

KABG700003982025



**IN THE COURT OF THE SENIOR CIVIL JUDGE & J.M.F.C.,
KHANAPUR**

PRESENT

**Shri.Chandrashekhar Yallappa Talawar,
B.A.,LL.B.(Spl),
Senior Civil Judge and JMFC,
Khanapur.**

Regular Appeal No.4/2025

Dated this the day of 4th day of July, 2026

Appellants:-

1. Shri. Vijay S/o. Basappa Argavi,
Age: 69 yrs, Occn: Agriculture,
R/O: Nandgad, Tq Khanapur, Dist: Belagavi.

....(Original Plaintiff)

(By Shri. R.R. Parishwad, Advocate)

//V/s//

Respondents:-

1. Smt. Shivawwa @ Shivatai W/o
Siddalingappa Argavi,
Age: 80 yrs, Occn: Household Work,
R/o: Nandgad, Tq Khanapur, Dist: Belagavi.

2. Smt: Shantawwa W/o Shivanand Argavi,
Age: 74 yrs, Occn: Household Work,
R/O: Flat No: 104 Gokuldharm Residency,
Adarshnagar, 5th cross Belagavi-590011.
3. Smt: Swapna W/o. J Kajagar,
Age: 43 yrs, Occn: Household Work,
R/o: No: 59, 6th Cross Adarshnagar,
Hindawadi, Belagavi-590011.
4. Smt: Sangeeta W/o. A Lamishane,
Age: 40 yrs, Occn: Household Work,
R/o: 1st Cross Saraswati Badavane,
Near Hatalgeri Naka, Behind More Super Market,
Gadag-582101.
5. Smt: Suchitra W/o Girish Ladde,
Age: 38 yrs, Occn: Household Work,
R/o: B-1.44 Elite Empire Dushra Chouk,
Balewadi, Pune 411045.
6. Smt: Kasturi W/o Gurupadappa Mamadapur,
Age: 79 yrs, Occn: Household Work,
R/o: Badami, Tq: Badami, Dist: Bagalakote.
7. Smt: Sudha W/o Shivanand Kujalagi,
Age: 76 yrs, Occn: Household Work,
R/o: Bailhongal, Tq: Bailhongal, Dist: Belagavi.
8. Smt: Sarojini W/o Siddalingappa Manvi,
Age: 70 yrs, Occn: Household Work,
R/o: H N 11B Kallapur Layout,
Shakti Colony II Phase, Near J.K School-Hubballi.

9. Smt: Pushpa W/o Nagappa Deshnoor,
Age: 66 yrs, Occn: Household Work
R/o: Bailhongal, Tq: Bailhongal, Dist: Belagavi.

...(Original Defendants)

(By Shri. J.M. Mulla, Advocate)

Date of Institution of Appeal	05.04.2025
Nature of order/judgment appealed against which	Against the order passed in O.S.No.235/2024 by the Prl. Civil Judge and JMFC, Khanapur dated 24.02.2025
Date of pronouncement of Judgment	04.07.2026
Duration of Appeal	Year/s Month/s Day/s 01 02 29

**Senior Civil Judge & JMFC,
Khanapur.**

JUDGMENT

This is a Regular Appeal filed under Section 96 R/W
Order 41 Rule 1 of CPC, against the order dated 24.02.2025

passed in O.S.No.235/2024 by the Prl. Civil Judge and JMFC, Khanapur.

2) The appellant is the plaintiff and respondents are the defendants in the Original Suit before the Trial Court. For the sake of convenience, the parties are referred to as they were referred before the Trial Court.

3) Brief facts of the plaintiff's case put forth before the Trial Court are as follows:-

The Plaintiff filed this suit to declare parties to suit as legal heirs of deceased Shri. Mohan Mohandas S/o Basappa(Basalingappa) Argavi who expired on 08.12.1976 at Kasabekar Metagud Belagavi.

4) Shri. Basappa (Basalingappa) Argavi is the propositus and he died on 13.02.1975 at Nandgad Village, and his wife Smt. Basavva as died on 27.10.1986 at Nandgad Village,

these spouses were blessed with 10 children such are Siddalingappa, Prema, Shivanand, Kasturi (D-6), Sudha(D-7). Gangu. Mohan. Sarojini(D-8), Vijay(P) and Pushpa(D-9).

5) Siddalingappa Argavi is died and defendant no. 1 and 2 are is his legal heirs. Prema Anji died on 13.09.2023. Shivanand Argavi as died leaving behind.

6) The plaintiff further averred that defendant no. 3 to 6 has is legal heirs. Gangu B as died on 04.02.2005. Shri. Mohan as died unmarried as issue less on 08.12.1976. Genealogy is clearly depicted in Para No. 1 of plaint. Plaintiff contended that parties to suit are the only legal heirs to deceased Mohan Mohan Das S/o Bassappa (Basalingappa Arvagi). Plaintiff tried after passing judgment and decree in O.S.No.279/2022, to get incorporated name of parties to suit in concerned property records by deleting the names of Basappa Arvagi and Mohan Argavi whereas concerned

authorities directed to produced the Warasa certificate of deceased Mohan Argavi. Hence, plaintiff constrained to this suit.

7) The defendant No.1 to 9 appeared through their counsel. Defendant No. 9 filed her written statement by admitting the facts of plaint. Remaining defendants adopted the written statement of defendant No.9 in their favour.

8) In order to prove the plaintiff's case, the plaintiff examined himself as Pw.1 and got marked in total 10 documents at Ex.P1 to 10 viz., Ex.P1 is the Unmarried certificate. Ex.P2 is the Death Certificate of Mohan, Ex.P3 is the Death Certificate of Basavva, Ex.P4 is the Death Certificate of Sidalingappa, Ex. P6 is the Certified copy of Judgment O.S No. 279/22. Ex. P7 is the Certified copy of Decree O.S No. 279/22. Ex. P8 is the Requisition to

Tahasildar, Ex. P9 & P10 are the RTC Extract. Defendants have not lead any evidence on their behalf and not get marked any documents in their favour.

9) Upon considering the pleadings of the parties, the Trial Court has framed the following points for consideration which are as under:-

POINTS

- 1. Whether plaintiff proves that Mohan S/o Bassappa Argavi as 08.12.1976 at Kasabekar Mettagud Belagvi?**
- 2. Whether plaintiff proves that parties to suit are only legal heirs to deceased Mohan S/o Basappa Argavi?**
- 3. Whether plaintiff is entitle to relief of declaration as he sought?**
- 4. What order or decree?**

10) After hearing the arguments and after perusing the materials available on record, the Trial Court has passed the

Judgment dated 24.02.2025, wherein the suit of the plaintiff was dismissed.

11) Being aggrieved by the said judgment and decree, the appellant/plaintiff has filed this appeal on the following grounds:-

1. The impugned Judgment and Decree of the Trial Court is contrary to the law, facts and the evidence on the record and hence it is liable to be set aside or corrected.
2. The Trial Court has not applied its judicious mind to the facts of the case, as the appellant-original plaintiff and respondents-original defendants are the only legal heirs / surviving family members of the deceased Mohan (Mohandas) S/o. Basappa (Baslingappa) Argavi, died on 08/12/1976 at Belagavi. The appellant is the brother and the respondents are the legal heirs of the said deceased as shown in the genealogy and to that effect the correct genealogy is also shown along with pleadings in the suit plaint.

3. In the relief column in the suit plaint the plaintiff has clearly prayed that, any other relief/s or equitable relief which the Hon'ble deems fit and proper be granted in the interest of justice and equity. Hence in view of the said fact, if not all the persons disclosed in the genealogy of the suit plaint, are the legal heirs of the said deceased Mohan, then atleast the plaintiff and his own surviving married sisters respondent Nos. 7, 8, 9 and 10 (defendant Nos. 7, 8, 9 and 10), who are parties shall have been declared as legal heirs of the said deceased by decreeing suit of the appellant partly. Hence the Trial Court has not granted proper relief/s or equitable relief/s as sought by the plaintiff. Therefore the plaintiff most humbly prays that, if all the persons disclosed in the genealogy of the suit plaint are not legal heirs, then atleast some of the persons i.e., plaintiff and said respondents 7 to 10 be declared as legal heirs of the said deceased Mohan (Mohandas), by allowing the suit partly and decreeing the suit partly.

4. Trial Court ought to have come to the conclusion that, plaintiff and respondents 7 to 10 are own brother and married sisters of the said deceased Mohan (Mohandas).
5. The Trial court has failed to consider that the said deceased Mohan along with his other family members had left behind him some properties and to that effect the plaintiff has produced record of rights which are marked as Ex-P6 & P9 etc.,
6. Trial Court has failed to come to the conclusion that it has no jurisdiction to decide the legal heirs of the deceased since said deceased died at Belagavi, without considering the facts that, his entire family members i.e., parents and other members including the appellant are residing at Nandgad village, in Khanapur taluka by having their moveable and immovable properties. The appellant and the said deceased Mohan (Mohandas) were having their own married sister by name Prema V Hanji, whose name also shown in the genealogy and in her lifetime she was residing at Belagavi and

as such through oversight the address of the said deceased Mohan (Mohandas) has been wrongly shown as Belagavi. However the Hon'ble Trial Court ought to have considered that the plaintiff and his family members and also the parents of the said deceased Mohan(Mohandas) were permanent resident of Nandgad. The Hon'ble Trial Court ought to have come to the conclusion that said deceased along with his other family members i.e., some of the defendants are the legal heirs of the said deceased. Hence in view of the said facts and other facts the Trial Court ought not to have come to the conclusion that it has no jurisdiction etc.,

7. The Trial Court ought to have considered that the plaintiff and respondents 7 to 10 are the legal heirs as surviving family members and thereby allowed the suit of the plaintiff partly instead of dismissing of the same.
8. The Trial Court ought to have passed the judgment and decree allowing the suit of the appellant plaintiff by declaring that the plaintiff and

respondents 7 to 10 are surviving legal heirs of the said deceased Mohan (Mohandas).

9. The impugned judgment and decree is erroneous, arbitrary, capricious and hence it is liable to be set-aside, by way of allowing the suit partly and the appellant plaintiff respectfully prays that, the suit of the plaintiff may kindly be decreed partly by declaring that the plaintiff and respondents 7 to 10 are the only surviving successors / legal heirs of the said deceased Mohan (Mohandas) B Argavi, in the interest of justice and equity.

On these among other grounds the appellants have prayed to allow the appeal by setting aside the impugned judgment and decree of the Trial Court.

12) After service of notice to the respondents, the respondents appeared through their counsel.

13) The Trial Court's records were called for and received the same.

- 14) Heard both sides and perused entire records.
- 15) In view of the materials placed before this Court and rival contentions raised by the parties, the points that arise for determination are as under:-

POINTS

- 1. Whether the Trial court judge is rightly dismissed the suit of the plaintiff/appellant ?**
- 2. Whether the interference of this court is necessary ?**
- 3. What order or decree?**

- 13) My findings on the above points are as under:-

Point No.1 : In the Negative

Point No.2 : In the Negative

**Point No.3 : As per final order
for the following:**

REASONS

- 14) **Point No.1 and 2:-** These points are interconnected with each other. So they are taken up together for common discussion to avoid repetition of facts.

15) This appeal filed by the appellant/plaintiff questioning the legality of the judgement and decree passed by the Prl. Civil Judge and JMFC, Khanapur in O.S.No.235/2024, dated 24.02.2025 and prayed to allow the appeal by setting aside the judgement and decree passed by the Trial court.

16) In order to prove the case, the plaintiff himself gave evidence as Pw1 and he has reiterated the same facts which are narrated in the plaint averments.

17) According to him, one Basappa was the propositus of the family of the plaintiff and defendants. He had 10 children by name Siddalingappa (dead), Kasturi (D-7), Sudha (D-8), Gangu (dead), Mohandas @ Mohan (dead), Sarojini (D-9), Vijay (plaintiff), Pushpa (D-10). Defendant No.1 is the legal heir of the deceased Siddalingappa. Defendant No.3 to 6 are the legal heirs of deceased Shivanand. The said Mohandas @ Mohan has died on

08.12.1976 as unmarried without having any issues. The plaintiff and defendants are the only legal heirs of the deceased Mohan @ Mohandas. Further it is the case of the plaintiff that, after passing of judgement and decree in O.S.No.279/2022, to get incorporated name of parties to suit in concerned property records by deleting the names of Basappa Argavi and Mohan Argavi whereas concerned authorities directed to produce the varasa certificate of deceased Mohan Argavi. Hence, the plaintiff has constrained to file this suit.

18) The defendant No.1 to 9 appeared through a counsel. The defendant No.9 has filed written statement by admitting claim of the plaintiff and remaining defendants adopted the same. The defendants appeared through counsel but not contested the matter and also not produced any documents.

19) In addition to his evidence, PW1 has also produced 10 documents. Among them, Ex.P.1 is the unmarried certificate issued by President, Gram Panchayat, Nandgad, Ex.P.2 is the death certificate of Mohan, Ex.P.3 is the death certificate of Basavva. Ex.P.4 is the death certificate of Siddalingappa. Ex.P.5 is the death certificate of Shivanand, Ex.P.6 is the certified copy of judgement in O.S.No.279/2022, Ex.P.7 is the certified copy of decree in O.S.No.279/2022, Ex.P.8 is the application to Tahsildar, Ex.P.9 and Ex.P.10 are the RTC extracts.

20) In the appeal memo the plaintiff/appellant has prayed to set aside the judgement and decree passed by the Trial court in O.S. No.235/2024, dated 24.02.2025 and also prayed to decreed partly the suit by declaring that the plaintiff/appellant and defendant No.7 to 10/Respondent No.7 to 10 are the only legal heirs of the said deceased Mohan @ Mohandas Argavi.

21) According to the plaintiff the plaintiff and defendants are the only legal heirs of the deceased Mohan @ Mohandas Argavi. Before we proceed further, the relevant provisions of the Hindu Succession Act, 1956 need to be extracted here under,

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.*

22) A perusal of Section 8 of Hindu Succession Act 1956, shows that if a male Hindu died intestate his property shall devolve firstly upon his class-I legal heirs.

23) According to the plaintiff the deceased Mohan is not having Class-I heirs since he died unmarried and issue-less. The plaintiff and the defendants are the only Class-II legal heirs of the deceased Mohan.

24) This court has anxiously gone through the pleadings of the parties, documents, oral evidence adduced before the Trial court, impugned judgement, reasons/findings given by Trial court on all the issues, grounds urged in the memorandum of appeal and other materials placed before this court. Upon going through the above materials, the crux point arising for the consideration of this court is, whether the plaintiff has proved himself and defendants are only Class-II legal heirs of deceased Mohan @ Mohandas.

In the plaint, the plaintiff has stated that one Basappa was the propositus of the family of the plaintiff and defendants and he died on 13.02.1975 and his wife by name Smt. Basavva also died on 27.10.1986. The original propositus he had 10 children by name Siddalingappa (dead), Kasturi (D-7), Sudha (D-8), Gangu (dead), Mohandas @ Mohan (dead), Sarojini (D-9), Vijay (plaintiff), Pushpa (D-10). Defendant No.1 is the legal heir of the Late Siddalingappa. Defendant No.3 to 6 are the legal heirs of Late Shivanand. The said Mohan @ Mohandas has died on 08.12.1976 as unmarried without having any issues. The plaintiff and defendants are the only legal heirs of deceased Mohan @ Mohandas.

25) The plaintiff also shown the genealogy of the family of the plaintiff and defendants, wherein it goes to show that daughter of propositus by name Prema died on 30.09.2023 and another daughter by name Gangu died on 04.02.2005.

But, the plaintiff has not explanation about the legal heirs of the deceased Prema and Gangu in the plaint and genealogy. Further the plaintiff has not disclosed the said Prema and Gangu died with or without children/heirs. Therefore, the Trial court in the light of clinching documents produced by the plaintiff, has rightly arrived at conclusion in dismissing the suit of the plaintiff. The findings and reasons records by the Trial court in the judgement challenged in the appeal are sound, correct and in accordance with law and facts. Therefore, impugned judgement and decree of Trial court is not required interference from this court.

26) Thus, under the above facts and reasons this court hold **point No.1 and 2 in the Negative.**

27) **Point No.3:-** In view of the findings to the above point, the following:

ORDER

**Appeal U/s 96 R/w Order 41 Rule 1 of CPC
is hereby dismissed with costs.**

**Consequently, the judgement and
decree passed by the Prl. Civil Judge & JMFC,
Khanapur in O.S.No.235/2024 dated 24.02.2025
is hereby confirmed.**

Draw a decree accordingly.

**Office is directed to send back the Trial
Court records along with a copy of this
Judgment.**

*(Directly dictated to the Stenographer on Computer, the same is revised and corrected by
me and then pronounced in the Open Court on this the 4th day of July, 2026).*

**(Chandrashekhar Yallappa Talawar)
Senior Civil Judge & JMFC,
Khanapur.**