



**IN THE COURT OF II ADDL. CIVIL JUDGE & JMFC,BELAGAVI**

**Present: Smt. Lakshmibai Basanagoud Patil,**

*B.A, L.L.B.(Spl)*

**II Addl. Civil Judge & JMFC, Belagavi.**

**This the day of 19<sup>th</sup> day of June-2026**

**O.S. NO.254/2025**

**Plaintiff / s**

- 1 Shri. Mohan S/o Parashram Bhandurage  
Age: 65 Years, Occ: Agriculture,  
R/o. #325/1, Hosur, Basawan Galli,  
Shahapur, Belagavi.
- 2 Shri. Madan S/o Parashram Bhandurage  
Age: 63 Years, Occ: Agriculture,  
R/o. #325/1, Hosur, Basawan Galli,  
Shahapur, Belagavi.

**( Rep by Shri.A.D.Kamble, Advocate)**

**Defendant /s**

- 1) The state of Karnataka,  
Represented by Deputy Commissioner,  
Belagavi.
- 2) The Tahasildar,  
Belagavi.

**(By learned ADGP for defendants No.1 and 2)**

|                                  |             |
|----------------------------------|-------------|
| Date of institution of the suit  | 27.02.2025  |
| Nature of suit                   | Declaration |
| Date of commencement of evidence | 18.08.2025  |

|                                           |                                                           |
|-------------------------------------------|-----------------------------------------------------------|
| Date on which the judgment was pronounced | 19.06.2026                                                |
| Duration of suit                          | Year/s    Months    Days<br>-            03            21 |

## **J U D G M E N T**

This suit filed by the plaintiffs for seeking relief of declaration to declare that the plaintiffs are the Class-II legal heirs of the late Shri. Shankar S/o Gangaram Bhandurge who died on 10.04.1996.

### **2. The brief facts of the case are as follows:**

It is case of the plaintiffs that, the plaintiffs are the permanent residents of Hosur, Basawan Galli, Shahapur, Belagavi. The plaintiffs are the legal heirs of late Shri. Parashram S/o Gangaram Bhandurge who died about 40 years back. One Gangaram was the propositus of their family and he had two sons by name Parasharam and Shankar, Parasharam was married to one Nirmala and out of their wedlock two son are born (1) Madan and Mohan i.e., the plaintiffs. The second of Gangaram by name Shankar was unmarried as he was

worshiping goddess Yellamma (Jogati). The second son of Parasharam i.e., Shankar S/o Gangaram Bhandurge was their uncle and as he was issueless the plaintiffs were looking after the said Shankar and he died on 10/04/1996 due to old age in their house at Yellur, Tal & Dist: Belagavi. The death of Shri. Shankar S/o Gangaram Bhandurge has been duly registered before the Registrar of Births and Deaths, Tahasildar of Belagavi. That as the said Shri. Shankar S/o Gangaram Bhandurge was unmarried, hence there are no any legal heirs to the said Shankar the plaintiffs are the only Class-II legal heirs of their uncle Shankar S/o Gangaram Bhandurge.

**3.** The plaintiff requires the Warsa certificate of their uncle late Shri. Shankar S/o Gangaram Bhandurge and hence, the plaintiffs have applied to the defendant No.2 for issuance of Warsa certificate by filing application before the Nemmadi Kendra. The officials of the defendant no.2 though entertain the application did not issue the Warsa certificate till the end of December 2024. When the plaintiffs approached the defendant

they have been intimated that the Govt. has issued a notification whereby it is directed that the defendant No.2 is having no authority to issue Warsa Certificate to any private individual and stated that the Certificate can be obtained from court. The plaintiffs requires the Warsa Certificate of his deceased uncle for all official purposes. Late Shri. Shankar S/o Gangaram Bhandurge is the natural uncle of the plaintiffs and they being the only Class-II legal heirs of the deceased Shri. Shankar S/o Gangaram Bhandurge. As the defendant no.2 has refused to entertain the request of the plaintiffs, the plaintiffs has left with no other efficacious remedy to file the present suit. Hence this suit.

4. On the other hand, the defendants No.1 and 2 are appeared through learned ADGP and defendant No.2 has filed his written statement. The same has been adopted by defendants No.1 filing adoption memo.

5. **The brief facts of the written statement are as follows:**

In the written statement, defendants No.1 and 2 have denied the averments of plaint as are false, frivolous. The present suit is not maintainable in the eye of law. The plaintiff not applied for heir ship certificate in the proper forum within the limitation period. The suit of the plaintiffs is suffering the non-joinder of the necessary parties. Further, this Court has no jurisdiction for Declaration of Family surviving members of deceased in this case. The plaintiff has not complied with the mandatory provisions of section 80 of CPC. Hence, the suit is not maintainable. The plaintiff shall take paper publication in a well reputed newspaper stating that the name of the plaintiffs wrongly entered in the Revenue records. The publication of citation in the newspaper is very much essential in order to bring all the true facts on record and to avoid the future disputes and hurdles. There is No cause of action to file this suit. The plaintiffs have not produced any prima-facie material on records to show that they are the only surviving legal heirs to

the deceased. Hence, prayed to dismiss the suit with heavy costs.

6. On the basis of above pleading, the following issues were framed by this Court:-

1. **Whether the plaintiffs prove that plaintiffs are the class-II legal heirs of their uncle Late Shri. Shankar S/o Gangaram Bhandurge who died on 14.04.1996?**
2. **Whether the Plaintiffs are entitled to relief as sought for?**
3. **What order or decree?**

7. In order to prove the case, the plaintiff No.1 has been examined himself as P.W.1 and got marked 5 documents at Ex.P.1 to Ex.P.5. The defendants have not chosen to adduce their evidence.

8. Heard arguments on the learned counsel for the plaintiffs and learned ADGP.

9. My answers on above issues are as under:-

**Issue No.1 : In the Affirmative;**

**Issue No.2 : In the Affirmative;**

**Issue No.3 : As per final order,  
for the following: -**

**:REASONS:**

**10. ISSUE NO.1 :-** This suit filed by the plaintiffs for seeking relief of declaration to declare that the plaintiffs are the Class-II legal heirs of the late Shri. Shankar S/o Gangaram Bhandurge who died on 14.04.1996.

**11.** In order to prove the case, the plaintiff No.1 has been examined himself as PW.1 and filed affidavit in lieu of his examination-in-chief in which he has reiterated the averments of plaint. In support of his case, he has produced 5 documents at Ex.P1 to 5. On perusal of the documents, Ex.P1 and Ex.P2 are Aadhar cards of Madan Parshram Bhandurge and Mohan Bhandurge S/o Parashram Bhandurge. Ex.P3 is death certificate of Shri. Shankar S/o Gangaram Bhandurge. Ex.P4 is property register card in property No.4139/B stands in the name of Mohan and Madan S/o Parshram Bhandurge. Ex.P5 and Ex.5A

are paper publication and selected portion in Kannada Prabha News paper dated 06.08.2025.

**12.** The plaintiffs have deposed as class-II legal heirs to the deceased person as contented in the plaint. The defendants have taken the contention that the plaintiffs have not issued the mandatory notice as per section 80 of CPC. However, though the defendants have taken such contention, in order to substantiate the same, they have not adduced any evidence. During the course of cross-examination of PW.1 nothing has been elicited from the mouth of PW.1 to substantiate his contention. In the cross-examination of PW.1, he denied the suggestion made by learned ADGP that there are other legal heirs. Apart from that, he denied the suggestions that the creating the documents which are relied by the plaintiffs. However, the testimony of PW.1 clearly disclose that the plaintiffs are legal heirs of deceased Shri. Shankar S/o Gangaram Bhandurg. When the defendants have taken such contention, they have to substantiate the same by adducing evidence. If they have not



entered into the witness box an adverse inference could be drawn against them that the contention taken by them is not correct. At this juncture, it is useful to refer the decision reported in **1999 SAR (Civil) Page 431 in between Iswar Bhai C. Patel @ Bachu Bhai Patel versus Harihar Behera and another**, wherein it is held by the Hon'ble Supreme Court of India as under; section 114 of Evidence Act. *Evidence Act, 1872 - Section 114 - Appellant had abstained from entering the witness - No statement on oath in support of his pleading set out in the written statement - An adverse presumption has to be drawn against him."*

As I already discussed, in the present case on hand also though the defendants have filed the written statement and cross-examined the witnesses examined from the plaintiff's side, they have not entered into the witness box to state this case and also to rebut the oral and documentary evidence adduced from the plaintiffs side. Therefore, the presumption could be drawn that the contention taken by the defendants is not correct.

**13.** No doubt, it is the principle of law that when the plaintiffs approached the court seeking relief, they have to prove their case on their own strength. They cannot take advantage of weakness of the other side. In the instant suit, the plaintiffs have proved their case by adducing oral and documentary evidence. Under such circumstances, there are no reasons to disbelieve that the plaintiffs are surviving family members of deceased.

Moreover, the counsel for the plaintiffs submitted that the Late Shri. Shankar S/o Gangaram Bhandurge is the natural uncle of the plaintiffs and they being the only Class-II legal heirs of the deceased Shri. Shankar S/o Gangaram Bhandurge. At this stage this court glance the provision of sec.8 of Hindu Succession Act 1956 held that,

***General rules of succession in the case of males:-*** the property of a male Hindu Dying intestate shall devolve according to the provision of this chapter:-

*a) firstly, upon the heirs, being the relatives specified in the class I of the schedule:*

*b) secondly, if there is no heir of class I, then upon the heirs, being the relatives specified in the 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.*

### **Class-II**

*I. Father.*

*II. Son's daughter's son, 2) son's daughter's daughter 3) brother, (4) sister*

*(1) Daughter's son's son, (2) daughter's son's daughter, (3) daughter's daughter's son, (4) daughter's daughter's daughter.*

*IV. (1) Brother's son, (2) sister's son, (3) brother's daughter, (4) sister's daughter.*

*V Father's father; father's mother.*

*VI Father's widow; brother's widow.*

*VII Father's brother; father's sister.*

*VIII. Mother's father; mother's mother.*

*IX. Mother's brother; mother's sister.*

***Explanation. In this Schedule, references to a brother or sister do not include references to a brother or sister by uterine blood.***

**14.** No doubt, it is the principle of law that when the plaintiffs approached the court seeking relief, they have to prove their case on their own strength. They cannot take advantage of weakness of the other side. In the instant suit, the plaintiffs have proved their case by adducing oral and documentary evidence. Under such circumstances, there are no reasons to disbelieve that the plaintiffs are Class II legal heirs of deceased Shri. Shankar S/o Gangaram Bhandurge. Moreover, the counsel for the plaintiffs submitted that the plaintiffs are Class II legal heirs of deceased Shri. Shankar S/o Gangaram Bhandurge. In view of the above discussion, this Court of the opinion that the plaintiffs are Class II legal heirs of deceased Shri. Shankar S/o Gangaram Bhandurge. Accordingly, issue No.1 answered in the **Affirmative.**

**15. ISSUE No.2 :-** When the Plaintiffs have sought the relief of declaration, the plaintiffs are Class II Legal heirs of deceased Shri. Shankar S/o Gangaram Bhandurge, they have to

prove the same. In the instant suit, the plaintiffs have proved that plaintiffs are Class II legal heirs of deceased Shri. Shankar S/o Gangaram Bhandurge by adducing oral and documentary evidence as I already discussed in issue No.1. Therefore, plaintiffs are entitled to the relief of declaration. **Accordingly, this Court answered issue No.2 in the Affirmative.**

**16. ISSUE NO.3:-** In view of the above findings, the court proceeds to pass the following:

**ORDER**

**The suit of the Plaintiffs is hereby decreed.**

**Further, it is declared that Plaintiffs are the Class-II legal heirs of deceased Shri. Shankar S/o Gangaram Bhandurge.**

**On considering the facts and circumstances of the case, no order as to costs.**

**Draw decree accordingly.**

*(Dictated to the Stenographer on the computer and typed by her and corrected by me and then pronounced in the open Court on this 19<sup>th</sup> day June 2026\*).*

**(Lakshmibai Basanagouda Patil)  
II Addl. Civil Judge & JMFC.,  
Belagavi.**

**ANNEXURES****List of witnesses examined for the plaintiff/s :-**

P.W.1: Mohan S/o. Parashram Bhandurge.

**List of documents marked for the plaintiff/s :-**

|               |   |                                |
|---------------|---|--------------------------------|
| Ex.P.1 and 2  | : | Aadhar cards                   |
| Ex.P.3        | : | Death certificate              |
| Ex.P.4        | : | Property register card         |
| Ex.P.5 and 5A | : | Paper publication and citation |

**List of witnesses examined for the Defendant/s :-**

-Nil-

**List of documents marked for the Defendant/s:-**

-Nil-

**II Addl. Civil Judge & JMFC.,  
Belagavi.**