

**IN THE COURT OF THE SENIOR CIVIL JUDGE & JMFC.,
AT SINDHANUR**

Present :- SRI. LAKSHMIKANTH JANAKIRAM MISKIN, M.A., LL.M.,
Senior Civil Judge & J.M.F.C.
SINDHANUR.

: REGULAR APPEAL No : 35/2018
C/w REGULAR APPEAL NO.36/2018:

DATED: 2nd day of June 2026

APPELLANTS :- 1. Smt. Doddamma W/o Late. Hiremudegouda,
IN RA NO.35/2018 Age: 59 years, Occ: Agriculture,
R/o Mullur (U) village, Tq. Sindhanoor,
Dist: Raichur

(By Sri.BAG Advocate)

-V/s-

RESPONDENTS:-1. Sharanegouda S/o Honnanagouda,
IN RA.NO.35/2018 Age: 69 years, Occ: Agriculture,
Dead by LRs,

1)(a) Mallanagouda S/o Late Sharanegouda,
Age 46 years, Occ: Agri,
R/o Mullur (U) Tq Maski

1)(b) Honnanagouda S/o Late Sharanegouda,
Age 43 years, Occ: Agri,
R/o Mullur (U) Tq maski

1)(c) Jyothi W/o Mallikarjunagouda
Aged 38 years, Occ: Agri and
Household, R/o Mullur (U) Tq Maski

2) Balaramagouda S/o. Honnanagouda,
Age: 66 years, Occ: Agriculture

3) Sanganaagouda S/o Honnanagouda,
Age: 64 years, Occ: Agriculture



- 4) Doddanagouda S/o Gulanagouda,
Deceased by LRS
- 4)(a) Smt. Sarvamangala W/o Late. Doddanagouda,
Age: 47 years, Occ: Household,
- 4(b) Ramanagouda S/o Late. Doddanagouda,
Age: 27 years, Occ: Agriculture,
- 5) Pampanagouda S/o Gulanagouda,
Age: 42 years, Occ: Agriculture,

All are R/o Mullur (U), Post: Tavaragera,
Tq. Sindhanoor, Dist. Raichur

- 6) Basappa S/o Kariyappa Kabber,
Age: 54 years, Occ: Agri,
Since Dead Repd by LRs
- 6)(a) Smt Shantamma W/o Basavaraj,
age 40 years, Occ: Agri,
R/o Basapatna, Post Basapatna,
Tq Gangavati, Dist Koppal
- 6(b) Nagaraj Szo Basappa,
age 33 years, Occ: Agri,
R/o Kallur village, Tq Sindhanur
- 6)(c) Kariyanna S/o Basappa,
Age 30 years Occ: Agri,
R/o Kallur village, Tq Tq Sindhanur
- 6)(d) Nagareddy S/o Basappa,
Age 29 years Occ: Agri,
R/o Kallur village, Tq Sindhanur
- 6(e) Shivakumar S/o Basappa,
Aged 27 yea Occ: Agri,
R/o Kallur village, Tq Sindhanur



6(f) Lakshmi @Nandini W/o Yallareddy,
Aged 25 years, Occ: household and agri,
R/o Kallur village, Tq Sirwar, Dist Raichur

7) Smt. Shivamma W/o Basappa Kabber,
Age: 49 years, Occ: Agriculture &
Household

8) Somashekhar S/o Basappa Kabber
Age: 24 years, Occ: Agri.,

All are R/o Kallur village, Post.Mallapur
Tq. Sindhanur, Dist. Raichur.

(R1(a to c) by: Sri.KAG Advocate)
(R2 to 4(a &b) placed exparte)
(R5 & 6 dead)

APPELLANTS :- 1. Basappa S/o Kariyappa Kabber,
IN RA NO.36/2018 age: 50 agri R/o Kallur village, Po: Mallapur,
Tq; Sindhanur. Since dead by Lrs.

1 (A) Smt. Shantamma W/o Basavaraj,
age: 40 years, occ: Agri
R/o Basapatna, Post: Basaptna
Tq: Gangavathi, Dt: Koppal

1 (B) Nagaraj S/o Basappa,
age: 33 years, Occ: Agri
R/o Kallur village, Tq: Sindhanur.

1 (C) Kariyanna S/o Basappa,
age: 30 years, Occ: Agri
R/o Kallur village, Tq: Sindhanur.

1 (D) Nagareddy S/o Basappa,
age: 29 years, Occ: Agri
R/o Kallur village, Tq: Sindhanur.



- 1 (E) Shivakumar S/o Basappa,
age: 27 years, Occ: Agri
R/o Kallur village, Tq: Sindhanur.
- 1 (F) Lakshmi @Nandini W/o Yallareddy,
age: 25 years, Occ: household & Agri
R/o Kallur village, Tq: Sirawar, Dt: Raichur.
- 2 Smt. Shivamma W/o Bassappa Kabber,
age: 45 years, household and agri
R/o Kallur village, Po: Mallapur,
Tq: Sindhanur.
- 3 Somashekhar S/o Basappa Kabber,
age: 30 years, Occ: agri
R/o Kallur village, Po: Mallapur
Tq: Sindhanur.

(By Sri.BAG Advocate)

-V/s-

RESPONDENTS:-1. Sharenegouda S/o Honnanagouda,
IN RA.NO.36/2018 age: 65 agri R/o Mullur U Tq; Sindhanur.
Since deceased by LRs

(Rank in court below plaintiff)

- 1-A Mallanagouda S/o Late. Sharanegouda
Age: 46 years, Occ Agri R/o Mullur (U),
Tq Maski,
- 1-B Honnanagouda S/o Late. Sharanegouda
Age: 43 years, Occ Agri R/o Mullur (U),
Tq Maski,
- 1-C Jyothi W/o Mallikarjunagouda,
Age: 38 years, Occ Agri R/o Mullur (U),
Tq Maski,



- 2 Balaramagouda S/o Honnanagouda,
age: 62 agri R/o Mullur U village,
Tq: Sindhanur
- 3 Sanganaagouda S/o Honnanagouda,
age: 60 agri R/o Mullur U village,
Tq; Sindhaur
- 4 Doddanagouda S/o Gulanagouda,
age: 50 agri R/o Mullur U village,
Tq; Sindhanur. (since deceased by LR's)
- 4-A Smt. Sharabamma W/o Late
Doddanagouda, age: 50 years, Occ; Agri
and household R/o Mullur (U) village,
Tq; Sindhanur.
- 4-B Ramanagouda s/o Late Doddanagouda,
age; 28 years, Occ: Agri R/o Mullur (U),
Tq: Sindhanur.
- 5 Pampanagouda S/o Gulanagouda,
age: 38 agri R/o Mullur U village,
Tq; Sindhanur.
- 6 Smt. Doddamma W/o Hire Mudegouda,
age: 70 household R/o Mullur U village,
Tq; Sindhanur.

(Rank in court below deft No:1 to 5)

(R1(a to c) by: Sri.KAG Advocate)

(R2 to 4 placed exparte)

(R5 & 6 dead)

Date of Institution of Appeal : 20.09.2018



Nature of Appeal : Appeal against the
Judgment and decree
dated 23.08.2018
in O.S.No. 112/2018
passed by the I Addl. Civil
Judge, Sindhanur.

Date on which the Judgment
was pronounced

: 02.06.2026

Total duration

: year/ s month/s Day/s
07 08 13

: J U D G M E N T :

This appeal in RA No.35/2018 filed by the
appellant/defendant No.5 being aggrieved by the
Judgment and decree dated 23.08.2018 in
O.S.No.112/2018 passed by the I Addl. Civil Judge,
Sindhanur in decreed the suit filed for partition and
separate possession.

2. This appeal in RA No.36/2018 filed by the
appellant/defendant No.6 being aggrieved by the
Judgment and decree dated 23.08.2018 in
O.S.No.112/2018 passed by the I Addl. Civil Judge,



Sindhanur in decreed the suit filed for partition and separate possession.

3. For the sake of convenience, the parties are referred in this Judgment as per their ranks before this court.

4. The case of the plaintiffs, as set out in the plaint, is as below:-

It is submitted by the plaintiff that, One Mallanagouda had three sons by name Hiremudegouda, Gulanagouda and Honnanagouda. The plaintiff and defendant No.1 and 2 are the sons of late Honnanagouda and Defendant no. 3 and 4 are the sons of late. Gulanagouda. Deceased Hiremodegouda was died in the year 1965 leaving behind his two wives i.,e. first wife Smt. Neelamma and second wife Doddamma (Defendant No.5). The first wife Neelamma was died intestate in the month of May 1998 without issues. The deceased Hiremodegouda was entered into bigamous marriage with this defendant No.5 in the year 1960. Therefore this defendant No.5 will not get any legal status with Hiremudegouda and she is not entitled to succeed



the property of Hiremudegouda. After the death of said Hiremudegouda the suit properties were got mutated in the name of his two wife's Smt. Neelamma and this defendant No.5. After the death of Neelamma who is the legally wedded wife of late. Hiremudegouda, this plaintiff and defendant No.1 to 4 are succeeded the properties as per provisions of Hindu law 1956. Since the date of death of said Neelamma the plaintiff and defendant No.1 to 4 become the owner and possessor of the suit lands by operation of law. The defendant No. 6 to 8 are the alleged purchasers of suit properties from defendant no.5. The plaintiff in the month of November 2007 received an information from V.A. about the filing an application by the defendant No.6 to 8 for seeking mutation in their name on the basis of Registered sale deeds. After the enquiry about execution of sale deeds in favour of defendant No. 6 to 8 the defendant No.5 denied the executions. Thereafter the plaintiff filed his objection petition before the revenue authorities, then the revenue authorities ordered to effect the mutation on the basis of registered sale deed and



directed this plaintiff to approach the civil court for seeking remedy, hence this plaintiff filed this suit for seeking partition and separate possession to an extent of his 1/6th share in the suit properties. The defendant No.7 came to suit land on 21.05.2008 and tried to take possession of the suit properties at that time this plaintiff raised objection for taking possession. The defendant No.7 went away by saying that the possession of properties will be taken with the help of local police. Hence this suit.

5. In pursuance of the suit summons, the defendant No. 1 to 4 were placed *exparte* and defendant No. 5 to 8 appeared before the court through their counsels and defendant No. 5 filed her separate written statement, very briefly the defence was this; The defendant No.5 is the legally wedded first wife of Hiremudegouda their marriage was solemnized about 50 to 53 years back. The deceased Hiremudegouda entered into bigamous marriage with one Neelamma, as the defendant No.5 could not conceive and did not get any child from the late



Hiremudegouda. The defendant No.5 was also consented to second marriage of her husband with one Neelamma who is no more. The second wife Neelamma also passed away about 10 years back. As the defendant No.5 being a legally wedded first wife of Hire Mudegouda, she succeeded to his lands along with deceased Neelamma. On the death of second wife Neelamma this defendant No.5 became absolute owner and possessor of suit lands as she is a class I legal heirs to succeeded lands of her deceased husband Hiremudegouda. Accordingly both the suit lands are mutated in the name of defendant No.5 vide mutation No.2 dated 28.3.2002 and M.R.No.18/00506 dated 30.06.2006 remains unchallenged. In this way defendant No.5 became the absolute owner and possessor of the suit lands. The plaintiff and defendant No.1 to 4 are not entitle to succeeded the suit lands in the life time of Class I legal heirs of deceased Hiremudegouda. The Plaintiff never approached defendant No.5 for enquiring about the execution of registered sale deeds. Defendant No.5 executed a registered sale deed in the year 2002, and same day delivered the possession of suit land to



defendant No.6 to 8, and now the defendant No.6 to 8 are in actual possession and enjoyment of the suit schedule lands as an owners. Neither, the plaintiff nor defendant No.1 to 4 are entitled to any share in the suit schedule property in any capacity. The sale deeds executed by defendant No.5 are legal one. Those cannot be ignored. Further, the plaintiff is neither the coparcener nor the joint owner and in joint possession of the suit lands. In the written statement of the Defendant No.6 has contended that, the defendant No. 6 after verifying all the records pertaining to suit lands have purchased for a valuable consideration and defendant No.6 is bonafide purchaser of the suit lands. From the date of purchase he is in possession and enjoyment of the properties without any obstruction any body else including the plaintiff and defendant no. 1 to 4. The plaintiff is neither coparcener nor the joint owner and in joint possession of the suit properties. Hence prays for dismiss suit with cost.



6. On the basis of the pleadings of the parties my predecessor has framed the following issues. :

I S S U E S

1. Whether the plaintiff proves that, plaintiffs and defendant No.1 to 4 succeeded the suit property as Class II legal heirs ?

2. Whether the defendants proves that, defendant No.5 has executed registered sale deed in favour of defendant No. 6 to 8 in respect of suit schedule property illegally?

3. Whether the Plaintiffs proves that the deceased Neelamma is legally wedded first wife of deceased Hiremudegouda R/o Mullar (EJ Village)?

4. Whether the plaintiffs and defendant No.1 to 4 are entitle for the relief as sought?

5. What order or decree?

7. The plaintiff in order to prove his case examined himself as PW1 and got marked the documents as Exhibit P1 to 12 and he has examined two more



witnesses as PW2 and 3 in his favour. On the other hand to prove the defence, the defendant no. 5 has herself examined as D.W.1 and got marked documents as Ex.D1 to 34 and in her favour she has examined one witnesses as DW2. And defendant no. 6 himself examined as DW3 and in his favour he has examined as Dw4 And defendant no. 8 examined as Dw5 and on his behalf he has examined as DW 6 .

8. After hearing the arguments and considering the oral and documentary evidence let in before it, the learned trial Judge has decreed the suit of the plaintiff by giving following findings on the above issues:

Issue No.1	:- In the Affirmative
Issue No. 2.	: In the Affirmative
Issue No. 3.	: In the Affirmative
Issue No. 4.	: In the Affirmative
Issue No. 5.	: As per final order, for the following;

9. Being aggrieved by decreed the suit, the appellant/defendant No.5 in RA No.35/2018 has come



with regular appeal by setting the following grounds in the appeal.

GROUND FOR APPEAL

- 1) That, the order passed by the trial court is not proper and correct and it is not in consonance with the plaint or written statement, on this ground alone it has to be set aside.
- 2) Error appearing on the face of the record. Justice would be not only done but it also seen to be done.
- 3) It is barred by law of limitation after lapse of 10 years, without any explanation, on this ground alone it has to be set aside and trial court has not whispered anything about this.
- 4) The Trial court has not applied its mind properly, to evidencing this fact, IA No: X filed by the plaintiff is styled as in the cause title as defendant N.5 has filed the IA and it disposed of on 13-9-2017. It goes to show Trial court has erroneously passed the judgment, on this ground alone it has to be set aside.
- 5) When the plaintiff and defendant No.1 to 4 are residing in the same village, why they kept mum, it goes to show that, plaintiff and defendant No.4 are not entitled to share the property as class II legal heirs.
- 6) Law is meant for the vigilant but not for indolent. If it be so why plaintiff and defendant No.1 to 4 slept over their rights, on this ground alone it has to be set aside.
- 7) The Trial court has given the utmost importance to the revenue authority,



revenue authorities are not the competent persons to decide the rights of the parties. Their duty is to enter the name of the parties which sale deed, gift, partition, etc., if it were to be registered under the registration act or the court decrees etc., on this ground alone it has to be set aside.

- 8) That, the defendant No.1 to 4 placed exparte because they know property rest with defendant No.5 and defendant No.5 has become the absolute owner and possessor of the suit schedule properties left by her husband' deceased Hiremudegouda by way of operation of law.
- 9) Whatever the properties are left by the Deceased Hiremudegouda appellant has succeeded the said properties as class I legal heirs,b this aspect of the matter has not been considered by the trial court,
- 10) Whatever the properties succeeded by the appellant through her husband by way of succession, rightly she has sold the properties ir favour of deft No.6 to 8 is proper and correct and it is inconsonance with law.
- 11) Documents marked by appellant D1 to D34 are not considered by the Trial court. On this ground alone it has to be set aside.
- 12) The Trial court is under the old school of thoughts like Obiraya and no upto date law, on this ground alone it has to be set aside..
- 13) No courts shall declare the marriage of defendant No.5 with deceased Hiremudegouda is null and void, on this ground alone it has to be set aside.
- 14) The law is not a stagnant water and it is flowing stream to the social justice from time to time, this aspect is totally ignored



- by the Trial court. On this ground alone trial court order has to be set aside.
- 15) The Trial court has acted without assigning any valid reasons, on the strength of assumption and presumption, mere assumption and presumption cannot take place of truth, on this ground alone trial court order has to be set aside.
 - 16) That, the trial court has thought about the appellant, it is a public property it can be used according to their sweat well and pleasure and afterwards throw it in the dust bin without considering the human instinct.
 - 17) All along plaintiff and defendant No: 1 to 4 are admitted as wife, if not wife this would have filed a separate suit for declaring the marriage of defendant No.5 with deceased Hiremudegouda as null and void provided who are competent to file the suit, on this ground alone trial court order has to be set aside.
 - 18) The trial court is harping on the same string, Neelamma is the first wife, what are the authentic documents placed before this Hon'ble court, it is also seriously challenged by this applicant

10. Being aggrieved by decreed the suit, the appellant/defendant No.6 in RA No.36/2018 has come with regular appeal by setting the following grounds in the appeal.



GROUND FOR APPEAL

1. The judgment and decree under appeal is illegal, erroneous in law besides being based on non consideration of material evidence brought on record. Hence the judgment and decree under appeal is liable to be set aside.
2. That the court below has utterly failed to notice the fact that, the present suit for partition and separate possession is not at all maintainable, in view of facts that, the deft No:5's marriage with Hire Mudegouda was claimed to be wife as per sec 11 of Hindu Marriage Act 1955. Therefore granting relief is totally illegal.
3. That further the trial court has failed to notice the fact that, the plaintiff has not claimed the relief of declaration to the effect that, they are legal heirs and successors of late Hire Mudegouda to enable them to claim the property of Hire Mudegouda. In the absences of such declaratory relief being claimed, the plaintiff suit for seeking only partition and separate cannot be maintained. Hence the judgment and decree is not in accordance with law.
4. That the suit hopelessly barred by law of limitation. Admittedly Neelamma died in the year 1998 and present suit is filed in the year 2008, i.e., almost after lapse of about 12 years from the date of death of Neelamma. Though a specific defense was taken in this regard no issues regarding limitation is framed. Non framing of crucial issue on the point of limitation, has adversely affected the case of deft No: 5, hence on this ground also the impugned judgment and decree is not sustainable in law.



5. That even though the deft No: 5 set up a plea that, she is the first wife, the court below found that she is second wife by applying the provisions of sec 11 of Hindu Marriage Act 1955. In such an event, deft No: 5 became stranger to the family of plaintiff and deft No: 1 to 4. Under the circumstances, a mere suit for partition and separate possession, without claiming relief of declaration that the plaintiff is not entitled to succeed to the property of late Hire Muddegouda is not maintainable and liable to be dismissed with costs.
6. That suit in the present form framed is not tenable in the eye of law and is hit by sec 34 of Specific Relief Act. Admittedly the deft No: 5 herein has executed the registered sale deeds in favour of deft No: 6 to 8 and to put them in possession of lands in question. Hence claiming relief of partition and separate possession without claiming relief of declaration to succeed as class 1 legal heirs of deceased Hire Muddegouda and also specifically claiming actual possession from deft No: 6 to 8 is not in accordance with law and barred under sec 34 of Specific Relief Act.
7. That claiming relief of separate possession presupposes that joint possession admittedly, after death of Hire Muddegouda in the year 1965 the alleged first wife Neelamma came into possession as successors. After death of Neelamma in 1998 deft No: 5 came in possession. Hence the plaintiff and deft NO; 1 to 4 are out of possession since 1965, as admittedly there was partition between 3 sons of Mallanagouda. The relief of separate possession under gra of partition cannot be equated with a suit for possession as required under sec 34 of specific relief Act. Hence the



entire judgment and decree of trial court is against law and as such, same is not sustainable in the eye of law.

11. I have heard the arguments addressed by the learned counsels appearing for the appellant and respondents.

12. From the grounds made out in the appeal, materials placed before this court and the arguments addressed by both sides the following points would arise for my consideration.

1. Whether the appellant/defendant No.5 in RA No.35/2018 and appellant/defendant No.6 in RA No.36/2018 proves that the impugned judgment and decree dated, 23.08.2018 passed in O.S. No.112/2008 by the trial court in decreeing the suit, is contrary to law, facts, evidence and probabilities of the case and as such, it is liable to be interfered with?

2. What order?

13. My findings to the above points are as follows, as per the reasons discussed below: -

POINT NO.1 :- In the Negative

POINT NO.2 :- As per final the final order



:: R E A S O N S ::

14. **POINT No.1 :-** As per the case of the plaintiffs, The deceased Hiremudegouda was died in the year 1965 leaving behind his two wife's i.e, first wife Neelamma and Doddamma (Defendant No.5). The first wife Nelamma also died in the year 1998 without children. The defendant no. 5 is second wife she has also no children and she will not get any legal status with Hiremudegouda. The suit properties were after the death of late Hiremudegouda succeeded by Neelamma who is legal wedded wife. After the death of Neelamma this plaintiff and defendant No. 1 to 4 are succeeded the property as per provisions of Hindu Succession Act 1956. The plaintiff and defendant No.1 to 4 are become owner and possessor of the suit land as per Class II legal heir of Hiremudegouda. Per contra, the defendant No.5 alleged that, she is the first wife of Hiremudegouda her marriage solemnised about 5053 years back. As Hiremudegouda did not have any children through defendant no.5, he married with the consent of the



defendant no. 5 to Neelamma, through her also he had no children. As the defendant No.5 being a legally wedded first wife of Hiremudegouda, she succeeded to his lands along with deceased Neelamma. On the death of second wife Neelamma this defendant No.5 became absolute owner and possessor of suit lands as she is the class I legal heirs to succeeded lands of her deceased husband Hiremudegouda. Thereafter the defendant No.5 in the year 2002 sold the suit lands to defendant No.6 to 8 for a valid consideration and delivered the possession. Hence prays for dismiss suit. It is not disputed the relation between the parties as alleged in plaint para No.3. Further it is also not disputed that the properties were belongs to deceased Hiremodegouda and he died without any children and not disputed that the late Hiremodegouda has two wives. But the defendant no. 5 only denied that, she is the legally wedded first wife of Hiremodegouda and after his death she become the class I legal heir of Hiremodegouda by way of succession. The plaintiff in order to prove the first question, plaintiff entered



into the witness box and filed his examination in chief and got examined as P.W.1 and he has reiterated the entire plaint averments in to to. In order to substantiate his oral evidence P.W.1 has produced as many as 14 documents marked as Ex.P.1 to 14. In which in Ex.P.13 and 14 are certified copies and these documents confronted during the cross examination of D.W.1. It is seen in Ex.P.13 that the said defendant No.5 had given affidavit before the Tribunal board of land reforms act, In which it is contended that deceased Neelamma was first wife of Late Hiremudegouda and defendant No.5 is 2nd wife and in another document in Ex.P.14 it is seen that the said defendant No.5 has given statement before the Land Tribunal board of land reforms act on 05.08.1983. It is contended that the deceased Neelamma is sister of defendant No.5. Further the defendant no. 5 also admitted her signature on Ex.P 13 and 14. On perusal of these two documents it clearly suffice that the deceased Neelamma is the first wife of Hiremudegouda. The P.W.2, he has categorically deposed that he was presented at the time



of marriage of defendant no 5, when he was aged about 910 years and the late Neelamma is the first wife of Hiremodegouda. but it is also important note that, during the cross examination of PW. 2 and 3 nothing has been elicited from their mouth that the said defendant No.5 is first wife of late Hiremudegouda. Further in mutation and RORs it is seen in column no 9 of the ROR's the first name is shown as Neelamma and second name is defendant No.5, hence it reveals that Neelamma is elder than defendant No. 5. Further by considering overall documents and oral evidence it clearly suffice that the defendant No.5 is the 2nd wife of Late Hiremudegouda. When the defendant no.5 herself admitted the Ex.P.13 and 14 documents, no need be proved as per Sec. 58 of the Indian Evidence Act. Further the Ex.P.13 and 14 are the certified copies issued by the Tahashildar office Sindhanur and these documents are the public documents. As per section 79 of the Indian Evidence Act and these documents presumes as genuine documents. When the Ex.P.13 and 14 documents recitals



clearly speaks about the relationship between the parties. Under such circumstances I do not disbelieve case of the plaintiff and I hold that Neelamma is the first wife and defendant No.5 is 2nd wife of late Hiremudegouda. If the defendant No. 5 is the second wife of late Hiremudegouda, then as per Hindu Marriage Act under section 11 Speaks about the status of second Marriage. As per Section 11 of Hindu Marriage Act 1955

15. The Hindu Succession Act 1956 came to be enacted subsequent to enactment of Hindu Marriage Act 1955. The Hindu Marriage Act 1955 exclusively deals with the law relating to the marriages. The Hindu Succession Act 1956 deals with the right to the property. Therefore, in the absence of any express words in The Hindu Succession Act 1956, relationship of husband and wife, concept of marriage, legitimate and illegitimate children born out of such marriage, void-ness of marriage have to be gathered from provisions of Hindu Marriage Act 1955. Therefore, when



Class-I heir includes a widow as shown at schedule appended to the Hindu Succession Act, 1956, it means woman whose husband is dead and who has not married again, wife means woman married to a man. . That marriage should be valid marriage under law. The word does not include second wife. Therefore, word widow mentioned among Class-I heirs is lady who was validly married under the Section 5 (i) of Hindu Marriage Act 1955, which says that neither party has a spouse living at the time of the marriage . In other words it says that at the time of marriage, both the bride and the groom must be un-married and who has acquired the status of widow by virtue of death of her husband. If her marriage with person is void under law, on his death she would not get status of widow under Class-I of Schedule of Hindu Succession Act, 1956.

16. The reason is Rule 1 of S. 10 of the Hindu Succession Act, 1956 the words as incorporated there in refers to 'if there are more widows than one, all the widows together



shall take one share', is when the Hindu succession Act 1956 came into force, as there was no prohibition for Hindu marrying more than one wife, it is possible that a male had married and was having more than one wife. After coming into force of the Hindu Succession Act, 1956 , the Hindu male dies leaving behind two wives whose marriage was valid before coming into operation of the act, it was provided that those wives will take one share of her husband's estate under S. 8 of the Act.

17. Under the Hindu Marriage Act, the legislature declared that if a person marries during the subsistence of an earlier marriage i.e. a person who marries while he has spouse living at the time of the marriage and such marriage is solemnized after the commencement of the said Act, it shall be null and void and provisions of Ss. 494 and 495 of Indian Penal Code applies to such marriage and is punishable under the Hindu Marriage Act. Certainly, the Parliament had no intention of conferring any right on the wife who is a party to the offence



of bigamy and gave her a share in the property of her deceased husband. Any such interpretation to the provisions of the Hindu Succession Act would nullify the object with which the Hindu Marriage Act was enacted.

18. In other words, it runs counter to the concepts of the bigamy being punishable and the marriage being void, which the Parliament wanted to eradicate by legislation. Where plaintiff second wife was born only after 1955 Act came into force and opposite party was married earlier to her, plaintiff's marriage with deceased was null and void and she did not get the status of a wife. Therefore, she did not get the status of a widow so as to get the benefit under Rule 1 of S. 10 of the the Hindu Succession Act, 1956. the second wife had no right to seek partition and separate possession nor she inherits property after death of her husband and his first wife. The second wife is not 'heir' under the Hindu Succession Act 1956.



19. Under the Hindu Law, marriage is a Samskara and not a contract. . After the independence, the Hindu Marriage Act. 1955 (Act No. 25 of 1955) came to be enacted by the parliament amending the law relating to Hindu Marriage among the Hindus. Prior to the enactment of the Hindu Marriage Act. 1955 , there was no prohibition for bigamy. On the contrary Hindu Law recognized the bigamy. For the first time with the passing of the said the Hindu Marriage Act. 1955, bigamy was prohibited by law. Section 5 of the Hindu Marriage Act 1955 prescribes conditions for a valid Hindu Marriage. It reads as under:-

5. Conditions for a Hindu marriage.- A marriage may be solemnized between any two Hindus, if the following conditions are fulfilled, namely:-

- (i) neither party has a spouse living at the time of the marriage;
- (ii) at the time of the marriage, neither party-



(a) is incapable of giving a valid consent to it in consequence of unsoundness of mind; or

(b) though capable of giving a valid consent, has been suffering from mental disorder of such a kind or to such an extent as to be unfit for marriage and the procreation of children; or

(c) has been subject to recurrent attacks of insanity,

(iii) the bridegroom has completed the age of (twenty one years) and the bride, the age of (eighteen years) at the time of the marriage;

(iv) the parties are not within the degrees of prohibited relationship unless the custom or usage governing each of them permits of a marriage between the two;

(v) the parties are not sapindas of each others, unless the custom or usage governing each of them permits of a marriage between the two.



Section 11 of the Hindu Marriage Act reads as under:

11. Void marriages.- Any marriage solemnised after the commencement of this Act shall be null and void and may, on a petition presented by either party thereto against the other party, be so declared by a decree of nullity if it contravenes any one of the conditions specified in clauses (i), (iv) and (v) of Section 5.

A reading of the aforesaid provisions makes it clear that after the passing of the Hindu Marriage Act, 1955, one of the conditions for Hindu Marriage is, neither party should have a spouse living at the time of the marriage. If the said condition is not fulfilled, there is no marriage in the eye of law. It is a mandatory requirement under Clause (i) of Section 5 of the Hindu Marriage Act, 1955 . Such a marriage shall be null and void as is clear from Section 11 of the Hindu Marriage Act, 1955. If on the date of the marriage either party had a husband or wife living, it constitutes an offence under



Sections 494 and 495 of the Penal Code, 1860 as such second wife excluded from inheriting the property of her husband after death of her husband and first wife.

20. The the Hindu Succession Act, 1956 for ” was also enacted to amend and codify the law relating to intestate succession among the Hindus. Sections 5 and 6 of the Act dealt with the instances where the Act is not applicable. In all other matters, the Hindu Succession Act, 1956 has an overriding effect. In the Hindu Succession Act, 1956 , the word ‘heir’ has been defined under Section 3 (f). It means any person, male or female, who is entitled to succeed to the property of an inestate under this the Hindu Succession Act, 1956. Section 8 of the Hindu Succession Act, 1956 deals with general rules of succession in the case of males. It provides, the property of a male Hindu dying intestate shall devolve according to the provisions of this chapter. Firstly, upon the heirs, being the relatives specified in Class-I of the schedule. If there are no heir of Class-I, then upon the heirs,



being the relatives specified in Class-II of the schedule. If there are no heir of any of the two classes, then upon the agnates of the deceased and if there are no agnates, then upon the cognates of the deceased. Section 10 deals with the distribution of property among heirs in Class-I of the schedule. It reads as under:

“10 Distribution of property among heirs in class 1 of the schedule.

— The property of an intestate shall be divided among the heirs in class 1 of the Schedule in accordance with the following rules:—

Rule-1. The intestate's widow, or if there are more widows than one, all the widows together, shall take one share.

Rule-2. The surviving sons and daughters and the mother of the intestate shall each take one share.



Rule-3. The heirs in the branch of each predeceased son or each predeceased daughter of the intestate shall take between them one share.

Rule-4 The distribution of the share referred to in Rule-3

(i) among the heirs in the branch of the predeceased son shall be so made that his widow (or widows together) and the surviving sons and daughters gets equal portions; and the branch of this predeceased sons gets same portion;

(ii) among the heirs in the branch of the predeceased daughter shall be so made that the surviving sons and daughters get equal portions.”

Rule 1 of section 10 of the the Hindu Succession Act, 1956 makes it clear that if a Hindu male dying intestate, his estate will devolve on his widows. If there are more widows than one, all the widows together, shall take one share. In other words his other heirs i.e., sons and daughters and the mother of the intestate shall each take one share. In the case



of widows more than one, all of them put together, would take one share. Rule 1 of Section 10 of the the Hindu Succession Act, 1956 refers to “if there are more widows than one, all the widows together shall take one share”, is when the Hindu succession Act came into force, as there was no prohibition for Hindu marrying more than one wife, it is possible that a male had married and was having more than one wife. After coming into force of the of the the Hindu Succession Act, 1956, the Hindu male dies leaving behind two wives whose marriage was valid before coming into operation of the Act, it was provided that those wives will take one share of her husband's estate under Section 8 of the the Hindu Succession Act, 1956

21. The Hon'ble High Court of Karnataka at Kalaburgi (then CIRCUIT BENCH AT GULBARGA) in the case of Laxmibai vs. Anasuya deals with property rights of a second wife and the status of a void marriage under Hindu law. It clarifies whether a woman claiming to be a second wife can inherit



property as a widow under the Hindu Succession Act, 1956 when the marriage itself is void.

22. The facts before the Hon'ble High Court of Karnataka at Kalaburgi (then CIRCUIT BENCH AT GULBARGA) in Laxmibai vs. Anasuya 's case is that one Ningappa married to one Laxmibai first. The marriage was valid and subsisting. The couple had no children. Without dissolving the first marriage, Ningappa married Anasuya (second marriage). The second marriage occurred after the enactment of the Hindu Marriage Act, 1955, which prohibits bigamy among Hindus. Ningappa later died intestate (without a will) and without children. After his death, Anasuya (second wife) filed a suit for partition and separate possession, claiming She and Laxmibai were two widows Under Section 10 of the Hindu Succession Act, where there are multiple widows, they together take one share of the husband's property.



23. Claim of the Plaintiff (Second Wife – Anasuya there in) Anasuya argued that she was the widow of the deceased Ningappa. Claim of the Plaintiff (Second Wife – Anasuya there in) is that according to Section 8 and Section 10 of the Hindu Succession Act, 1956, the property of a Hindu male dying intestate devolves upon Class I heirs, including widow. When more widows than one exist, they share the same portion jointly. Therefore she claimed half share in the property along with Laxmibai.

24. Laxmibai defendant there in contended that the second marriage is void because it was performed during the subsistence of the first marriage. Under Section 5 (i) and Section 11 of the Hindu Marriage Act, 1955, such marriage is null and void. Since the marriage is void, Anasuya cannot acquire the status of “wife.” Without the status of wife, she cannot become a widow after Ningappa’s death. Hence she cannot inherit property under the Hindu Succession Act.



25. The main issue before the Hon'ble High Court of Karnataka at Kalaburgi (then CIRCUIT BENCH AT GULBARGA) in Laxmibai vs. Anasuya 's case was whether a woman whose marriage is void because the husband had a living spouse can claim the status of “widow” and inherit property under the Hindu Succession Act, 1956 ?

26. The Hon'ble High Court of Karnataka at Kalaburgi (then CIRCUIT BENCH AT GULBARGA) in Laxmibai vs. Anasuya 's case allowed the revision petition of Laxmibai (first wife) and dismissed the suit filed by the second wife holding that the marriage of Anasuya with Ningappa was void because the first marriage with Laxmi Bai was still subsisting. The Hon'ble High Court of Karnataka at Kalaburgi (then CIRCUIT BENCH AT GULBARGA) further held that a void marriage does not create the legal status of wife. If she is not a wife, she cannot become a widow upon the husband's death. The Hon'ble High Court of Karnataka at Kalaburgi (CIRCUIT BENCH AT GULBARGA) in Laxmibai



vs. Anasuya 's case held that since she is not a widow, she cannot inherit property of her husband Ningappa under the Hindu Succession Act 1956 . The Hon'ble High Court of Karnataka at Kalaburgi (then CIRCUIT BENCH AT GULBARGA) held that the second wife was not entitled to claim partition or share in the property.

27. The Hon'ble High Court of Karnataka at Kalaburgi (then CIRCUIT BENCH AT GULBARGA) laid down the ratio that woman whose marriage with a man is void due to the subsistence of the first marriage cannot claim the status of “wife” or “widow” and therefore has no right to inherit property under the Hindu Succession Act 1956.

28. In view of law laid down by the Hon'ble High Court of Karnataka at Kalaburgi (then CIRCUIT BENCH AT GULBARGA) it is clear that valid marriage is essential to claim inheritance as widow. In view of law laid down by the Hon'ble High Court of Karnataka at Kalaburgi (CIRCUIT



BENCH AT GULBARGA) a void marriage gives no marital status in law.

29. The expression “ widow ” under Rule 1 of Section 10 of the Hindu Succession Act, 1956 Class I heirs means a legally wedded wife only irrespective of fact that the legislature has used words “ more than one widow.

30. Rule 1 of Section 10 of the Hindu Succession Act 1956 applies only where multiple marriages were valid before the Hindu Marriage Act 1955 when polygamy was allowed .

31. The Hon'ble High Court of Karnataka at Kalaburgi (then CIRCUIT BENCH AT GULBARGA) clarified by laying down the that the word 'widow' mentioned among Class-I heirs at rule 1 of section 10 of the Hindu Succession Act, 1956 is a lady who was validly married under provisions of Hindu Marriage Act and who has acquired status of a widow by virtue of death of her husband If her marriage with a person



is not valid, is void under law, on his death she would not get status of widow under Class-I of schedule of Hindu Succession Act, 1956.

32. Further The Hon'ble High Court of Karnataka at Kalaburgi (then CIRCUIT BENCH AT GULBARGA) in Laxmibai vs. Anasuya has clarified at its para No.19 of the order that the Rule 1 of Section 10 of the the Hindu Succession Act, 1956 refers to “if there are more widows than one, all the widows together shall take one share”, is when the Hindu succession Act 1956 came into force, as there was no prohibition for Hindu marrying more than one wife, it is possible that a male had married and was having more than one wife. After coming into force of the of the Hindu Succession Act, 1956, the Hindu male dies leaving behind two wives whose marriage was valid before coming into operation of the Act, it was provided that those wives will take one share of her husband's estate under Section 8 of the the Hindu Succession Act, 1956.



33. A second wife in a bigamous marriage is not recognized as a legally wedded wife. A second wife cannot acquire widow status after husband's death. A second wife cannot claim inheritance rights under the Hindu Succession Act 1956 irrespective of incorporation of Rule 1 of Section 10 of the Hindu Succession Act, 1956.

34. Thus A second wife in a bigamous marriage is not recognized as a legally wedded wife her status is that of a woman in a void marriage and non-est. The Hon'ble High Court of Karnataka in Laxmibai v. Anasuya held that a woman in a void second marriage cannot claim inheritance as a widow because only a legally wedded wife can be a widow under the Hindu Succession Act.

35. Therefore, the second wife had no right to partition or share in the husband's property. The Hon'ble High Court of Karnataka at Kalaburgi (then CIRCUIT BENCH AT GULBARGA) in Laxmibai vs. Anasuya held that a woman in



a void second marriage cannot claim inheritance as a widow because only a legally wedded wife can be a widow under the Hindu Succession Act 1956. Therefore, the second wife had no right of inheritance to acquire property after death of her husband.

36. In this regard it is beneficial to refer to the decision of the Hon'ble High Court of Karnataka at Kalaburgi (CIRCUIT BENCH AT GULBARGA) reported in ILR 2013 KAR 529 = [AIR 2013 KAR 24] in between in Laxmibai vs. Anasuya the para No.19 and para No.21 read as under.

CRP. No. 2015 of 2011,,

Dated--30-01-2012

19. There is no confusion or ambiguity in the provision. The confusion, which is evident from the judgment of the Trial Court is the widow referred to in Section 10 also includes a widow out of a void marriage i.e., second wife out of a second marriage is a widow after the death of her husband vis-a-vis the



widow, the first wife out of the first marriage. As set out earlier, this Act came to be enacted subsequent to the enactment of Hindu Marriage Act. The Hindu Marriage Act exclusively deals with the law relating to the marriages. Succession Act deals with the right to the property. Therefore, in the absence of any express words in the Succession Act, the relationship of husband and wife, the concept of marriage, legitimate and illegitimate children born out of such marriage, voidness of marriage have to be gathered from the provisions of the Hindu Marriage Act. Therefore, when Class-I heir includes a widow, it means a woman whose husband is dead and who has not married again, wife means a woman married to a man. Without a marriage there cannot be a widow. That marriage should be a valid marriage under law. Therefore, word widow mentioned among Class-I heirs is a



lady who was validly married under the provisions of the Hindu Marriage Act and who has acquired the status of a widow by virtue of the death of her husband. If her marriage with a person is not valid, is void under law, on his death she would not get the status of widow under Class-I of the schedule of the Hindu Succession Act, 1956. The reason why Rule 1 of Section 10 refers to “if there are more widows than one, all the widows together shall take one share”, is when the Hindu succession Act came into force, as there was no prohibition for Hindu marrying more than one wife, it is possible that a male had married and was having more than one wife. After coming into force of the Act, the Hindu male dies leaving behind two wives whose marriage was valid before coming into operation of the Act, it was provided that those wives will take



one share of her husband's estate under Section 8 of the Act. Under the Hindu Marriage Act, the parliament declared that if a person marries during the subsistence of an earlier marriage i.e., a person who marries while he has spouse living at the time of the marriage and such marriage is solemnized after the commencement of this Act, it shall be null and void and provisions of Sections 494 and 495 of the Penal Code, 1860 applies to such marriage and is punishable under the Hindu Marriage Act. Certainly the parliament had no intention of conferring any right on the wife who is a party to the offence of bigamy and gave her a share in the property of her deceased husband. Any such interpretation to the provisions of the Hindu Succession Act would nullify the object with which the Hindu Marriage Act was enacted. In other



words, it runs counter to the concept of the bigamy being punishable and the marriage being void, which the parliament wanted to eradicate by legislation.

21. In the light of the aforesaid discussion, it is clear from the averments in the plaint, if the plaintiff was aged 45 years in 2008, she was born in 1963 therefore, she was married only after 1955 Act came into force. Admittedly, the defendant was married earlier to her. **Therefore, the plaintiff is the second wife. Her marriage with deceased Ningappa was null and void. She did not get the status of a wife. Therefore, she did not get the status of a widow so as to get the benefit under Section 10 of the Act.** On the basis of the averments in the plaint itself, the plaintiff has no right to seek partition and separate possession of



her alleged half share against the second wife. She is not heir under the Hindu Succession Act.

The ratio [underline emphasized by me] laid down the Hon'ble High Court of Karnataka at Kalaburgi (then CIRCUIT BENCH AT GULBARGA) reported in ILR 2013 KAR 529 =[AIR 2013 KAR 24] in between in Laxmibai vs. Anasuya is that second wife would not get the status of a wife and after death of her husband she did not get the status of a widow so as to get the benefit under Rule 1 of Section 10 of the the Hindu Succession Act, 1956.

37. It is made clear by this court that in order to determine the rights of a second wife, this court must first examine the legality of second marriage between defendant No.5 Doddamma and Hire Mudegouda. Section 11 of the Hindu Marriage Act, 1955 prohibits bigamy. the Hindu Marriage Act, 1955 specifies that, at the time of second marriage, none of the parties should be legally married and both the parties must end their previous marriage so as to remarry



Therefore, if this condition is not met, the second wife does not have a right to claim any share in the property of a husband irrespective of consent being given by the first wife. Therefore, if husband remarries without ending the previous marriage and first wife is alive when the second marriage is contracted by husband, a second wife will not acquire a status of a wife or a widow - As per Marriage Act, 1955 , remarriage without legal culmination of the first marriage is illegal If marriage is illegal, the second wife will not acquire the status of a wife or a widow . Therefore, a second wife defendant No.5 will not inherit the property rights . In this regard it is beneficial to refer to the decision of the Hon 'ble High Court of Karnataka (KALABURGI BENCH) reported in ILR 2023 KAR 3940 =[2023 SCC ONLINE KAR 1369] in between Basavaraj alias Shivabasappa Vs Sarswathi and Another para No.17 reads as under.

R.S.A. No. 7044/2009 (DEC & INJ)

Decided on-13-04-2023



17. The provisions relating to a void marriage coupled with the definition of a void marriage and the requisite condition that is imposed on a Hindu male while taking in adoption are to be read conjointly. The Appellate Court's view that provisions of Section 10 of the "Succession Act, 1956" would prevail over Section 5 and Section 11 of the "Marriage Act, 1955" is not supported by any precedents or law. The rights of a wife over husband's property are governed under the "Marriage Act, 1955" and "Succession Act, 1956" respectively. However, the dynamics may vary in the case of second wife. The rights of a second wife on her husband's property, if found to be in contravention of "Marriage Act, 1955", is no more *res integra*. Though a wife is entitled to succeed to the estate of her husband under "Succession Act, 1956", there are



several nuances involved. If the husband remarries during subsistence of first marriage, the rights of a second wife can be challenged, if they do not meet the legal criteria. To determine the rights of a second wife, we must first examine the legality of second marriage. The “Marriage Act, 1955” prohibits bigamy. The Act specifies that, at the time of second marriage, none of the parties should be legally married and both the parties must end their previous marriage so as to remarry. Therefore, if this condition is not met, the second wife does not have a right to claim any share in the property of a husband. Therefore, if husband's remarries without ending the previous marriage and first wife is alive when the second marriage is contracted by husband, a second wife post codification will not acquire a status of a wife or a



widow. As per “Marriage Act, 1955”, remarriage without legal culmination of the first marriage is illegal. If marriage is illegal, the second wife will not acquire a status of a wife or a widow. Therefore, a second wife will not inherit the property rights nor she is competent to give consent under “Adoptions Act, 1956”.

The ratio [underline emphasized by me] laid down the decision of the Hon 'ble High Court of Karnataka (KALABURGI BENCH) reported in ILR 2023 KAR 3940 = [2023 SCC ONLINE KAR 1369] in between Basavaraj alias Shivabasappa Vs Sarswathi and Another is that as per the Marriage Act, 1955, remarriage without legal culmination of the first marriage is illegal. If marriage is illegal, the second wife will not acquire a status of a wife or a widow. Therefore, a second wife will not inherit the property rights.

38. The second wife defendant No.5 does not acquire status of wife assuming that there is consent of first wife for



solemnizing second marriage. A second wife defendant No.5, during the subsistence of her husband's first marriage, is not a legal heir of her deceased husband therefore she is not entitled to a share in his property, and her right is limited only to maintenance. In this regard it is beneficial to refer to an un-reported Division Bench decision of the Hon'ble High Court of Karnataka in RFA NO.100059 of 2019, Decided on 27-02-2026 in between Smt.Laxmavva W/O Jayappa Badiger vs Smt.Bhageerathibai W/O Jayappa the para No.36 reads as under.

RFA NO.100059 of 2019,
Decided on 27-02-2026

36. The children born under void marriage will not get any share in ancestral property, but they would get share only in the property of their parents. **Defendant No.1 being second wife of deceased Jayappa will not get any share in the property of her husband. She can only claim maintenance.** Defendant Nos.2 and 3 being daughters born



under void marriage, they would get share only in the share of their father. Under these circumstances, there shall be notional partition and in that notional partition between plaintiff and deceased Jayappa would be $\frac{1}{2}$ each and in the share of Jayappa, plaintiff and defendant No.2 & 3 would get $\frac{1}{3}$ rd each; thus, plaintiff would get half share + $\frac{1}{3}$ rd share in the remaining half share i.e., $\frac{2}{3}$ rd, which is more than $\frac{1}{3}$ rd in the suit schedule properties.

The ratio [underline emphasized by me] laid down in the an un-reported Division Bench decision of the Hon'ble High Court of Karnataka in RFA NO.100059 of 2019, Decided on 27-02-2026 in between Smt.Laxmavva W/O Jayappa Badiger vs Smt.Bhageerathibai W/O Jayappa is that a second wife, during the subsistence of her husband's first marriage, is not a legal heir of her deceased husband therefore she is not entitled to a share in his property, and her right is limited only to maintenance. In view of law laid



down by the Hon'ble High Court of Karnatak referred to above, the second wife defendant No.5 in the present case does not acquire right title over the suit properties. The second wife defendant No.5 in the present case cannot claim property rights over the suit properties.

39. Though it is not disputed that after the death of late Hiremudegouda his two widows i.e, late, Neelamma and defendant No.5 were got mutation and got the name in the RORs and till the death of Neelamma defendant No.5 name was appeared in RORs. Thereafter mutation was effected in the name of defendant No.5 and subsequently in the RORs her name was also appeared. But it is settled position of law is that entries in the revenue records or *jamabandi* have only “fiscal purpose” i.e. payment of land revenue and no ownership is conferred on the basis of such entries. So far as title to the property is concerned, it can only be decided by a competent civil court. Further without any mother document ownership cannot be



confirmed. And it is also admitted that defendant No.5 executed the sale deeds in favour of defendant No.6 to 8, but the only question arises that, at the time of executed the sale deeds in favour of defendant No.6 to 8, whether the defendant No.5 has an ownership and right to execute the sale deeds ? As discussed in issue No. 1 and 3, when the defendant no. 5's marriage with Hiremudegouda is null and void and there is no marriage in the eyes of law as per the Hindu Marriage Act. Then the defendant no.5 is not a Class I heir U/s 8 of the Hindu Succession Act. Therefore she has no ownership or right over the suit schedule properties. The defendant No.5 when she had executed the sale deeds in favour of defendant No.6 to 8 then she had no ownership or right over the suit schedule properties. Hence these sale deeds were illegally executed in favour of defendant No.6 to 8. Without ownership if any property transferred to any person the transfer become void. If the vendor has no right or ownership over the property the sale become void abintio. Hence in my



consider view, the alleged sale deeds were executed without any ownership. Therefore the alleged sale deeds were illegally executed. Hence the defendant No. 6 to 8 are on the basis of alleged title they are not entitled any right over the suit schedule properties. Under such circumstances I hold that, defendant No.5 without any right or interest she has executed alleged sale deeds in favour of defendant No.6 to 8. Although she did not have rights title over sit property. Her status to the family of Hiremudegouda is stranger. Though the defendant no. 6 to 8 are proved their possession over the suit schedule properties, but when the documents it's self it's illegally executed by the defendant No. 5 then no rights or interest or ownership creates under the alleged sale deeds. Therefore I hold that the defendant No.5 has no right to execute the sale deeds in favour of defendant No.6 to 8. as this court come to the conclusion that the deceased Neelamma is the first wife and defendant No.5 is second wife of Hiremudegouda. Further as per Hindu Mitakshara



school of law the second wife during the life time of first wife she is not entitled any share in the suit schedule property. the plaintiff and defendant No.1 to 4 are entitled in the suit schedule properties by way of classII legal heirs as per section 15 (2)(b) of Hindu Succession Act. The plaintiff claiming $1/6^{\text{th}}$ share in the suit schedule properties. As per the plaintiff case Hiremudegouda, Gulanagouda and Honnanagouda are real brothers Honnanagouda died leaving behind his 2 sons that is defendant No.3 and 4 and Gulanagouda died leaving behind plaintiff and defendant no.1and 2.Hence Gulanagouda and Honnanagouda equally get half share and out of the half share of Honnanagouda the plaintiff get $1/6^{\text{th}}$ share in the suit schedule properties and defendant No.1 and 2 are get $1/6^{\text{th}}$ share each and defendant No.3 and 4 are also get the $1/4^{\text{th}}$ share in the half share of their father share in the suit schedule properties. Since, defendant No.5 did not have alienable interest over suit properties therefore registered sale deed



in respect of suit land in the name of defendant No.6 appellant of RA No.36/2018 does not confer any right title interest over them. Thus there is no merit in the present appeal. Hence point No.1 is answered in negative.

40. **POINT NO.4:-** In view of my findings on the above points, the appeal filed by the appellant/defendant No.5 in RA No.35/2018 and appellant/defendant No.6 in RA No.36/2018 is liable to be dismissed. Accordingly, I proceed to pass the following order.

:: ORDER ::

The appeal filed by the appellant/defendant No.5 in RA No.35/2018 and appellant/defendant No.6 in RA No.36/2018 are dismissed.

Judgment and decree passed by the I Addl. Civil Judge and JMFC at Sindhanoor in OS No.112/2018 dated 23.08.2018 is confirmed

Draw decree accordingly.



The original copy of this judgment is to be kept in RA No.36/2018. The certified copy of this judgment is to be kept in RA No.35/2018.

Sent back the entire file to the trial court along with copy of this Judgment, forthwith.

(Dictated to the stenographer directly on computer, typed by him, revised by me and after corrections pronounced in the open court on this the 2nd day of June 2026)

(Lakshmikanth J. Miskin)
Senior Civil Judge & JMFC.
SINDHANUR