



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

**Present: Smt.Aishwarya Chidanand Pattanshetti, B.COM, LL.M.,
Civil Judge and JMFC., Hangal.**

O.S. No.13/2020

DATED THIS THE 31st DAY OF OCTOBER 2025

Plaintiff No.1(a) &(b): Basavaraj S/o Shantappa Guler
and another

(By Sri. F.B.Madiwalar - Adv.)

V/s.

Defendants : Sri. Shivanandappa S/o Mallappa Mallannavar
& others

(By Sri. S.M.Ujjappanavar – Adv.)

PARTIES TO I.A. No.V

**Applicant/
Defendant No.3 :** Shivalingappa S/o Mallappa Mallannavar

- V/s -

**Opponents/
Plaintiff No.1(a) &(b) :** Basavaraj S/o Guler and another

**(Aishwarya Chidanand Pattanshetti)
Civil Judge & JMFC.,
Hangal.**



I	Provision under which the application is filed	Section 151 of C.P.C.,
II	Relief sought for	Permission to file additional written statement
III	Date on which the application is filed	05-09-2024
IV	Number of application	I.A.No.V
V	The date of which objections filed by the different opponents	27-09-2024 by the plaintiffs
VI	Date on which the order was passed on said application	30-10-2025

ORDERS ON I.A No.V

The defendants have filed the present application when the matter was posted for further cross examination of PW.1. The defendants have filed the IA.No.V under section 151 of C.P.C. seeking permission to file their additional written statement in the interest of justice and equity.

2. The said application is resisted by the counsel for the plaintiff No.1(a) and 1(b) by filing objections inter alia among various grounds.

3. Heard the arguments of both the sides and perused the materials available on record.



4. The points that would arise for the consideration of this Court are as follows:-

POINTS

1. Whether the applicant has made out the points sufficient grounds to allow the I.A.No.V?

2. What order?

5. The findings of this Court on aforesaid points are as follows:-

Point No.1: In the affirmative.

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

REASONS

6. **Point No.1:-** The applicant/defendant No.3 in his affidavit annexed to the application has stated that the plaintiff expired on 01.07.2022 and the proposed plaintiffs have been brought on record and after the amendment of plaint and furnishing of the amended plaint, they were unable to file their additional written statement due to inconvenience. The defendant No.3 has stated that the said persons are not the legal heirs of the deceased plaintiff and the information was given to their counsel and it is necessary to file additional written statement. On aforesaid stated grounds, it is prayed to allow the instant application.



7. In the objections it is contended that the present application is not maintainable under law and facts and is liable to be dismissed in limine. It is contended that when the application was filed to bring the legal heirs of the deceased plaintiff on record the defendants have not filed any objections and this Court was pleased to allow the application and after amendment a amended plaint has been filed and no fresh facts have been introduced in the amended plaint. It is contended that the plaintiff No.1(a) and 1(b) are the children of the deceased plaintiff. It is contended that the suit schedule properties belonged originally to the father of the deceased plaintiff which he had received through a gift deed dated 19.12.1945 from Smt.Rudravva W/o Kariyappa Hulligondra. It is contended that after the death of the parents of the deceased plaintiff the suit schedule properties were inherited by the deceased plaintiff as she was their legal heir. It is further contended that the deceased plaintiff during her lifetime has not executed any Will in respect of the suit schedule properties. It is contended that as per Section 15(2) (A) of the Hindu Succession Act, 1956 if there is no son or daughter to the deceased daughter or children of predeceased son or predeceased daughter then in such circumstances the property will go to the legal heirs of her father. It is contended that as the children of deceased plaintiff, plaintiff No.1(a) and 1(b) are alive then then the husband of the deceased



plaintiff Shantappa or deceased plaintiff's uncle Veerbhadrappa Malannavar or his daughters have no right over the suit schedule properties and they are not covered under the definition of legal representatives under Section 2(11) of CPC.

8. It is pertinent to note that when the counsel for plaintiff No.1(a) and 1(b) filed an application under Order 22 Rule 3 of CPC on 05.08.2022 seeking permission to bring them on record, the learned counsel for the defendants has submitted no objections and the said application was allowed, accordingly amendment was carried and the counsel for the plaintiff No.1(a) and 1(b) furnished the amendment plaint and the matter was posted for further cross examination of PW.1.(GPA Holder of the deceased plaintiff).

9. At the time of arguments the learned counsel for the plaintiff No.1(a) and 1(b) has brought the attention of this Court to the provisions enumerated under Section 15(2) of Hindu Succession Act, 1956 as follows:

15.General rule of succession in the case of female Hindus.-

(1) The property of a female Hindu dying intestate shall devolve according to the rules set out in Section 16,-



- (a) first, upon the sons and daughters (including the children of any pre -deceased son or daughter) and the husband;
- (b) secondly, upon the heirs of the husband;
- (c) thrirdly, upon the mother and father;
- (d) fourthly, upon the heirs of the father; and
- (e) lastly, upon the heirs of the mother.

(2) Notwithstanding anything contained in sub - section (1),-

(a) any property inherited by a female Hindu from her father or mother shall devolve, in the absence of any son or daughter of the deceased (including the children of any pre – deceased son or daughter) not upon the other heirs referred to in sub – section (1) in order specified therein but upon the heirs of the father.

10. Hence, looking to the facts and circumstances of the case it would be appropriate to give an opportunity to the defendants to file their additional written statement. Accordingly, this Court has answered the point No.1 in the affirmative.

11. **Point No.2:-** In the light of said reasons and discussions, this Court has proceeds to pass the following:-



ORDER

IA.No.V filed under section 151 of C.P.C., seeking permission to file additional written statement by defendants is hereby allowed on cost of Rs.300/-.

Consequently the additional written statement of defendants filed on 05.09.2022 is taken on record.

(Dictated to the Stenographer directly on computer, corrected and pronounced by me in the open court on this the 31st day of October 2025)

**(Aishwarya Chidanand Pattanshetti)
Civil Judge & JMFC.,
Hangal.**