

**IN THE COURT OF THE PRL. CIVIL JUDGE AND JMFC AT
KHANAPUR**

PRESENT

**Sri. Suryanarayana S., B.A.L., L.L.B.,
Prl. Civil Judge & JMFC., Khanapur.**

Dated: This the 13th day of December, 2022.

O.S.No: 311/2022

Plaintiff: Smt. Gangubai W/o Mahadev Shigehalli

Age: 55 years Occ: Coolie

R/o: Gandhi Nagar, Halkarni Khanapur

Tq; Khanapur

(By Sri. P.Y.P, Advocate)

V/s

Defendants: 1. Smt. Renuka W/o

Shankar Hunshikatti

Age:37 years, Occ: Coolie

R/o Gandhi Nagar, Halkarni Khanapur

Tq: Khanapur.

2. Shri. Vithal S/o Mahadev Shigehalli

Age: 34 years Occ: Coolie

R/o Gandhi Nagar Halkarni Khanapur

Tq: Khanapur

3. Shri. Suresh S/o Mahadev Shigehalli

Age: 33 years Occ: Agriculture

R/o Gandhi Nagar Halkarni Khanapur

Tq: Khanapur

4. Smt. Shobha W/o Malleshi Medar

Age: 31 years Occ: Household

R/o: Kittur Tq: Kittur

5. Smt. Saraswati W/o Irappa Medar

Age: 30 years Occ: Household

R/o Gandingwadi Tq: Khanapu

(By N.Y.M Advocate)

Date of institution of the : 11.10.2022
suit

Nature of the suit : Suit for Declaration

Date of commencement : 17.12.2022
of recording evidence

Date of pronouncement : 13.12.2022
of judgment

Total duration : Year/s Month/s Day/s
00 02 02

(Suryanarayana S.)
Prl.Civil Judge and JMFC,
Khanapur.*****

J U D G M E N T

The Plaintiffs have filed this suit for the relief of Declaration to declare them as Class I heirs/surviving family members/warasadars of Late.Mahadev S/o Appayya Shigehalli.

2. The brief facts of the plaintiffs case is as follows:

That the plaintiffs submits that one Sri.Mahadev S/o Appayya Shigehalli.died on 11-08-2020 leaving behind his second wife the plaintiff and his two sons i.e., defendant no.2 and 3 and 3 daughters i.e., defendant

nos.1, 4 and 5 as his legal heirs. Further the plaintiff submits that the said Sri.Mahadev S/o Appayya Shigehalli, during his life time got married Smt.Rathnavva, the defendants borne out of their wedlock. After the death of the said first wife Smt.Ratnavva, the said Sri.Mahadev S/o Appayya Shigehalli got married the plaintiff on 10-06-2008. Except plaintiff and defendant nos.1 to 5 there are no any other legal heirs/warasadar/surviving family members left behind by the said deceased Sri.Mahadev S/o Appayya Shigehalli. After the death of the said Sri.Mahadev S/o Appayya Shigehalli the plaintiff has approached the office of the Tahasildar Khanapur for issuance of survival certificate of their family members, but the Tahasildar Khanapur refused the said application and suggested her to obtain certificate from

the court. Hence, the plaintiffs was constrained to file this suit for Declaration to declare herself and the defendant nos.1 to 5 as legal heir of the deceased Sri.Mahadev S/o Appayya Shigehalli..

3. After registration of suit, summons has been issued to the defendants. The defendant nos.1 to 5 in lieu of summons appeared before the court through their counsel and filed written statement. The defendants in the written statement admitted the entire averments of the plaint and prays to decree the suit declaring plaintiff and them also as legal heir of the deceased Sri.Mahadev S/o Appayya Shigehalli..

4. After perusal of the pleadings, the court has framed the following issues:-

ISSUES

1. Whether the plaintiffs prove that Sri.Mahadev S/o Appayya Shigehalli

was expired 11-08-2022 at Gandhi Nagar, Halkari Village, Khanapur ?

2. Whether the plaintiff prove that herself and defendant nos.1 to 5 are the Class I legal heirs of said deceased Sri.Mahadev S/o Appayya Shigehalli ?
3. Whether the plaintiff is entitled for the relief as sought for in the suit ?
4. What order or decree?

5. In order to prove her case, the plaintiff examined himself as PW1 and got marked in total 9 documents at Ex.P1 to P9. The defendants submits that they have no evidence to lead on their side.

6. Heard the Arguments.

7. My findings to the above said issues are as follows:

Issue No.1 : In the Affirmative
Issue No.2 : In the Affirmative
Issue No.3 : In the Affirmative
Issue No.4 : As per final order
For the following :-

REASONS

8. **Issue Nos.1 to 3:** Since these points are interrelated and interlinked with each other, these points are taken up together for discussion in order to avoid repetition of facts.

9. It is the case of the plaintiff that his husband Sri.Mahadev S/o Appayya Shigehalli died leaving behind her and defendant Nos.1 to 5 as his legal heirs. The first wife of his husband Smt.Rathnavva also expired. After death of the first wife, the said Sri.Mahadev S/o Appayya Shigehalli got married the plaintiff on 10-06-2008. Except the plaintiff and the defendant nos. 1 to 5 there are no any other legal heirs left behind by the said deceased Sri.Mahadev S/o Appayya Shigehalli. The plaintiff approached to the office of the Tahasildar Khanapur along with necessary documents for granting warasa

certificate, but the Tahasildar Khanapur rejected her application and suggested her to approach the competent civil court of law. Hence the plaintiff was constrained to file this suit for relief for Declaration. In order to substantiate her case, the plaintiff examined himself as PW1 and filed affidavit in lieu of her examination in chief by reiterating all averments of the plaint and got marked in total 9 documents as per Ex.P1 to P9. The Pw1 in his cross examination deposed that the defendants are also the legal heir of his husband and she has no objection to declare the defendants along with her as an Class I legal heir of the said deceased Sri.Mahadev S/o Appayya Shigehalli.

10. On meticulous perusal of the documents produced by the plaintiff, Ex.P1 is the death certificate of Plaintiff's husband Sri.Mahadev S/o Appayya Shigehalli,

on perusal of the same it discloses that the plaintiff's husband was expired on 11-08-2022, Ex.P2 is the death certificate of the Smt.Rathnavva first wife of the deceased Sri.Mahadev S/o Appayya Shigehalli, it also discloses that the said Smt.Rathnavva predeceased before his husband on 14-08-2007. Ex.P3 to P8 are the Aadhr card of the plaintiff and defendant nos. 1 to 5.Ex.P9 is the endorsement issued by the Tahsildar Khanapur to the plaintiff, on perusal of the same, the Tahsildar, Khanapur disposed off the application given by the plaintiff on the ground that the deceased Sri.Mahadev S/o Appayya Shigehalli. has two wives, as such the plaintiff was constrained to file the present suit.

11. In the present suit, the plaintiff and the defendant nos. 1 to 5 are seeking relief of Declaration to declare their legal status i.e to declare them as the Class

I legal heir of the deceased Sri.Mahadev S/o Appayya Shigehalli. Before going on merits, it is necessary to quote the relevant provision of Section 8 of the The Hindu Succession Act.

Sec.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.

12. As per the above said provision, If a male Hindu died intestate his property shall devolve firstly upon his class I heirs In the present case admittedly the first wife of the Smt. Rathnavva was predeceased before the the Deceased Sri.Mahadev S/o Appayya Shigehalli on 14-08-2007. thereafter the said Sri.Mahadev S/o Appayya Shigehalli got married the plaintiff on 10-06-2008. The plaintiff being issuesless residing with the defendant nos. 1 to 5. Wherefore the plaintiff and the defendant nos. 1 to 5 are being class I legal heirs succeeds to the

estate of the deceased Sri.Mahadev S/o Appayya Shigehalli.

13. Ex.P1 to Ex.P8 being a public documents, the court would presume the genuineness of the entries made in the said documents. Except the plaintiff and defendants no rival claimants appeared before this court and no contrary evidence is produced before this court. Hence the Oral evidence of the Pw1 coupled with the documents at Ex.P1 to P9 stands unchallenged.

14. Wherefore the plaintiff on producing Oral and documentary evidence on preponderance of probability proves that herself and the defendants are the legal heir of the deceased Sri.Mahadev S/o Appayya Shigehalli and succeeded to his assets and liability and entitled for the relief sought for in this suit, Accordingly, the issue No.1 to 3 are answered in the affirmative.

15. **Issue No.4:** In view discussion and findings on issue Nos.1 to 3, I proceed to pass the following order.

O R D E R

The suit of the plaintiff is hereby decreed.

It is hereby declared that the plaintiff and defendant Nos. 1 to 5 are the legal heir of the deceased Sri.Mahadev S/o Appayya Shigehalli. and succeeds to the estate of the deceased.

Draw decree accordingly.

(Dictated to the Stenographer, transcribed by her, then corrected and pronounced by me in the open court on this the 13th day of December 2022)

**(Suryanarayana S.)
Prl.Civil Judge and JMFC,
Khanapur.**

A N N E X U R E

List of witnesses examined for the plaintiff:

PW1 :Smt. Gangubai Wd/o Mahadev Shigehalli

List of documents marked for the plaintiff:

Ex.P1 : Death Certificate of Plaintiff's Husband
Ex.P2 : Notarized copy of Death Certificate of Rathnavva
Ex.P3 : Notarized copy of plaintiff Aadhar Card
Ex.P4 to P8 : Notarized copy of defendants Aadhar Cards
Ex.P9 : Endorsement issued by Tahasildar Khanapur

List of witnesses examined for the defendant:

NIL

List of documents marked for the defendant:

NIL

**(Suryanarayana S.)
Prl.Civil Judge and JMFC,
Khanapur.**

