HC-KAR

NC: 2026:KHC:20785
RFA No. 2774 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE R. NATARAJ

REGULAR FIRST APPEAL NO. 2774 OF 2024 (RES)

BETWEEN:

VIJAY KUMAR REDDY K.
S/O. LATE KRISHNAREDDY,
AGED ABOUT 41 YEARS,
R/AT. KASINAIKANAHALLI VILLAGE,
KODIGENAHALLI HOBLI,
MADHUGIRI TALUK,
TUMKUR DISTRICT-572 127.

...APPELLANT

(BY SRI. H.S. SANTHOSH, ADVOCATE)

AND:

1. SHIVAKUMARAREDDY
S/O LATE RAMA REDDY,
AGED ABOUT 58 YEARS,
R/O KASINAYAKANAHALLI VILLAGE,
KODIGENAHALLI HOBLI,
MADHUGIRI TALUK,
TUMAKURU DISTRICT - 572 127.

2. USHA K.S.
D/O SHIVAKUMARA REDDY,
AGED ABOUT 33 YEARS,
R/O KASINAYAKANAHALLI VILLAGE,
KODIGENAHALLI HOBLI,
MADHUGIRI TALUK,
TUMAKURU DISTRICT - 572 127.

3. VANIJA S.
D/O SHIVAKUMARA REDDY,
AGED ABOUT 30 YEARS,
R/O KASINAYAKANAHALLI VILLAGE,
KODIGENAHALLI HOBLI,

Digitally signed by HEMALATHA J
Location: HIGH COURT OF KARNATAKA

MADHUGIRI TALUK,
TUMAKURU DISTRICT-572 127.

4. BHARGAVI S
D/O SHIVAKUMARA REDDY,
AGED ABOUT 24 YEARS,
R/O KASINAYAKANAHALLI VILLAGE,
KODIGENAHALLI HOBLI,
MADHUGIRI TALUK,
TUMAKURU DISTRICT 572 127.

…RESPONDENTS

(BY SRI. KARTHIK V., ADVOCATE FOR RESPONDENT NOS.1 TO 4)

THIS RFA IS FILED UNDER SECTION 96 OF CPC, AGAINST THE JUDGMENT DATED 08.10.2021 PASSED IN P AND S.C.NO.5003/2021 ON THE FILE OF THE IV ADDITIONAL DISTRICT JUDGE, TUMAKURU, SITTING AT MADHUGIRI, ALLOWING THE PETITION FILED UNDER SECTION 276 OF INDIAN SUCCESSION ACT.

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

CORAM: HON'BLE MR. JUSTICE R. NATARAJ

ORAL JUDGMENT

This appeal is filed against the order passed by the IV Additional District Judge, Tumkuru sitting at Madhugiri in P. and SC.No.5003/2021 dated 08.10.2021.

2. When this Court queried the learned counsel for the appellant as to how an appeal under Section 96 of Civil Procedure Code is maintainable, the learned counsel for the

appellant submitted that an appeal is provided under Section 299 of the Indian Succession Act, 1925. For the sake of convenience, Section 299 of the Indian Succession Act is 1925 is extracted below:

> *"**299. Appeals from orders of District Judge.-** Every order made by a District Judge by virtue of the powers hereby conferred upon him shall be subject to appeal to the High Court in accordance with the provisions of the Code of Civil Procedure, 1908 applicable to appeals."*

3. A perusal of the above shows that appeals against, "Orders" is maintainable in the same manner as prescribed under the Code of Civil Procedure.

4. Order XLIII of the Code of Civil Procedure prescribes the procedure for filing an appeal against orders and therefore the appropriate remedy for the appellant is to file a miscellaneous first appeal before this Court or to go before the District Court seeking revocation of the probate under Section 263 of Indian Succession Act, 1925. Therefore, this appeal is not maintainable and hence the appeal is ***dismissed***. However, liberty is reserved for the appellant to either file an appeal

under Section 299 or seek revocation under Section 263 of the Indian Succession Act, 1925.

5. Consequently, all pending interlocutory applications, if any do not survive for consideration and the same stand dismissed.

6. It is needless to mention that the time spent in pursuing this appeal shall be deducted while calculating the limitation applicable for filing a miscellaneous first appeal before this Court or for seeking revocation of the probate granted. Office is directed to return the certified copy of the impugned order, to the learned counsel for the appellant after retaining a photocopy.

Sd/-
(R. NATARAJ)
JUDGE

HJ
List No.: 1 Sl No.: 17