

KAUK410008102025



Presented on : 10-07-2025
Registered on : 10-07-2025
Decided on : 17-06-2026
Duration : 00 years, 11 months, 06 days

IN THE COURT OF CIVIL JUDGE AND JMFC COURT, DANDELI
AT: DANDELI, UTTARA KANNADA

Presided Over by TEJASHWINI SOGALAD B.COM. LL.M
Civil Judge and JMFC.,
Dandeli.

DATED THIS THE 17th DAY OF June, 2026

O.S.No.128/2025

PLAINTIFFS:

1. Smt. Prema W/o Subhash Huded

Aged about: 66, Age old Lady,

2. Bharati D/o Subhash Huded,

Aged about: 49 years, Occ: Household

3. Sri. Parashuram S/o Subhash Huded,

Aged about: 46 years, Occ: Tailor,

4. Sri. Manjunath S/o Subhash Huded,

Aged about: 43 years, Occ: Tailor

5. Sri. Vinod S/o Subhash Huded,

Aged about: 36 years, Occ: Business

Both are residing at Haliyal Road Dandeli,

Tq: Dandeli, Dist: Uttara Kannada

(Plaintiffs by Shri. V.R.H. Advocate)

**-V/s-**

DEFENDANT: Sri. Dinesh S/o Babu Huded,
Aged about: 37 years,
Occ: WCPM Employee,
R/o: Allied Area, Near Maruti Temple
Dandeli, Tq: Dandeli, Dist: Uttara Kannada
(Ex-parte)

Date of Institution of the suit	10-07-2025		
Nature of the suit	Suit for Declaration of Legal Heirs		
Date of the commencement of recording of the evidence	15-10-2025		
Date on which the Judgment was pronounced	17-06-2026		
Total Duration	<u>Year/s</u> 00	<u>Month/s</u> 11	<u>Day/s</u> 06

(Tejaswini Sogalad)
Civil Judge & JMFC.,
Dandeli.

JUDGMENT

The plaintiffs have filed the present for the relief of declaration that they are the only Class-I legal heirs to the **deceased Late Sri. Subhash S/o Kuberappa Huded**, who



expired on **25-04-2022** at **SDM Medical College and Hospital, Dharwad.**

2. **The Plaintiff's suit in brief:** The plaintiff No.1 is the wife, and plaintiff No.2 to 5 are the children of Late Sri. **Subhash S/o Kuberappa Huded** who expired on **25-04-2022** at **SDM Medical College and Hospital, Dharwad.** Further, it is pleaded that the parents of Late Sri. **Subhash S/o Kuberappa Huded also expired** long back. Therefore, the plaintiffs are the only class-I legal heirs to the deceased and there are no other class-I legal heir to deceased. The plaintiffs are Hindus; hence plaintiffs and deceased are governed by Hindu Succession Act.

- 2.2 It is further pleaded that, the deceased was the owner of the residential house property bearing CMC Assessment No.284 situated at Haliyal road, Dandeli, Tq: Dandeli. The said house is in the name of the deceased. After the death of deceased the plaintiffs are entitled to the said property. As such the plaintiffs have approached the CMC, Dandeli for to transfer the said property in their name. But the defendant has denied legal status of the plaintiff as legal



heirs to deceased 02-06-2025, contending that he is also one of the Class-I legal heirs and entitled to the said property left by the deceased. Hence the CMC, Dandeli authority had instructed these plaintiffs to produce the Legal heirs certificate from the competent authority.

2.3 It is further stated that, the defendant is the cousin brother of the deceased and he is not a class-I legal heirs to the deceased. The defendant is intentionally denying the legal status of the plaintiffs as the legal heirs to the deceased and claiming that he also has got share in the said residential house. The defendant has no right to object the plaintiffs class-I legal heirship and the defendant has no right to claim any share in the said residential house. The CMC, authorities directed the plaintiffs to obtain legal heirship certificate. Hence, the plaintiffs constrained to file the present suit for above mentioned reliefs.

3. Pursuant to service of summons, the defendant, did not chose to appear before this court. Hence, he is been placed Ex-parte.



4. Based on the above pleadings of the plaintiffs the points that arise for my consideration are as under:

P O I N T S

- i. Whether the plaintiffs prove that they are the ONLY Class-I legal heirs of the deceased Late Sri. Subhash S/o Kuberappa Huded who was expired on 25-04-2022 at SDM Medical College and Hospital, Dharwad?*
 - ii. Whether the plaintiffs are entitled for the reliefs sought in the plaint?*
 - iii. What Order or Decree?*
5. In order to prove their case, the plaintiff No.4 got himself examined as PW.1 and filed sworn affidavit in lieu of his examination-in-chief and re-iterated plaint averments in toto. He further produced 8 documents and got marked Exs'.P-1 to P-8. Since, the defendant is placed ex-parte, suit got posted for hearing arguments.
6. Heard the arguments of the plaintiffs counsel and perused the materials on records.
7. My answer to the above said issues are as under:



Point No.i & ii : In the Affirmative
Point No.iii : As per the final order
for the following;

REASONS

8. Point No. i and ii: Since these points are interconnected with each other, they are taken up together for discussion in order to avoid repetition of facts.

8.2 It is the case of the plaintiffs that they are the only Class-I legal heir of deceased Late. **Sri. Subhash S/o Kuberappa Huded** who was expired on **25-04-2022 at SDM Medical College and Hospital, Dharwad**. In order to prove their case the Plaintiff No.4 has filed affidavit in lieu of his chief examination and examined himself as P.W.1 and reiterated the plaint averments. Further the plaintiff No.4 has produced and got marked **Ex.P-1** which is the death certificate of husband of plaintiff No.1 and father of plaintiff No.2 to 5 by name **Sri. Subhash S/o Kuberappa Huded** who died on **25-04-2022 at SDM Medical College and Hospital, Dharwad**. **Ex.P-2 to P-5** are the notarized copies of Aadhaar cards of plaintiff No.1 to 4 respectively. **Ex.P-6** TAX paid receipt. **Ex.P-7** is the Genealogical tree. **Ex.P.8** is



the Paper publication published in 'Konkan Vahini' daily newspaper. All of these documents are in consonance with the plaint averments and to establish the relationship of the plaintiffs with deceased.

8.3 Further, defendant has not contested the matter. However, paper publication is given by plaintiffs calling upon objections from public. But none appeared and filed any objections to the plaint. Therefore, the case of the plaintiffs remained unchallenged and unrebutted. Further the documents furnished by plaintiffs clearly establish the relationship of plaintiffs with that of deceased.

8.4 However, the duty is casted upon the court to see whether suit of the plaintiffs can be decreed as prayed for, since the defendant is placed ex-parte. It is settled principle of law that, the plaintiffs have to prove their case with cogent and corroborative oral and documentary evidence to get the suit decreed. The absence of defendant cannot be the ground for decreetal of suit as prayed for. In other words, the absence of defendant in itself cannot be the ground for decreetal of the plaintiffs suit.



8.5 Therefore, at this stage let me go through the personal law of succession, by which the parties and the deceased are governed. As pleaded, the plaintiffs and the deceased are governed by Hindu Law of Succession as they are Hindus by religion. Further in the present suit deceased is a Hindu male who died intestate. When a Hindu male dies without a will (intestate), his legal heirs are determined by the Hindu Succession Act, 1956. More particularly, Sec.8 and 9 of Hindu Succession Act,1956 deals with such scenario. The same are reproduced for better appreciation.

Section. 8. General rules of succession in the case of males.—The property of a male Hindu dying intestate shall devolve according to the provisions of this Chapter:—

(a) firstly, upon the heirs, being the relatives specified in class I of the Schedule;

(b) secondly, if there is no heir of class I, then upon the heirs, being the relatives specified in class II of the Schedule;

(c) thirdly, if there is no heir of any of the two classes, then upon the agnates of the deceased;
and



(d) lastly, if there is no agnate, then upon the cognates of the deceased.

(emphasis supplied)

Section. 9. Order of succession among heirs in the Schedule.—Among the heirs specified in the Schedule, **those in class I shall take simultaneously and to the exclusion of all other heirs;** those in the first entry in class II shall be preferred to those in the second entry; those in the second entry shall be preferred to those in the third entry; and so on in succession.

(emphasis supplied)

8.6 Further, the said act provides for the schedule wherein the list of legal heirs is mentioned. The list of Class-I legal heirs is as follows;

“Son; daughter; widow; *mother; son of a pre-deceased son; daughter of a pre-deceased son; son of a pre-deceased daughter; daughter of a pre-deceased daughter; widow of a pre-deceased son;*



*son of a pre-deceased son of a pre-deceased son;
daughter of a pre-deceased son of a pre-deceased
son; widow of a pre-deceased son of a pre-
deceased son; 1[son of a pre-deceased daughter of
a pre-deceased daughter; daughter of a pre-
deceased daughter of a pre-deceased daughter;
daughter of a pre-deceased son of a pre-deceased
daughter; daughter of a pre-deceased daughter of
a pre-deceased son]”.*

(emphasis supplied)

8.7 With this background, now let me go through the pleadings and evidence on record. It is the case of the plaintiffs that plaintiff No.1 is the wife, and plaintiff No.2 to 5 are the children of deceased. Further, the father and mother of deceased died long back and therefore, plaintiffs are the only Class-I legal heir and defendant is not the Class-I legal heir of deceased. As admitted, the plaintiff No.1 is the wife and the plaintiff No.2 to 5 are the children of deceased, they are, as discussed above, fall within Class-I of legal heir of deceased who died intestate. In that scenario, the



defendant never becomes the Class-I legal heir of deceased. Further more, the defendant do not fall within the list appended to Hindu Succession as Class-I legal heir. Hence, he cannot be the Class-I legal heir of deceased.

8.8 Further, there are no materials on records which creates doubt about the case of the plaintiffs. The plaintiffs have produced cogent and corroborative oral as well as documentary evidence before this court in order to prove their suit. Moreover, even after service of summons, defendant did not chose to appear before this court, because of which the evidence lead in by plaintiff is remained unchallenged and UN-rebutted. Therefore, from the materials on records, it is clearly forthcoming that, plaintiffs are the only Class-I legal heir of **deceased Late Sri. Subhash S/o Kuberappa Huded who expired on 25-04-2022 at SDM Medical College and Hospital, Dharwad** being the wife and children of deceased. Hence, plaintiffs are entitled to the relief sought for. Accordingly, I hold point No.i and ii in **Affirmative.**



9. **Point No.iii** : In view of my findings on the aforesaid Points
I proceed to pass the following:

ORDER

***The suit of the plaintiffs for the relief of
Declaration is hereby DECREED.***

***Consequently, the Plaintiffs are
declared as the ONLY Class-I legal heir of
deceased Late Sri. Subhash S/o Kuberappa
Huded who expired on 25-04-2022 at SDM
Medical College and Hospital, Dharwad.***

No order as to cost.

Draw the decree accordingly.

(Dictated to the stenographer typed by her directly on the computer,
corrected by me, signed then pronounced in the open court on this the
17th day of June-2026)

(Tejaswini Sogalad)
Civil Judge & JMFC.,
Dandeli.

:ANNEXURE:

List of witness examined on behalf of the plaintiffs:

P.W.1 : . Sri. Manjunath S/o Subhash Huded

List of documents exhibited on behalf of the plaintiffs:

Ex.P-1 : Death certificate of husband of plaintiff No.1 and
father of plaintiff No.2 to 5 by name **Subhash S/o Kuberappa
Huded**



Ex.P-2 to 5 : Notarized copies of Aadhaar cards pertaining to plaintiff No.1 to 4.

Ex.P-6 : Tax Paid Receipt

Ex.P-7 : Genealogical Tree

Ex.P-8 : Paper publication published in 'Konkan Vahini' daily newspaper.

List of witness examined on behalf of the defendant:

- NIL -

List of documents exhibited on behalf of the defendant:

-NIL -

(Tejaswini Sogalad)
Civil Judge & JMFC.,
Dandeli.

KAUK410008102025



14

O.S.No.128/2025
Judgment

**(Judgment pronounced in the open Court
vide separate order)**

ORDER

Civil Judge & JMFC., Dandeli.