

Decree in Regular Appeal

Appeal Filed on : **07-12-2021**
Appeal Disposed on : **06-02-2024**

IN THE COURT OF THE SENIOR CIVIL JUDGE AND JMFC,
HARIHAR

R.A. No.66/2021

PRESENT: Smt.Sharadadevi C. Hatti.
B.Com, LL.B., (Spl.),
Senior Civil Judge & JMFC,
Harihar.

Dated this the 06th DAY OF FEBRUARY - 2024

APPELLANTS :

1. Sri.Channappa s/o
Late Basappa
Aged about 67 years,
Agriculturist,
R/o Kondajji Vilage,
Harihara taluk,
Davanagere dist.

2. Sri.Naradamuni s/o
Channappa
Aged about 34 years,
Agriculturist,
R/o Kondajji Village,
Harihara taluk,
Davanagere dist.

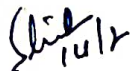
V/s

RESPONDENTS:

1. Smt.Manjula w/o Annappa Hossallera
D/o late Basappa
Aged about 41 years,
R/o Madike Nichapura Village,
Uchangidurga post, Harapanahalli taluk,
Vijayanagara District.

2. Smt.Prameelamma w/o Maheshwarappa
D/o late Basappa,
Aged about 71 years,
R/o Kondajji Village, Harihara taluk,
Davanagere dist.

3. Smt.Rudramma w/o
Ramachandrappa



Aged about 61 years,
Occ : Housewife,
R/o Shamanur Village ,
Davanagere Taluk,
Davanagere dist.

4. Smt.Manjamma w/o
Parasappa
D/o Halappa ,
Aged about 41 years,
Agriculturist,
R/o Halekunduwada
Village, Post,
Davanagere taluk,
Davanagere dist.

This appeal is preferred against the Judgment and Decree in
O.S.244/2015, Dtd: 26-10-2021 passed by the Ist Addl.Civil Judge and
JMFC Court, Harihar.

:: MEMORANDUM OF APPEAL ::

PLAINTIFF ::

1. Smt.Manjula w/o Annappa
D/o late Basappa
Aged about 35 years,
Occ.Housewife,
Kondajji Village ,
Harihara Taluk,
Davanagere Dist.
2. Smt.Prameelamma
w/o Maheshwarappa
D/o late Basappa,
Aged about 65 years,
R/o Kondajji Village,
Harihara taluk,
Davanagere dist.

V/s

DEFENDANTS

1. Sri.Channappa s/o
Late Basappa

21/10/21

Aged about 60 years,
Occ.Agriculturist,
R/o Kondajji Village,
Harihara taluk,
Davanagere dist.

2. Sri.Naradamuni s/o
Channappa
Aged about 32 years,
R/o Kondajji Village,
Harihara taluk,
Davanagere dist.

3. Smt.Rudramma w/o
Ramachandrappa
Aged about 56 years,
Occ : Housewife,
R/o Shamanur Village ,
Davanagere Taluk,
Davanagere dist.

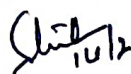
4. Smt.Manjamma w/o
Parasappa
D/o Halappa ,
Aged about 35 years,
Agriculturist,
R/o Halekunduwada
Village,
Davanagere taluk and
dist.

CLAIM.

The defendants 1,2/appellants 1,2 most humbly pray for judgment and decree in their favour and against the respondents for the following reliefs :

A) To set aside the Judgment and decree of the trial court in OS.244/2015 dated 26.10.2021 and to dismiss the said suit filed by the Plaintiff / respondents 1,2 by allowing this appeal.

B) To permit the defendants 1,2/appellants 1,2 to lead additional evidence under order 41 Rule 27 of CPC with respect to the proof of death of Basappa s/o Channabasappa who was the father of the Plaintiffs,


10/12

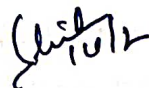
defendants 1,3 on 16.6.1993 as per the death certificate issued by the office of the Tahasildar/Registrar of deaths in Harihara taluk, by summoning the said officer, office to produce the original death register extract for the month of November 1991 and for the month of June 1993 and to give evidence on the said documents and also to lead evidence by the appellants/ defendants 1,2 with respect to the register for signature and thumb impressions for the registered partition deed dated 13.4.1992 in SR No.92/1992-93 in original, to prove that the said Basappa was alive as on 13-4-1992 and he was not died on 15-1-1991 as alleged by the Plaintiffs in their suit in OS.244/2015, in this appeal in the interest of justice and equity as prayed for in the application filed by the appellants under order 41 Rule 27 CPC and to adduce additional evidence in this appeal to prove that the Plaintiff No.2 allotted to the residential black tiled house property bearing property No.262/4P, measuring 15 ½ X 60 ½ feet of Kondajji Village, Harihara taluk at the time of Jubani Partition on 5-08-1991.

C) And to grant costs of the suit in OS.244/2015 and for this appeal and such other reliefs which are deem fit to grant under the circumstances of the case in the interest of justice and equity.

This appeal is coming for final disposal on this the **06th day of FEBRUARY - 2024** before me in the presence of Sri.B.Halappa Advocate for Appellants and Sri.Suresh Y.Athanikar Advocate for Respondents.

By Judgement.

ಮೇಲ್ಮನವಿದಾರರು ಸಿವಿಲ್ ಪ್ರಕ್ರಿಯಾ ಸಂಹಿತೆ ಕ್ರಮಾದೇಶ 41 ನಿಯಮ 1 ರ ಅಡಿಯಲ್ಲಿ ಸಲ್ಲಿಸಿದಂತಹ ಮೇಲ್ಮನವಿಯನ್ನು ಖರ್ಚು ಸಹಿತ ವಜಾಗೊಳಿಸಲಾಗಿದೆ.



ಮುಂದುವರೆದು, ಮೂಲ ದಾವೆ ಸಂ.244/2015 ರಲ್ಲಿ ದಿನಾಂಕ: 26-10-2021 ರಂದು ಹರಿಹರದ 1 ನೇ ಹೆಚ್ಚುವರಿ ಸಿವಿಲ್ ನ್ಯಾಯಾಧೀಶರು ನೀಡಿರುವಂತಹ ತೀರ್ಪು ಮತ್ತು ಡಿಕ್ರಿ ಸಮಂಜಸವಾಗಿದೆ ಎಂದು ಎತ್ತಿ ಹಿಡಿಯಲಾಗಿದೆ.

ಮುಂದುವರಿದು , ವಿಚಾರಣಾ ನ್ಯಾಯಾಲಯದ ಕಡತದ ಜೊತೆ ಈ ತೀರ್ಪಿನ ನಕಲನ್ನು ವಿಚಾರಣಾ ನ್ಯಾಯಾಲಯಕ್ಕೆ ಕಳುಹಿಸಿಕೊಡತಕ್ಕದ್ದು.

Given under my hand and the seal of the court this the **06th day of FEBRUARY - 2024.**

(Signature)
Senior Civil Judge & JMFC,
Harihar. ✓

Decree notified on : 12.02.2024

Decree signed on : 14.02.2024

(Signature)
Senior Civil Judge & JMFC,
Harihar. ✓

:: MEMORANDUM OF COSTS ::

	Particulars	Appellants	Respondents
1.	Court fee on Memorandum of appeal	Rs.475-00	--
2.	Cost on Appeal	--	--
3.	Process fee	Rs.112-00	--
4.	Paper publication	--	--
5.	Advocate's fee (FC filed)	-- (FC filed)	-- (FC not filed)
	TOTAL	Rs.587-00	--

(Signature)
Senior Civil Judge & JMFC,
Harihara. ✓

VALUATION SLIP ✓

The Plaintiffs in OS.244/2015 have valued the subject matter of the Plaint schedule properties for the sum of Rs.4,25,000-00 and paid the total court fee of Rs.475-00 on the plaint as per the certified copy of the valuation slip produced in this appeal.

(Signature)

