



IN THE COURT OF THE I ADDITIONAL SENIOR CIVIL JUDGE,
GOKAK

Present: Sri. Mahadev Kanatti,B.com., LL.B.
I Addl. Senior Civil Judge, Gokak

Dated, this the 05th day of June, 2026

RA.No.23/2025

Appellant:

1. Smt. Mahadevi W/o. Mallappa Kotagi,
Age: 50 years, Occ: Agriculture,
R/o: Godageri, Tal: Hukkeri, Dist: Belagavi.

(R/By Sri.S.B.Koujalagi., Advocate.)

V/s

Respondents:

1. Smt. Bhimavva W/o. Lakkappa Pujeri,
Age: 43 years, Occ: Agriculture,
R/o: Kolavi, Tal: Gokak, Dist: Belagavi.
2. Priyanka D/o. Lakkappa Pujeri,
Age: 26 years, Occ: Agriculture,
R/o: Kolavi, Tal: Gokak, Dist: Belagavi.
3. Priya D/o. Lakkappa Pujeri,
Age: 21 years, Occ: Agriculture,
R/o: Kolavi, Tal: Gokak, Dist: Belagavi.
4. Smt. Bhimvva W/o Bhimappa Vaggar,
Age: 53 years, Occ: Agriculture,
R/o: Melamanahatti, Tal: Gokak, Dist: Belagavi.

5. Smt. Mahadevi W/o. Satteppa Vaggar,
Age: 50 years, Occ: Agriculture,
R/o: Melamanahatti, Tal: Gokak, Dist: Belagavi.
6. Smt. Sattevva W/o. Basappa Patil,
Age: 48 years, Occ: Agriculture,
R/o: Gumachanmardi, Tal: Hukkeri, Dist: Belagavi.
7. Smt. Sattevva W/o Sidram Kotagi,
Age: 53 years, Occ: Agriculture,
R/o: Ghodageri, Tal: Hukkeri, Dist: Belagavi.
8. Hanamanth S/o Satteppa Pujeri,
After adopted Hanamanth A/son Mallappa Pujeri,
Age:48 years, Occ: Agriculture,
R/o: Ghodageri, Tal: Hukkeri, Dist: Belagavi.

(R1 to 3 R/by Shri. S.B.Naik., Advocate)

(R4 to 7 exparte)

(R8 R/by Shri. M.Y.J., Advocate)

Date and nature of the Order:	Appeal against the judgment and decree passed in O.S. No.696/2017 dated 16.04.2025 by the Prl. Civil Judge and JMFC, Gokak.		
Date of institution of the appeal	01.06.2025 and registered on 04.06.2025		
Date of Judgment	05.06.2026		
Duration of the appeal	Year/s	Month/s	day/s
	00	10	25

Sd/-

(Mahadev Kanatti)

**I Addl. Senior Civil Judge,
Gokak**

J U D G M E N T

The appellant has filed this regular appeal questioning the correctness and legality of the Judgment and decree dated: 16.04.2025 passed in O.S.No.696/2017, on the file of the Prl. Civil Judge and JMFC, Gokak.

2. Brief facts of the case:-

The Respondent No.1 to 3 herein had filed the suit against the Appellant and the remaining respondents herein in O.S.No.696/2017 for the relief of partition and separate possession.

3. For the sake of convenience the parties are referred as 'Plaintiffs' and the 'Defendants' as per their original ranks in the suit.

4. The propositus of the family of the plaintiffs and the defendants is one Yallappa. Who had two sons by name Satteppa and Bhimappa. Both are died leaving behind their legal heirs. The defendant No.1 is the wife of deceased Bhimappa. The defendant No.3 to 5 are the daughters of

deceased Bhimappa and defendant No.1. The plaintiffs are the wife and children of deceased Lakkappa who is the only son of the deceased Bhimappa and the defendant No.1. The defendant No.2, 6 to 8 are the wife and children of the deceased Satteppa. The suit properties are Devastan Inam Lands of lord Maruti. The name of the Bhimappa Yallappa Pujeri was appearing in the records of rights of the suit properties. After his death both the plaintiffs and the defendants mutated their names to the suit properties. Accordingly, they are in joint possession and enjoyment of the suit properties. There is no partition taken place between them by metes and bounds. Due to difference of opinion in the family members the plaintiffs decided not to continue with joint possession of the suit properties. Hence, the plaintiffs demanded their share in the suit properties, but the defendants have refused to effect the partition. Hence, the plaintiffs constrained to file the suit for the relief of partition and separate possession claiming their legitimate share in the suit properties.

5. The trial court records show that after service of summons, defendant No.3 to 8 put their appearance through

their counsel. Defendant No.1 and 2 died during the pendency of the suit. Hence, the suit against them was abated. The defendant No.6 alone has filed her written statement contending that, the plaintiff No.1 is the second wife of deceased Lakkappa. One Shantavva is the first wife of deceased Lakkappa and they have a daughter by name Renuka. The said Shantavva and Renuka are the necessary parties to the suit. It is further contended that, the defendant No.2 filed the suit in O.S.No.807/2014 which was ended in compromise on 11.08.2016. In the said suit the branch of the defendant No.1 allotted to the share in the suit properties. In view of the same the present suit is not maintainable. On these ground prays to dismiss the suit.

6. Based on the above pleadings the trial Court framed the following issues:

ISSUES

- 1. Whether the plaintiffs prove that the suit properties are joint family properties of themselves and the defendants ?**
- 2. Whether the defendant No.6 proves that plaintiff No.1 is the second wife of deceased Lakkappa?**

- 3. Whether the defendant No.6 proves that suit is bad for non joinder of necessary parties?**
- 4. Whether the plaintiffs are entitled for the reliefs as prayed for ?**
- 5. What order or decree ?**

7. In order to prove the case of plaintiffs, the plaintiff No.1 herself entered into witness box examined as PW.1 and produced two documents at Ex.P.1 and P.2. No evidence is led on behalf of the defendants.

8. As per the impugned judgment and decree, after hearing of the arguments of parties and considering the evidence available on record, the trial Court decreed the suit of the plaintiffs.

9. Being aggrieved by the said Judgment and decree, the appellant/defendant No.7 has preferred the present appeal on various grounds that:

- a.** The impugned judgment and decree is illegal, improper, arbitrary and capricious.
- b.** The trial Court has acted as surmises and assumptions and has not at all applied its mind to the facts of the case on hand.

c. The trial Court has not applied its judicious mind to the factual and legal aspect of the case and arrived at a wrong and erroneous conclusion.

d. The trial Court has not given any proper reasons on issue No.1, 2, 4 and 5,

e. The trial Court failed to see that the contents of written statement of defendant No.6.

f. The trial Court failed to see that the plaintiffs have failed to prove that the suit properties are the joint family properties of plaintiffs and defendants and they are in joint possession of the suit properties.

g. The trial Court failed to see that the plaintiff No.1 is the legally wedded wife of deceased Lakkappa in fact one Shantavva is legally wedded wife of deceased Lakkappa and out of their wedlock a daughter by name Renuka was born.

h. The trial Court failed to see that the plaintiff No.1 is 2nd wife of deceased Lakkappa, hence she was/is no right, title and interest over the suit properties.

i. The trial Court failed to see that the suit itself is not maintainable under the provisions of non-joinder of necessary party.

j. The trial Court failed to see that already partition was effected as per compromise decree in O.S.No.807/2014 and they are in possession of their respective shares.

k. The trial Court erred to consider the position of law and also the scope of exhibited documents and thereby arrived to the erroneous conclusion.

l. The trial Court ought to have dismissed the suit as plaintiffs have not proved their case in accordance with law by producing relevant documents.

m. The trial Court failed to see that there is no documents to see that the suit properties are joint family properties.

n. The trial Court failed to see that at the time of judgment, the plaintiff No.3 was attained majority and without discharging the minor guardian trial Court has passed its judgment hurriedly.

o. The entire approach of the trial Court is one sided.

p. It is submitted that the judgment and decree passed by the trial Court is exparte decree. Hence, in order to adjudicate the matter on merits, it is very necessary to set aside the judgment and decree passed in O.S.No.696/2017 dated: 16.04.2025 by remanding before the trial Court for fresh consideration by

giving an opportunity to appellant to file her written statement and contest the matter.

10. Heard the counsel for appellant on IA and main appeal.

11. Points that arise for determination of this Court are:

1. Whether the impugned judgment and decree is perverse, arbitrary, capricious, opposed to law, facts and circumstances of the case and needs interference by this Court?

2. What order or decree?

12. Findings of the Court on the above points are :

Point No.1: In the Negative.

Point No.2: As per the final order for the following:

REASONS

13. Point No.1:- The plaintiffs claiming their legitimate share in the suit properties on the count that, they are legal heirs of the deceased Lakkappa i.e., wife and children. The defendant No.6 who is the contesting defendant in the suit has denied the status of the plaintiffs contending that, the plaintiff No.1 is the second wife of deceased Lakkappa. The defendant No.6 has contended that, there was a compromise decree in

O.S.No.807/2014 which was ended in compromise on 11.08.2016, wherein the branch of the defendant No.1 have been allotted share in the suit properties. Hence, it is initial burden cast on the plaintiffs to prove their relationship with the deceased Lakkappa and the suit properties are their joint family properties and they have got legitimate share in the suit properties.

14. In order to prove the same the plaintiff No.1 herself entered into the witness box by filing her affidavit in lieu of examination-in-chief by reiterating the plaint averments. The plaintiffs have mainly relied on the RTC extracts of the suit properties for the year 2017-2018 i.e., as on the date of the filing the suit. Upon perusal of the said documents the suit properties Sl.No.1 bearing Sy.No.360 and Sl.No.2 bearing Sy.No.356 measuring 02Acres 16Guntas and 26Guntas respectively situated at Kolavi Village are jointly appearing in the name of defendant No.1, 2 and plaintiffs in column No.9. In the said documents the names of the plaintiffs are appearing as plaintiff No.1 is the wife and the plaintiff No.2 and 3 are the daughters of deceased Lakkappa. These two documents prima-

facie establish that, the plaintiff No.1 is the wife of the deceased Lakkappa and plaintiff No.2 are their children and the suit properties are joint family properties of the plaintiffs and the defendants. To rebut the evidence of the PW.1 none of the defendants have entered into the witness box and led evidence and also PW.1 has not been subjected to cross-examination. The evidence of the PW.1 remained unchallenged.

15. The learned counsel for the appellant much argued that, the defendant No.6 has taken specific contention in her written statement that, the plaintiff No.1 is the second wife of deceased Lakkappa and he had first wife by name Shantavva through her got a daughter by name Renuka. They are necessary parties to the suit. Hence the suit is bad for non joinder of necessary parties. He further argued that, already there was compromise decree in between the defendants and the said Renuka in O.S.No.807/2014 dated: 11.08.2016. Though the defendant No.6 has taken such specific contention but not led evidence in the original suit. However, during the course of the arguments the appellant has produced certified copy of the compromise decree passed in the above said suit. No doubt the said

document is not marked by leading additional evidence, however, it is court document can be looked in to. Upon perusal of the said compromise decree neither deceased Lakkappa nor the plaintiffs were parties to the suit. Hence, the arguments canvassed by the learned appellant is not acceptable.

16. For the sake of the arguments it is assumed that, the Lakkappa is died, then plaintiffs being the second wife and children would have been made as parties to the said suit. Hence, the alleged compromise decree is not binding on the plaintiffs.

17. The learned counsel for the appellant further argued that, the learned trial Court has wrongly framed the issue No.2 casting burden on the defendant No.6 to prove that the plaintiff No.1 is the second wife of the deceased Lakkappa instead casting burden on the plaintiffs to prove that the plaintiff No.1 is the legally wedded wife of deceased Lakkappa. If the arguments of learned appellant is accepted then, the learned trial Court out to have framed the said issue casting burden on the plaintiffs to prove that the plaintiff No.1 is legally wedded wife of the deceased Lakkappa. Even though there is no burden

on the plaintiffs to prove issue No.2, however the plaintiffs have produced the documents at Ex.P1 and 2 i.e., R/R of the suit properties wherein, the name of the plaintiffs appearing as wife and children of the deceased Lakkappa. The said entries in the record of rights have not been challenged till today. Further in the present appeal also no prima-facie material has been produced by the appellant to show that, the deceased Lakkappa had a first wife by name Shantavva and through her got a daughter by name Renuka. Under such circumstances, the arguments of the learned counsel for the appellant does not hold water.

18. The learned counsel for appellant argued that, the matter has to be remanded for fresh trial on the ground that, the defendant No.7 has not got opportunity to prove her defence in the original suit. It is admitted fact that, the original propositus of the plaintiffs and defendants is one Yallappa who had two sons by name Satteppa and Bhimappa and both are died. The present appellant/defendant No.7 claiming rights through the said deceased Satteppa and the plaintiffs are claiming right through deceased Bhimappa. In the present suit also the

branch of the appellant/defendant No.7 have been also declared share in the suit properties. The plaintiffs are not claiming their share in the share of the appellant/defendant No.7. Even if the matter has been remanded for fresh trial the share of the appellant would not be changed as the defendant No.2, 6 to 8 being the legal heirs of the deceased Satteppa had a definite half share in the suit properties. Further, it is for the alleged first wife and daughter of the deceased Lakkappa to challenge the decree if they are aggrieved. On the face of the records it appears that the present appeal filed by the appellant on behalf of the alleged first wife and daughter of the deceased Lakkappa without producing iota of material before this court. Hence, no purpose will be served by remanding the matter for fresh trial as sought by the appellant. No doubt the appellant has not filed her written statement in the suit, that itself not ground to remand the matter for fresh trial by setting aside the judgment of the trial court.

19. It is pertinent to note that, upon perusal of the judgment and decree, the learned trial Court has declared the shares of the parties declaring that, the plaintiffs together entitled 1/8th

share, the defendant No.3 to 5 entitled $1/8^{\text{th}}$ share each in the suit properties, the defendant No.6 to 8 entitled $1/6^{\text{th}}$ share each in the suit properties. As stated supra, it is admitted fact that, the propositus Yallappa had two sons by name Satteppa and Bhimappa. The branch of the Satteppa entitle half share in the suit properties. Similarly the branch of the Bhimappa entitled half share in the suit properties. It is pertinent to note that, the defendant No.2 is died during the pendency of the suit. Hence, the defendant No.6 to 8 are the children of the deceased defendant No.2 and the deceased Satteppa entitled $1/2$ share in the suit properties i.e. $1/6^{\text{th}}$ share each.

20. It is also pertinent to note that, during the pendency of the suit the defendant No.1 is also died leaving behind the plaintiffs and the defendant No.3 to 5. Hence, the plaintiffs and the defendant No.3 to 5 being the legal heirs of the deceased defendant No.1 and the deceased Nagappa together entitled half share in the suit properties. The plaintiffs being wife and children of the deceased Lakkappa who is only son of the deceased Bhimappa and the deceased defendant No.1 entitled $1/4^{\text{th}}$ share in $1/2$ share i.e., $1/8^{\text{th}}$ share. The defendant No.3 to 5

entitled 1/8th share each in the suit properties. The learned trial Court after assessing the evidence placed before the Court has rightly answered all the issues and declared the shares of the parties by considering the facts and circumstances of the case and rightly decreed the suit of the plaintiffs. Hence, the judgment of the trial court does not warrant interference of this Court. Accordingly, point under consideration is answered in the Negative.

21. Point No.2:- In view of the findings arrived on the point No.1, this Court proceed to pass the following:

ORDER

An appeal filed by the appellant/ defendant No.7 U/o.XL Rule 1 & 2 R/w Sec.96 C.P.C., is hereby dismissed with costs.

Consequently, the judgment and decree dated 16.04.2025 passed by trial Court in O.S.No.696/2017 is hereby confirmed.

Draw decree accordingly.

Office is hereby directed to send records
to the trial Court forthwith along with copy
of this judgment and decree.

(Dictated to the Stenographer, transcribed, typed by steno, revised, corrected and then pronounced by me in the open Court on this day, the 05th of June, 2026).

Sd/-
(Mahadev Kanatti)
I Addl. Senior Civil Judge,
Gokak