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Presented on : 07-04-2025
Registered on : 07-04-2025
Decided on : 27-03-2026
Duration : 00 years, 11 months, 20 days

IN THE COURT OF
CIVIL JUDGE AND JMFC COURT, DANDELI
AT: DANDELI, UTTARA KANNADA

Presided Over by TEJASHWINI SOGALAD B.COM. LL.M
Civil Judge and JMFC.,
Dandeli.

DATED THIS THE 27th DAY OF MARCH- 2026

O.S.No.74/2025

- PLAINTIFFS:**
- 1. Smt. Savitri W/o. Mudavirappa Goni,**
Age- 71 years, Occ- Housewife,
R/o: Pot No.124, Shivanandanagar,
Navanagar, Hubli.
 - 2. Sri Shivaraj S/o. Mudaveerappa Goni,**
Age-53 years, Occ-Working in WCPM,
R/o: H Type block No.20, House No.119,
Bangurnagar, Tq-Dandeli, Uttara Kannada
District.
 - 3. Sri Nagaraj S/o. Mudavirappa Goni,**
Age-50 years, Occ-Service,
R/o: Pot No.124, Shivanandanagar,
Navanagar, Hubli.
 - 4. Smt. Jayasheela W/o. G.C. Sathish**
D/o. Mudavirappa Goni,



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Age-55 years, Occ- Housewife,
R/o: C-608 Kumaradhara Block,
National Games Village, Koramangala,
Bangalore.

(By Smt. R.M.K. Advocate)

-V/s-

DEFENDANT: Shri Gurubasapa Dundappa Kalalagond

Age-72 years, Occ-Ritired,
R/o: H.No.LIG-75, Basaveshwar Nagar,
Ambewadi, dandeli, Tq: Dandeli,
Dist: Uttara Kannada.

(Ex-parte)

Date of Institution of the suit	07-04-2025		
Nature of the suit	Suit for Declaration of Legal Heirs		
Date of the commencement of recording of the evidence	28-06-2025		
Date on which the Judgment was pronounced	27-03-2026		
Total Duration	<u>Year/s</u>	<u>Month/s</u>	<u>Day/s</u>
	00	11	20



JUDGMENT

This suit is to declare that the plaintiffs are the only Class I Legal heirs to the deceased **late Sri. Mudavirappa S/o. Mahanthappa Goni** who expired on **28-01-2013** at **SDM Medical Collage and Hospital Dharwad.**

2. **The Plaintiff's suit in brief:** It is the case of the plaintiffs that, plaintiff No.1 is the wife and plaintiff No.2 to 4 are the children of deceased **Sri Mudavirappa S/o. Mahanthappa Goni**, who expired on **28-01-2013** at **SDM Medical Collage and Hospital Dharwad.** It is further pleaded that the mother of deceased Sri Mudavirappa S/o. Mahanthappa Goni, also expired long back. Therefore, the plaintiffs are the only class-I legal heirs to the deceased and there are no other class-I legal heir to deceased. The plaintiffs are Hindus; hence plaintiffs and deceased are governed by Hindu Succession Act.

- 2.2 It is further averred that, the defendant is the relative of the plaintiffs. The deceased was a permanent resident of Shivanand Nagar, Hubli, Dharwad. The deceased was the owner of the property bearing Sy. No.339B and Plot No.124,



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situated at Shivanand Nagar, Hubli. After the death of deceased, the plaintiffs filed an application to the CMC Hubli on 03-02-2025 to change the Khata and transfer the property of the deceased in favour of the plaintiffs, as they are the only class I legal heirs of the deceased, but the defendant without having any manner of right, title or interest has filed his objection on the ground that he is also the legal heir of the deceased and also denied the status of the plaintiffs with the deceased.

2.3 Since the defendant has filed his objection the CMC, Hubli has not changed the Khata of the deceased in favour of the plaintiffs and asked the plaintiffs to produce the legal heir certificate. The defendant has no legal, moral right to deny the status of the plaintiffs nor has any right to claim any legal heir ship of the deceased. The claim of the defendant totally false, baseless and self serving one. Hence, the plaintiffs constrained to file the present suit for above mentioned reliefs.



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3. Pursuant to service of summons, the defendant, did not chose to appear before this court. Hence, he is been placed Ex-parte.
4. Based on the above pleadings of the plaintiffs the points that arise for my consideration are as under:

P O I N T S

1. Whether the plaintiffs prove that they are the only Class I legal heirs of the deceased **late Mudavirappa S/o. Mahanthappa Goni** who was expired on **28-01-2013 at SDM Medical Collage and Hospital Dharwad.?**
 2. Whether the plaintiffs are entitled for the reliefs sought in the plaint?
 3. What Order or Decree?
5. In order to prove their case, the plaintiff No.2 got himself examined as PW.1 and filed sworn affidavit in lieu of his examination-in-chief and re-iterated plaint averments in toto. He further produced 7 documents and got marked Exs'.P1 to P.7. Since, the defendant is placed ex-parte, the suit got posted for hearing arguments.



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6. Heard the arguments of the plaintiffs counsel and perused the materials on records.
7. My findings to the above points are as under:

Point No.1 & 2 : In the Affirmative

**Point No.3 : As per the final order
for the following;**

REASONS

8. **Point No.1 and 2:** Since these points are interconnected with each other, they are taken up together for discussion in order to avoid repetition of facts.
- 8.2 It is the case of the plaintiffs that they are the only Class-I legal heir of deceased Late Late Sri. Mudavirappa S/o. Mahanthappa Goni who was expired on 28-01-2013 at SDM Medical Collage, Hospital Dharwad. In order to prove their case the Plaintiff No.2 has filed affidavit in lieu of his chief examination and examined himself as P.W.1 and reiterated the plaint averments. Further the plaintiff No.2 has produced and got marked **Ex.P-1** which is the death certificate of husband of plaintiff No.1 and plaintiff No.2 to 4 are the children by name Late Sri. Mudavirappa S/o.



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Mahanthappa Goni who died on 28-01-2013 at SDM Medical College, Hospital Dharwad. **Ex.P-2 and P-5** are the Original Aadhaar card of plaintiffs. **Ex.P-6** is the RTC of deceased . **Ex.P-7** is the Paper publication published in 'Jana Maadyama' Kannada daily newspaper. All of these documents are in consonance with the plaint averments and to establish the relationship of the plaintiffs with deceased.

8.3 Further, defendant has not contested the matter. However, paper publication is given by plaintiffs calling upon objections from public. But none appeared and filed any objections to the plaint. Therefore, the case of the plaintiffs remained unchallenged and unrebutted. Further the documents furnished by plaintiffs clearly establish the relationship of plaintiffs with that of deceased.

8.4 However, the duty is casted upon the court to see whether suit of the plaintiffs can be decreed as prayed for, since the defendant is placed ex-parte. It is settled principle of law that, the plaintiffs have to prove their case with cogent and corroborative oral and documentary evidence to get the suit decreed. The absence of defendant cannot be the ground for



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decretal of suit as prayed for. In other words, the absence of defendant in itself cannot be the ground for decretal of the plaintiffs suit.

8.5 Therefore, at this stage let me go through the personal law of succession, by which the parties and the deceased are governed. As pleaded, the plaintiffs and the deceased are governed by Hindu Law of Succession as they are Hindus by religion. Further in the present suit deceased is a Hindu male who died intestate. When a Hindu male dies without a will (intestate), his legal heirs are determined by the Hindu Succession Act, 1956. More particularly, Sec.8 and 9 of Hindu Succession Act,1956 deals with such scenario. The same are reproduced for better appreciation.

Section. 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;



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(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.

(emphasis supplied)

Section. 9. Order of succession among heirs in the Schedule.—Among the heirs specified in the Schedule, **those in class I shall take simultaneously and to the exclusion of all other heirs;** those in the first entry in class II shall be preferred to those in the second entry; those in the second entry shall be preferred to those in the third entry; and so on in succession.

(emphasis supplied)



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8.6 Further, the said act provides for the schedule wherein the list of legal heirs is mentioned. The list of Class-I legal heirs is as follows;

*“ **Son; daughter; widow;** mother; son of a pre-deceased son; daughter of a pre-deceased son; son of a pre-deceased daughter; daughter of a pre-deceased daughter; widow of a pre-deceased son; son of a pre-deceased son of a pre-deceased son; daughter of a pre-deceased son of a pre-deceased son; widow of a pre-deceased son of a pre-deceased son; 1[son of a pre-deceased daughter of a pre-deceased daughter; daughter of a pre-deceased daughter of a pre-deceased daughter; daughter of a pre-deceased son of a pre-deceased daughter; daughter of a pre-deceased daughter of a pre-deceased son]”. **(emphasis supplied)***

8.7 With this background, now let me go through the pleadings and evidence on record. It is the case of the plaintiffs that Plaintiff No.1 is the wife, plaintiff No.2 and 3 are the sons



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and plaintiff No.4 is the daughter of the deceased **Sri. Mudavirappa S/o. Mahanthappa Goni** who expired on **28-01-2013 at SDM Medical Collage and Hospital Dharwad** and therefore, plaintiffs are the only Class-I legal heir and defendant is not the Class-I legal heir of deceased. Therefore as discussed above, she falls within Class-I of legal heir of her husband who died intestate. In that scenario, the defendant never becomes the Class-I legal heir of deceased. Further more, the defendant do not fall within the list appended to Hindu Succession as Class-I legal heir. Hence, he cannot be the Class-I legal heir of deceased.

8.8 Further, there are no materials on records which creates doubt about the case of the plaintiffs. The plaintiffs have produced cogent and corroborative oral as well as documentary evidence before this court in order to prove their suit. Moreover, even after service of summons, defendant did not chose to appear before this court, because of which the evidence lead in by plaintiff is remained unchallenged and UN-rebutted. Therefore, the from the materials on records, it is clearly forthcoming that, plaintiffs



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are the only Class-I legal heir of deceased **Late Sri. Mudavirappa S/o. Mahanthappa Goni who expired on 28-01-2013 at SDM Medical College, Hospital Dharwad.** being the children of deceased. Hence, plaintiffs are entitled to the relief sought for. Accordingly, I hold point No.1 and 2 in **Affirmative.**

9. **Point No.3** : In view of my findings on the aforesaid Points I proceed to pass the following:

ORDER

***The suit of the plaintiffs are hereby
DECREED.***

***It is hereby declared that the
plaintiffs are the only Class I legal heirs of
the deceased late Sri. Mudavirappa S/o.
Mahanthappa Goni who was expired on 28-
01-2013 at SDM Medical Collage and
Hospital Dharwad.***

No order as to cost.

Draw the decree accordingly.

(Dictated to the stenographer typed by her directly on the computer, corrected by me, signed then pronounced in the open court on this the **27th day of March-2026**)



: ANNEXERE :

List of witness examined on behalf of the plaintiffs:

P.W.1 : Shri. Shivaraj S/o. Mudaveerappa Goni

List of documents exhibited on behalf of the plaintiffs:

Ex.P.1 : Death certificate of husband of plaintiff No.1 and plaintiff No.2 to 4 are the children by name Late Sri. Mudavirappa S/o. Mahanthappa Goni.

Ex.P.2 to 5 : Original Aadhar cards of plaintiffs.

Ex.P.6 : RTC of deceased

Ex.P.7 : Paper Publication published in 'Jana Maadhyama' Kannada daily news paper.

List of witness examined on behalf of the defendant:

- NIL -

List of documents exhibited on behalf of the defendant:

- NIL -