

KAHV700004122015



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OS.No.99/2015

**IN THE COURT OF CIVIL JUDGE AND J.M.F.C AT
SHIGGAON**

Present: Ashwinichandrakanth
B.Sc., LL.B.
Civil Judge and J.M.F.C.,
Shiggaon.

DATED 18th DAY OF SEPTEMBER, 2025

ORIGINAL SUIT NO.99/2015

Vinayak @ Basavaraja Marudrappa Bannikoppa,
Age: 20 years, Occ: Student and Agriculture,
R/o: Ward No.3, Shiggaon, Tq: Shiggaon,
Dist: Haveri.

(By Sri.M.H.B., Advocate)

.....PLAINTIFF:

V/s.

1. Smt.Shakuntala W/o. Marudrappa Bannikoppa,
Age: 48 years, Occ: Household work,
R/o: Ward No.3, Shiggaon, Tq: Shiggaon,
Dist: Haveri.
2. Veeresh Marudrappa Bannikoppa,
Age: 28 years, Occ: Agriculture,
R/o: Ward No.3, Shiggaon, Tq: Shiggaon,
Dist: Haveri.



3. Vidya @ Sudha D/o. Marudrappa Bannikoppa,
Age: 23 years, Occ: Household work,
R/o: Ward No.3, Shiggaon, Tq: Shiggaon,
Dist: Haveri.
4. Shivanagouda Gurunagouda Patil,
Age: 48 years, Occ: Agriculture,
R/o: Hiremallura, Tq: Shiggaon,
Dist: Haveri.
5. Ramanagouda Gurunagouda Patil,
Age: 42 years, Occ: Agriculture,
R/o: Hiremallura, Tq: Shiggaon,
Dist: Haveri.

**(Sri.B.P.G., Advocate to D2, D3)
(Sri.P.H.J., Advocate to D4, D5)
(D1 is placed exparte)**

.... DEFENDANTS:

PARTIES TO THE IA NO.VII

1. Shivanagouda Gurunagouda Patil and another.

.... Applicants/Defendants No.4 and 5

V/s.

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Vinayak @ Basavaraja Marudrappa Bannikoppa,

.... Opponent/Plaintiff

ORDERS ON IA.NO.VII

The Defendants No.4 and 5 have filed application under Section 151 of CPC., to set aside the order dated 11.11.2020 and to argue in the matter in relevancy to preliminary issues.

2. In the accompanying affidavit of the interim applications, the applicant has stated that, the above said matter was fixed on 11.11.2020 for hearing on preliminary issues on that day counsel wanted to argue the matter. However, I was not well, hence could not contact my counsel and give relevant information. At that moment this Court passed the order as preliminary issues will be heard along with main suit. Hence,



applicant prays this court to set aside order dated 11.11.2020. If this application is not allowed applicant will be put to great hardship. Hence, prays to this court to allow the application.

3. Per contra, the Plaintiff counsel has failed to file objection to this application.

4. Heard, the arguments adduced by the both counsels, in view of the material placed before me and the rival contention raised by the parties. The following points have arisen for my consideration;

P O I N T S

1. Whether there is a reasonable ground to allow this application filed by the applicants?
2. What order ?
5. My answer to the above points are as under;



Point No.1: In Affirmative,
Point No.2: As per final order
for the following:

REASONS

6. **Point No.1** : On perusal of the application and accompanying affidavit the applicant has stated that, the matter was posted for hearing on preliminary issues on 11.11.2020. However, due to ill-health of applicant is unable to furnish relevant information to his counsel for arguing the matter on preliminary issues. Further, applicant contended that, this Court has passed order on the same day preliminary issues will be heard on along with main suit. On going through the issues this Court has framed preliminary issue in relevancy to the suit is barred by theory of res-judicata. The applicant has shown the sufficient reasons to allow this application. It

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is necessary to hear on preliminary issues which involves res-judicata. If this application is allowed no injustice or hardship would be cause to the Plaintiffs. Hence, this Court is of the opinion to allow this application. On the above said reasons and to meet the ends of justice. This court proceeds to pass the following:

ORDER

IA No.VII filed by the Defendants No.4 and 5 is hereby allowed on cost of Rs.500/-.

**Civil Judge and JMFC.,
Shiggaon.**