purchased in the name of Sri H.T. Gopala Krishna, Sri T. Hanumantharayappa, Shri H.T. Jayaramaiah, etc., as aforesaid but those properties were purchased from the income of the joint family nucleolus.

11. Therefore under the circumstances, the plaintiffs are entitled for equal partition and separate possession by metes and bounds. The plaintiffs 1 to 5 together entitled to 1/4th share and defendants 1 to 4 are entitled for 1/4th share each and defendants 5 to 11 are not entitled for any share as they are not the members of the joint family.

12. The plaintiffs furnish the following genealogy:-

Thammannappa (late)

↓

Thaymma – wife (late)

↓

T. Hanumantharayappa — *H.T. Jayaramaiah* — *H.T. Govindappa*

H.T. Jayalakshmamma — *H.T. Gopalakrishna* — *H.T. Srinivasamurthy*

H.G. Nagarathnamma
H.G. Vijaya
H.G. Ranganath

13. The plaintiffs submit that they are entitled to 1/4th share in each of the items 1 to 33 in suit schedule properties by metes and bounds.

14. The plaintiffs submit that the cause of action for the suit arose on coming to know that the defendants 5 to 11 have played fraud on the court and on the plaintiffs and have taken a collusive decree in O.S.No.244/2014 and on the date of filing of the Regular Appeal in RA No.1088/2014 on the file of the District and Sessions Judge, Doddaballapura and subsequently within the jurisdiction of this Hon'ble Court.

15. The plaintiffs submit that there is no pendency of any legal proceedings and litigation either past or present concerning any part of the subject matter of this suit/petition in any court, within the knowledge of this plaintiffs.

16. The plaintiffs submit that the suit schedule properties being joint family properties and being in joint possession of the parties 1 to 5 and defendants 1 to 4, a fixed court of Rs.200/- is paid under Section 35(2) of Karnataka Court Fees and Suits Valuation Act.

PRAYER

Therefore under the circumstances, the plaintiffs above named pray that this Hon'ble Court be pleased to pass judgment and decree:-

a.For partition and separate possession of 1/4th share to the plaintiffs in the suit schedule properties 1 to 33 and direct the defendants 1 to 4 to put the plaintiffs by 1/4th share of the suit schedule properties by metes and bounds.

b.And declare that the judgment and decree dated 23.10.2016 / 27.10.2016 passed by the Senior Civil Judge, Doddaballapura in O.S.No.244/2014 is a fraudulent decree and the same is not binding on the plaintiffs, since the defendants 5 to 11 have played fraud on the court and the plaintiffs and have taken a collusive decree in O.S.No.244/2014.

c.And grant such other order or orders as this Hon'ble Court deems fit under the circumstances of the case, including costs, in the interest of justice and equity.

ADVOCATE FOR PLAINTIFFS *PLAINTIFFS*

DODDABALLAPURA
Date: 7/02/2017

SCHEDULE

Item No.1

Sy.No.1/7 situated at Majara Hosahalli, Virapura Post, Doddaballapura Taluk, Bengaluru Rural District – 562 103 measuring 30 guntas and bounded on the:

East by: Land of Krishna Murthy, Rajopal & Srinath
West by: Land of Munishamappa & Govt. Road
North by: Land of Narasimhappa & Venkatamma
South by: Land of Sikayanahalli & Munisonnappa, Anjinappa

Item No.2

Sy.No.55/1 situated at Majara Hosahalli, Virapura Post, Doddaballapura Taluk, Bengaluru Rural District – 562 103 measuring 5 acres 1 gunta and bounded on the:

East by: Land of late Venkataswamappa
West by: Land of H.P. Subbegowda

North by: Govt. Road
South by: Land of Sonnappa

Item No.3

Sy.No.21/2 situated at Majara Hosahalli, Virapura Post, Doddaballapura Taluk, Bengaluru Rural District – 562 103 measuring 31 guntas and bounded on the:

East by: Land of Sri H.P. Subbe Gowda
West by: Land of Sri T.K. Gowda
North by: Land of Smt Gowramma
South by: Land of Sri S. Ramachandrappa

Item No.4

Sy.No.77/3 situated at Majara Hosahalli, Virapura Post, Doddaballapura Taluk, Bengaluru Rural District – 562 103 measuring 1 acre 28 guntas and bounded on the:

East by: Land of Sri Muniyappa
West by: Land of Sri H.P. Subbe Gowda
North by: Govt. Road
South by: Land of Sri H.P. Subbe Gowda

Item No.5

Sy.No.14/2 situated at Majara Hosahalli, Virapura Post, Doddaballapura Taluk, Bengaluru Rural District – 562 103 measuring 20 guntas and bounded on the:

East by: Land of Jagannathachar
and Hanumantharayappa
West by: Land of Shivanna & Basappa
North by: Land of Chikka Hanumantharayappa
South by: Land of Chikkappaiah

Item No.6

Sy.No.14/3 situated at Majara Hosahalli, Virapura Post, Doddaballapura Taluk, Bengaluru Rural District – 562 103 measuring 19 guntas and bounded on the:

East by: Land of Jagannathachar

and Hanumantharayappa
West by: Land of Shivanna & Basappa
North by: Land of Chikka Hanumantharayappa
South by: Land of Chikkappaiah

Item No.7

Sy.No.14/4 situated at Majara Hosahalli, Virapura Post, Doddaballapura Taluk, Bengaluru Rural District – 562 103 measuring 26 guntas and bounded on the:

East by: Land of Jagannathachar
and Hanumantharayappa
West by: Land of Shivanna & Basappa
North by: Land of Chikka Hanumantharayappa
South by: Land of Chikkappaiah

Item No.8

Sy.No.27/3 situated at Majara Hosahalli, Virapura Post, Doddaballapura Taluk, Bengaluru Rural District – 562 103 measuring 7 guntas and bounded on the:

East by: Land of Sri H.P. Subbe Gowda
West by: Land of Thalagavara Inam Land
North by: Land of Inam Land
South by: Land of S. Ramachandrappa

Item No.9

Sy.No.31/6 situated at Majara Hosahalli, Virapura Post, Doddaballapura Taluk, Bengaluru Rural District – 562 103 measuring 4 guntas and bounded on the:

East by: Land of N. Hanumantharayappa
West by: Land of Sri Muniyappa
North by: Land of Sri Ramachandrappa
South by: Thore Halla

Item No.10

Sy.No.24/2 situated at Majara Hosahalli, Virapura Post, Doddaballapura Taluk, Bengaluru Rural District – 562 103 measuring 1 Acre 25 guntas and bounded on the:

East by: Land of Sri H.S. Kempanna
West by: Govt. Land
North by: Thore Halla
South by: Sri H.S. Kempanna
& Munihanumantharayappa

Item No.11

Sy.No.21/2 situated at Majara Hosahalli, Virapura Post, Doddaballapura Taluk, Bengaluru Rural District – 562 103 measuring 31 guntas and bounded on the:

East by: Land of Sri H.S. Kempanna
West by: Govt. Land
North by: Thore Halla
South by: Sri H.S. Kempanna
& Sri Munihanumantharayappa

Item No.12

Sy.No.45/3 situated at Majara Hosahalli, Virapura Post, Doddaballapura Taluk, Bengaluru Rural District – 562 103 measuring 1 Acre 11 guntas and bounded on the:

East by: Land of Sri Sanjeevappa
West by: Govt. Road
North by: Sri H.S. Kempanna &
Sri Munihanumantharayappa
South by: Thalagavara Inam Land

Item No.13

Sy.No.45/2 situated at Majara Hosahalli, Virapura Post, Doddaballapura Taluk, Bengaluru Rural District – 562 103 measuring 2 gunta and bounded on the:

East by: Land of Sri Sanjeevappa
West by: Govt. Road
North by: Sri H.S. Kempanna
& Munihanumantharayappa
South by: Thalagavara Inam Land

Item No.14

Sy.No.45/1 situated at Majara Hosahalli, Virapura Post, Doddaballapura Taluk, Bengaluru Rural District – 562 103 measuring 1 Acre 5 gunta and bounded on the:

East by: Land of Sri Sanjeevappa
West by: Govt. Road
North by: Sri H.S. Kempanna &
Munihanumantharayappa
South by: Thalagavara Inam Land

Item No.15

Sy.No.41/2 situated at Yellupura, Virapura Post, Doddaballapura Taluk, Bengaluru Rural District – 562 103 measuring 2 Acres 9 gunta and bounded on the:

East by: Land of private property
West by: Govt. Road
North by: Land of Sri Krishnappa
South by: Land of Sri Lingappa

Item No.16

Sy.No.33 situated at Yellupura, Virapura Post, Doddaballapura Taluk, Bengaluru Rural District – 562 103 measuring 3 Acres 21 guntas and bounded on the:

East by: Land of private property
West by: Govt. Road
North by: Land of Sri Krishnappa
South by: Land of Sri Lingappa

Item No.17

Sy.No.32/2 situated at Yellupura, Virapura Post, Doddaballapura Taluk, Bengaluru Rural District – 562 103 measuring 1 Acre 14 guntas and bounded on the:

East by: Land of private property
West by: Govt. Road
North by: Land of Sri Krishnappa
South by: Land of Sri Lingappa

Item No.18

Sy.No.32/1 situated at Yellupura, Virapura Post, Doddaballapura Taluk, Bengaluru Rural District – 562 103 measuring 38 guntas and bounded on the:

East by: Land of private property
West by: Govt. Road
North by: Land of Sri Krishnappa
South by: Land of Sri Lingappa

Item No.19

Sy.No.31/1 situated at Yellupura, Virapura Post, Doddaballapura Taluk, Bengaluru Rural District – 562 103 measuring 32 guntas and bounded on the:

East by: Land of private property
West by: Govt. Road
North by: Land of Sri Krishnappa
South by: Land of Sri Lingappa

Item No.20

Sy.No.31/2 situated at Yellupura, Virapura Post, Doddaballapura Taluk, Bengaluru Rural District – 562 103 measuring 4 Acres 19 guntas and bounded on the:

East by: Land of Sri Krishnappa
West by: Land of Sri Hanumantharayappa
North by: Private property
South by: Govt. land

Item No.21

Sy.No.63/2 situated at Chikkatumakur, Virapura Post, Doddaballapura Taluk, Bengaluru Rural District – 562 103 measuring 2 Acres 39 guntas and bounded on the:

East by: Land of Sri Narasaiah, Rangappa
West by: Land of Sri Srinivasa Murthy H.T.
North by: Land of Sri T.K. Gowda
South by: Land of Sri Narasimhaiah

Item No.22

Sy.No.73/2 situated at Chikkatumakur, Virapura Post, Doddaballapura Taluk, Bengaluru Rural District – 562 103 measuring 1 Acre 11 guntas and bounded on the:

East by: Land of Sri H.T. Srinivasamurthy
West by: Govt. Road & land of
Sri H.T. Srinivasamurthy
North by: Land of Sri Poojanarayanappa
South by: Land of Sri Munianjinappa

Item No.23

Sy.No.73/1 situated at Chikkatumakur, Virapura Post, Doddaballapura Taluk, Bengaluru Rural District – 562 103 measuring 1 Acre 11 guntas and bounded on the:

East by: Land of Sri H.T. Srinivasamurthy
West by: Govt. Road & land of
Sri H.T. Gopalkrishna
North by: Land of Sri Poojanarayanappa
South by: Land of Sri Munianjinappa

Item No.24

Sy.No.74 situated at Chikkatumakur, Virapura Post, Doddaballapura Taluk, Bengaluru Rural District – 562 103 measuring 2 Acres 39 gunta and bounded on the:

East by: Land of Sri H.T. Srinivasamurthy
West by: Govt. Road & land of
Sri H.T. Gopalkrishna
North by: Land of Sri Poojanarayanappa
South by: Land of Sri Munianjinappa

Item No.25

Sy.No.76/2 situated at Chikkatumakur, Virapura Post, Doddaballapura Taluk, Bengaluru Rural District – 562 103 measuring 1 Acre 35 guntas and bounded on the:

East by: Govt. Road

West by: Govt. Road & Gramatana, Aralumallige Village land
North by: Land of Chikkamara, Doddamara & others
South by: Land of Muniyellamma & Chennappa land

Item No.26

Sy.No.76/3 situated at Chikkatumakur, Virapura Post, Doddaballapura Taluk, Bengaluru Rural District – 562 103 measuring 1 Acre 11 guntas and bounded on the:

East by: Govt. road
West by: Govt. Road & Gramatana, Aralumallige Village land
North by: Land of Chikkamara, Doddamara & others
South by: Land of Sri Munianjinappa & Chennappa land

Item No.27

Sy.No.193 situated at Aralumallige, Virapura Post, Doddaballapura Taluk, Bengaluru Rural District – 562 103 measuring 5 Acres 14 guntas and bounded on the:

East by: Land of Sri Halu Munishamappa
West by: Land of Sri Muniraja & others
North by: Land of Sri H.T. Jayaramaiah and Kanehaliahally Kaludari
South by: Land of Sri Puttashamappa & Gramatana

Item No.28

Sy.No.184/3 situated at Aralumallige, Virapura Post, Doddaballapura Taluk, Bengaluru Rural District – 562 103 measuring 1 Acre 25 guntas and bounded on the:

East by: Kanehosahalli houses
West by: Land of Sri Eranna
North by: Land of Sri Neeraganti Erappa
South by: Land of Sri Kadnur Lingappa

Item No.29

Sy.No.184/4 situated at Aralumallige, Virapura Post, Doddaballapura Taluk, Bengaluru Rural District – 562 103 measuring 5 guntas and bounded on the:

East by: Land of Sri Mottamuniyappa
West by: Land of Sri Chennappa
North by: Land of Sri Bylappa
South by: Land of Sri Gopala Krishna

Item No.30

Sy.No.185/1 situated at Aralumallige, Virapura Post, Doddaballapura Taluk, Bengaluru Rural District – 562 103 measuring 9 guntas and bounded on the:

East by: Land of Sri Motamuniyappa,
Sri Bylappa, Sri Marappa
West by: Land of Sri Nagari Arasappa
North by: Land of Sri Muniyappa, Sri Patalappa
South by: Land of
Sri Seethakempanahalli Chennppa

Item No.31

Sy.No.185/2 situated at Aralumallige, Virapura Post, Doddaballapura Taluk, Bengaluru Rural District – 562 103 measuring 9 guntas and bounded on the:

East by: Land of Sri Motamuniyappa,
Sri Bylappa, Sri Marappa
West by: Land of Sri Nagari Arasappa
North by: Land of Sri Muniyappa, Sri Patalappa
South by: Land of
Sri Seethakempanahalli Chennppa

Item No.32

Sy.No.185/3 situated at Aralumallige, Virapura Post, Doddaballapura Taluk, Bengaluru Rural District – 562 103 measuring 9 guntas and bounded on the:

East by: Land of Sri Motamuniyappa, Sri Bylappa, Sri Marappa
West by: Land of Sri Nagari Arasappa
North by: Land of Sri Muniyappa, Sri Patalappa
South by: Land of
Sri Seethakempanahalli Chennppa

Item No.33

Sy.No.46/2 situated at Majarahosahalli, Virapura Post, Doddaballapura Taluk, Bengaluru Rural District – 562 103 measuring 25 ½ guntas and bounded on the:

East by: Laxminarayana and others
West by: Land of Smt Bachamma
North by: Land of Angadi Munishamappa
South by: Land of Sri Lakshminarayana, govt. land

VERIFICATION

We, Munirathnamma, H.G. Nagarathnamma, H.G. Vijayakumar, H.G. Ranganath and H.G. Padma, the plaintiff in the above case do hereby declare that what is stated herein above at para Nos.1 to 16 are true and correct to the best of our knowledge, information and belief.

DODDABALLAPURA *PLAINTIFFS*
Date: 15.04.2017.

9. A perusal of the material on record will indicate that there is a serious dispute between the parties as to whether the appellants herein were related in any manner with late Hanumantharayappa; while on one hand, the appellants assert that late Hanumantharayappa was married to one Smt.Kempamma and

had a daughter Smt.Jayamma and the present appellants are the legal heirs of Hanumantharayappa and Kempamma through their daughter Jayamma, the very relationship of Hanumantharayappa with Kempamma, Jayamma and the present appellants, has been seriously disputed by respondents 1 to 9 in the said suit in O.S.No.140/2017. As stated earlier, in O.S.No.244/2014 itself, the said Hanumantharayappa had filed his written statement disputing the denying the alleged relationship of the appellants herein with him; however, the appellants herein had filed an Affidavit in the said suit on 22.09.2014 stating that they have no objection to undergo DNA test to prove the alleged relationship with Hanumantharayappa.

10. Learned counsel for the appellants and learned counsel for the respondents jointly submit that the compromise decree passed by the Trial Court as well as the impugned judgment and decree passed by the First Appellate court may be set aside and the matter may be remitted back to the Trial court by restoring O.S.No.244/2014 and by directing this suit to be clubbed,

consolidated, tried and disposed of along with O.S.nNo.140/2017 pending between the parties before the Trial court.

11. In view of the aforesaid facts and circumstances and the joint submissions made by both sides and having regard to the serious dispute as regards the alleged relationship of the appellants with late Hanumantharayappa and consequently their alleged relationship with the respondents, though several contentions have been urged by both sides in support of their respective claims and with the consent of the appellants as well as the respondents, I deem it just and appropriate to answer the substantial question of law by directing that the impugned judgment and decree of the First Appellate Court as well as the compromise decree of the Trial court be set aside and the suit in O.S.No.244/2014 be restored and remitted back to the Trial court for reconsideration afresh by clubbing the aforesaid suit along with the pending O.S.No.140/2017 in accordance with law by leaving open all contentions between the parties. The substantial question of law is answered accordingly.

12. In the result, I pass the following:-

ORDER

(i) Appeal is hereby allowed.

(ii) The impugned judgment and decree dated 19.12.2018 passed in R.A.No.10188/2016 by the First Appellate court as well as the compromise decree dated 27.10.2016 passed by the Senior Civil Judge and JMFC, Doddaballapur, in O.S.No.244/2014 are hereby set aside; the suit in O.S.No.244/2014 is restored and remitted back to the Trial court for reconsideration afresh in accordance with law.

(iii) The Registry of the Trial court i.e., the Court of Senior Civil Judge, Doddaballapura, shall take necessary steps to ensure that the suit in O.S.No.244/2014, if posted before any other Court be withdrawn from the said Court and be transferred / posted before the Prl.Senior Civil Judge and JMFC, Doddaballapura, where O.S.No.140/2017 is pending adjudication and the said suit now stands posted on **26.11.2026** for evidence.

(iv) The Prl.Senior Civil Judge and JMFC, Doddaballapura, shall club, consolidate, try and dispose of both the suits in O.S.No.244/2014 and O.S.No.140/2017 together and dispose of

both the suits by passing the final judgment and decree within a period of six months from **26.11.2026.**

(v) All rival contentions between the parties in a suit on all issues / aspects of the matter including the alleged relationship of the appellant with late Hanumantharayappa is kept open and no opinion is expressed on the merits / demerits of the rival contentions.

(vi) It is made clear that the Trial court shall dispose of both the suits without being influenced by any observations, if any, made in the present judgment.

Sd/-
(S.R.KRISHNA KUMAR)
JUDGE

Srl.