

KAYG210003022021



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

Present: **Smt.Hema Pastapur**, B.A., LL.B.
Senior Civil Judge and JMFC, Shahapur.
O.S.No.63/2021

Dated this 07th day of March -2026

Plaintiffs:-

1. Renuka W/o Late Hanamanthraya Pujari, Age: 45 years, Occu: Household.
2. Rahul S/o Late Hanamanthraya Pujari, Age: 19 years, Occu: Student.
3. Maruti S/o Late Hanamanthraya Pujari, Age: 16 years, (Minor). (Plaintiff No.3 is minor under guardianship of his natural mother i.e., plaintiff No.1)

All are R/o PWD Quarters Shorapur Town, Tq: Shorapur, Dist. Yadgir.

(By Sri. S.N.D., Advocate)

Versus.

Defendants:-

1. M.Renuka W/o Late Hanamanthraya Pujari, Age: 35 years, Occu: H.H.
2. Goutami D/o Late Hanamanthraya Pujari, Age: 15 years, (Minor).
3. Rohit S/o Late Hanamanthraya Pujari, Age: 10 years, (Minor) (Defendants No.2 and 3 are minor under guardianship of natural mother defendant No.1).

Defendants No.1 to 3 are R/o Sharanabasaweshwar Nagar, Shahapur, Tq: Shahapur, Dist. Yadgir.

4. Executive Engineer, Bridge Cum Barrage, Lift Irrigation Sannati, Division Khanapur, Tq: Wadgera, Dist. Yadgir.
5. Managing Director K.B.J.N.L Bheemarayanagudi, Tq: Shahapur, Dist. Yadgir.
6. Chief Engineer, KBJNL Zonal No.1, Bheemarayanagudi, Tq: Shahapur, Dist. Yadgir.
7. Deputy Commissioner, Mini Vidhana Soudha, Chittapur road, Yadgir, Tq: and Dist. Yadgir.

(Defendants No.1 to 3 by Sri. S.V.K., Advocate, Defendants No.4 to 6 by Sri. R.N.D., Advocate and Defendant No.7 through Learned Assistant Government Pleader.

Nature of the suit : Partition and Separate Possession .

Date of institution of the suit : 15.06.2021

Date of commencement of evidence : 11.12.2023

Date of disposal : 07.03.2026

Total duration	Year/s	Month/s	Day/s
	04	08	20

Suit schedule properties are as under :-

1. House bearing No.110 (New No.62-25) measuring South - 30 feet and East -

West – 40 feet, consisting of 05 rooms at ground floor, situated at Sharanabasaveshwara Nagar, Tq: Shahapur, Dist. Yadgir.

2. House bearing No.3-52, situated at Diggi village, Tq: Shahapur, Dist. Yadgir.

J U D G M E N T

That, the plaintiffs have filed the present suit for Partition and Separate Possession.

Facts of the case in nutshell are as under :-

1. That, the plaintiff No.1 is the legally wedded of the deceased Shri. Hanamanthraya and their marriage was solemnised at about 26 years back at Soudatti Yallamma Temple, Belgum and the plaintiffs No.2 and 3 are their children.
2. That, the said deceased Hanamanthraya during his life time was working as a Junior Engineer in the office of defendant No.4 and the defendant No.4 is working under the defendants No.5 and 7.
3. That, the said Hanamanthraya without the knowledge of the plaintiff No.1 had got contracted a

second marriage with the defendant No.1 and the defendants No.2 and 3 are their children. That, the said Hanamanthraya died on 19.08.2020 while he was in service. That, the plaintiff No.1 is entitled to receive the family pension and other death benefits. That, the defendant No.1 in order to get the said family pension and other death benefits is trying to approach the defendants No.4 to 6. Hence, this suit.

4. That, on suit summons being served, the defendants have appeared before this Court through their learned counsel. That, the defendants No.4 to 7 have not submitted their written statement.

5. That, the defendants No.1 and 3 have submitted their written statement, wherein they have denied all the contentions of the plaintiffs and have pleaded that the defendant No.1 is the legally wedded of the said deceased Hanamanthraya and the defendants No.2 and 3 are their children. That, the plaintiffs are

belonging to Lambani community and the name of the father of the plaintiff No.1 is Shri. Devalanaik and her mother's name is Smt. Somalabai and their native place is Bylapur Tanda, Tq: Shorapur, Dist. Yadgir.

6. That, the defendants No.1 to 3 have further pleaded that they and the said deceased Hanamanthraya are belonging to Harijan community. Hence, the plaintiffs are no way concerned to the said Hanamanthraya and are also not entitled to receive any death benefits as alleged by them. That, the present suit is bad for non-joinder and mis-joinder of necessary parties and non-inclusion of other properties. That, prior to institution of the present suit the plaintiffs have not issued the notice to the defendants No. 4 to 7 as required under Section 80 of the Code of Civil Procedure. Hence, the present suit is not maintainable. That, the defendants No.1 to 3 in view of their aforesaid pleadings have submitted for dismissing the suit with cost.

7. That, on the basis of the pleadings of both the parties, the following issues were struck :-

ISSUES

1. Whether the plaintiffs proves that, the plaintiff No.1 is the legally wedded wife of and plaintiffs No.2 and 3 are the legitimate children of deceased Hanamanthraya Pujari ?
2. Whether the plaintiffs further prove that, they are entitled to get family pension and other services benefits of deceased Hanamanthraya ?
3. Whether the plaintiffs further prove that, they themselves and defendants No.2 and 3 are entitled 1/5th share in the suit property ?
4. Whether the defendants No.1 to 3 prove that, defendant No.1 is the only legally wedded wife of late Hanamanthraya and defendants No.2 and 3 are the only son and daughter of late Hanamanthraya ?
5. Whether the defendants No.1 to 3 proves that, the suit of the plaintiffs is bad for mis-joinder and non-joinder of necessary parties to the suit ?
6. Whether the plaintiffs are entitled for the relief as sought for ?
7. What order or decree ?

8. That, the plaintiffs to demonstrate their aforesaid contentions have got examined the plaintiff No.1 as PW.1 and have got marked the documents at Exs.P1 to 20. That, the plaintiffs to strengthen their aforesaid contentions have got examined one Smt. Ratnamma W/o Mareppa - mother of the deceased Hanamanthraya as PW.2 and closed their side.

That, the defendants No.1 to 3 probabalise their aforesaid contentions have got examined the defendant No.1 as DW.1 and have got marked the documents at Exs.D1 to 35. That, the defendants No.1 to 3 to strengthen their aforesaid contentions have got examined one Shri. Ashok S/o Mareppa - brother of the deceased Hanamanthraya as DW.2 and closed their side.

9. That, I have heard the arguments and perused the materials placed on record. That, My answer to the aforesaid issues are as under :-

Issue No.1 :- In the **NEGATIVE**

Issue No.2 :- In the **AFFIRMATIVE**

Issue No.3 :- In the **NEGATIVE**

Issue No.4 :- In the **AFFIRMATIVE**

Issue No.5 :- In the **NEGATIVE**

Issue No.6 :- In the **NEGATIVE**

Issue No.7 :- As per the final order for
the following :-

REASONS

10. **Issues No.1 and 4**:- That, as these issues are connected together, I have taken them for joint discussion to avoid repetition of facts. It is specific case of the plaintiffs that, the plaintiff No.1 is the legally wedded of the deceased Hanamanthraya and their marriage was solemnised at about 26 years back at Soudatti Yallamma Temple, Belgum and the plaintiffs No.2 and 3 are their children. That, the PW.1 in her chief affidavit has reiterated the said facts and got marked the documents at Exs.P1 to 20. That, the Ex.P1

is the Death certificate of the said Hanamanthraya. That, in the said document the date of death of the said Hanamanthraya has been mentioned as 19.08.2020 and place of death as Budha Nagar, Shahapur. That, the Ex.P2 is the copy of Property extract of suit item No.1. That, from the contents of said document it appears that in respect of the suit item No.1 the name of the deceased Hanamanthraya had been transferred. That, the Ex.P3 is the copy of Letter addressed by the plaintiff No.1 to the Executive Engineer, KBJNL, Khanapur, Tq: Shahapur, Dist. Yadgir, dated:- 12.10.2020, wherein she had requested the said authority for providing the job to the plaintiff No.2 on compensatory ground. That, the Ex.P4 is the copy of Voter list for the year 2022, wherein at Sl.No.242 and 244 the names of the plaintiff No.1 and the said Hanamanthraya have been shown and the address as House No.23-43.

11. That, the Ex.P5 is the Namune – D issued by the Tahasildar, Surpur, Taluk, Yadgir District, wherein the said authority had mentioned that the plaintiff No.1 is belonging to the ಪರಿಶಿಷ್ಟ ಜಾತಿ (ಹೊಲೆಯ). That, the Ex.P7 is the Election identity card of the plaintiff No.1 and Ex.P8 is her Aadhar card. That, the Ex.P8 is the Aadhar card of the plaintiff No.2 and the Ex.P9 is the Aadhar card of the plaintiff No.3. That, the Ex.P10 is the NPHH card of the plaintiffs No.1 to 3. That, the Ex.P11 is the copy of Form – A. That, the Ex.P12 is the Postal receipt and Ex.P13 is the Postal order.

12. That, the Ex.P14 is the School transfer certificate of the plaintiff No.2, wherein his father name has been shown as Hanamanthraya. That, the Ex.P15 is the Study certificate of the plaintiff No.2, issued by the Head Master of Chiranjeevi Methodist English Medium High School, Yadgir, District, dated:- 28.10.2024, wherein his father name has been shown as Hanamanthraya. That, the Ex.P16 is the copy of

Form – A. That, the Ex.P17 is the Postal receipt and the Ex.P18 is the Postal order. That, the Ex.P19 is the `copy of School transfer certificate of the plaintiff No.3, wherein his father name has been mentioned as Hanamanthraya. That, the Ex.P20 is the Study certificate of the plaintiff No.3 issued by the Head master of Aksharadhama English Medium School, Yadgir District.

13. That, the plaintiffs have placed their reliance on the following decision:-

AIR 2000 SC 735

Rameshwari Devi

V/S

State of Bihar and Ors.

Wherein it has held that, Hindu Marriage Act, 1955-Section 16 Entitlement to property Payment of family pension and death-cum-retirement gratuity - Children born form second wife during subsistence of first marriage are legitimate and entitled to property of deceased employee in equal

shares along with first wife and sons born from first marriage Family pension admissible to minor children from second wife till they attain majority. Under Section 16 of the Hindu Marriage Act, children of void marriage are legitimate, under the Hindu Succession Act, 1956 property of a male Hindu dying intestate devolve firstly on heirs in clause (1) which include widow and son. Among the widow and son, they all get shares. The second wife taken by deceased/ government employee during subsistence cannot be described a widow of deceased employee, their marriage void. Sons of the marriage between deceased employee and second wife being the legitimate sons of deceased would be entitled to the property of deceased employee in equal shares along with that of first wife and the sons born from the first marriage. That being the legal position when Hindu male dies intestate, the children of the deceased employee born out of the second wedlock would be entitled to share in the family pension and death-cum-retirement gratuity. The second wife was not entitled to

anything and family pension would be admissible to minor children only till they attained majority.

14. That, the defendants No.1 to 3 have specifically pleaded that the defendant No.1 is the legally wedded of the said deceased Hanamanthraya. That, the DW.1 in her chief affidavit has reiterated the said facts and got marked the documents at Exs.D1 to 35. That, the Ex.D1 is the Annexure – 1 issued by the Tahasildar, Shahapur, dated;- 11.11.1992, wherein the said authority had mentioned the caste of the deceased Hanamanthraya as Holey (SC). That, the Ex.D2 is the Affidavit dated:- 06.09.2003 of the said Hanamanthraya, wherein he stated that one Renuka is his only legally wedded wife. That, the Ex.D3 is the Residential certificate issued by the Secretary, Gram panchayath, Kollur, dated:- 01.12.1997, wherein the said authority had certified that the Smt. Renuka W/o Hanamanthraya is the resident of Biranur village, Shahapur Taluk.

15. That, the Ex.D4 is the certified copy of Namune – 12 pertaining to the suit item No.2, wherein the name of the said deceased Hanamanthraya has been shown as the owner and possessor. That, the Ex.D5 is the School certificate of the defendant No.1, issued by the Head Master of Government Higher Primary School, Chandu Nagar, dated:- 31.03.2021, wherein her date of birth has been mentioned as 01.06.1980 and caste as Hindu Chalavadi (SC). That, the Ex.D6 and Ex.P1 are one and the same documents. That, the Ex.D7 is the certified copy of Assessment list, wherein the name of the said deceased Hanamanthraya has been shown as the owner of the suit item No.1.

16. That, the Ex.D8 is the Medical document of deceased Hanamanthraya, issued by the KLES Heart Foundation, Belagavi. That, the Exs.D9 and 10 are the LIC bonds of said Hanamanthraya. That, the Ex.D11 is 19 Marriage photos of the defendant No.1 and deceased Hanamanthraya and the Ex.D11(a) is the Compact

disk. That, the Ex.D12 is the Election identity card of the DW.1 and the Ex.D13 is the Aadhar card of the deceased Hanamanthraya. That, the Ex.D14 is the Election identity card of the said deceased Hanamanthraya and Ex.D15 is his Pan card. That, the Exs.D16 and 17 are the Identity cards of the said Hanamantharaya. That, the Ex.D18 is the Covering letter of Executive Engineer KBJNL, Khanapur issued to the defendant No.1. That, the Ex.D19 is the Service certificate of deceased Hanamanthraya issued by the authorities of said KBJNL. That, the EX.D20 is Last pay certificate of the deceased Hanamanthraya. That, the Ex.D21 is the certified copy of Appointment letter of the said Hanamanthraya. That, the Ex.D22 is the certified copy of Namune – ☺ and the Ex.D23 is the certified copy of Form No.7, whereiin the name of the defendant No.1 has been shown as the wife of deceased Hanamanthraya. That, the Ex.D24 is the copy of List of

death benefits pertaining to the deceased Hanamanthraya.

17. That, the Ex.D25 is the copy of Letter addressed by the ಕಾರ್ಯನಿರ್ವಾಹಕ ಇಂಜಿನಿಯರ ರಾಷ್ಟ್ರೀಯ ಹೆದ್ದಾರಿ ವಿಭಾಗ ಕಲಬುರಗಿ, dated:- 16.11.2015 to the ಅಧೀಕ್ಷಕ ಅಭಿಯಂತರರು, ರಾಷ್ಟ್ರೀಯ ಹೆದ್ದಾರಿ ವೃತ್ತ, ಡಿ.ಸಿ. ಕಂಪೌಂಡ, ಧಾರವಾಡ, wherein the said authority had directed for taking actions for providing construction permission to the said Hanamanthraya in the suit item No.1. That, the Ex.D26 is the Letter addressed by the deceased Hanamanthraya to the Assistant Executive Engineer, Yadgir, dated:- 06.04.2015, wherein he had requested for providing permission to construct the building in the suit item No.1. That, the Ex.D27 is the certified copy of the Sale deed document bearing No.7796/12-13 dated:- 02.02.2013. That, from the recitals of the said document is appears that one Shri. Lingangouda S/o Vishwanathreddy had sold the Plot No.10 (new -62-35) to the deceased Hanamanthraya. That, the Ex.D28 is

the Janapanapatra, dated:- 16.05.2016, wherein the Chief Engineer, Bengaluru, had permitted the deceased Hanamanthraya for constructing house in the suit item No.1. That, the Ex.P29 is the Certificate issued by the Head Master of Government Higher Primary School, Chandu Nagar, dated:- 28.03.2021, wherein it has been mentioned that the defendant No.1 had studied in the said school from 01st standard to 03rd standard in Kannada medium. That, the Ex.D30 is the Certificate issued by the Head Master of Government Higher Primary School, Marali, dated:- 25.03.201, wherein it has been mentioned that the defendant No.1 had studied in the said School from 04th standard to 07th standard in Kannada medium.

18. That, the Ex.D31 is the Letter addressed by the defendant No.1 to Executive Engineer, Khanapur Camp, Tq: Shahapur, Dist. Yadgir, dated:- 11.08.2021, wherein she had requested the said authority for providing the job to her on compensatory ground.

That, the Ex.D32 is the LIC bonds (04in number) pertaining to the said Hanamanthraya. That, the Exs.D33 and 34 are the Annexere -I, wherein the name of the deceased Hanamanthraya has been shown in respect of suit item No.1. That, the Ex.D35 is the Marriage invitation card of the defendant No.1 and deceased Hanamanthraya.

19. It is significant to note here that, the plaintiffs are claiming that the plaintiff No. 1 is the legally wedded wife of the deceased Hanamanthraya. It is settled law that, whoever, desires the Court to give any Judgment on any fact then the burden lies upon him to prove the existence of said fact with all preponderance of probabilities. It is pertinent to note here that, the plaintiffs though, are claiming that the plaintiff No.1 is the legally wedded of the deceased but, to demonstrate the same have not produced either their marriage card and marriage photos. That, further the plaintiffs in their pleadings have not specifically mentioned the date

when the marriage of the plaintiff No.1 and the said deceased Hanamanthraya. That, in absence of any material and reliable evidence the said contention of the plaintiffs do not assume any importance.

20. It is pertinent to note here that, the plaintiff No.1 in her cross – examination dated:- 13.02.2025 at 13th line has deposed as under:-

ನನ್ನ ಮದುವೆ ಹನುಮಂತ್ರಾಯನ ಜೊತೆ ಆಗಿತ್ತು
ಎಂದು ಹೇಳುವ ಕಾಲಕ್ಕೆ ನನ್ನ ವಯಸ್ಸು **20** ವರ್ಷ
ಆಗಿತ್ತು. ಆ ಕಾಲಕ್ಕೆ ಹನುಮಂತ್ರಾಯನ ವಯಸ್ಸು
28 ವರ್ಷ ಆಗಿತ್ತು. ನಮ್ಮ ಮದುವೆ ಲವ್ ಮ್ಯಾರೇಜ್
ಆಗಿರುತ್ತದೆ.

21. It is significant to note here that, the PW.2 in her chief affidavit has deposed that the plaintiff No.1 is the first wife of Hanamanthraya and their marriage was solemnised at Saudatti Yallamma Temple at Belagavi. It is pertinent to note here that, this witness in her

cross – examination dated:- 23.06.2025 in para No.02
at 04th line has deposed that:-

ಸದರಿ ಮದುವೆಯ ಸಂದರ್ಭದಲ್ಲಿ, ನನ್ನ ಸದರಿ ಮೃತ ಮಗನ
ವಯಸ್ಸು **25** ವರ್ಷ ಇತ್ತು ಹಾಗೂ **1**ನೇ ವಾದಿಯ
ವಯಸ್ಸು **15** ರಿಂದ **18** ವರ್ಷ ಆಗಿತ್ತು.

It is pertinent to note here
that, as discussed above the plaintiff
No.1 – PW.1 has deposed that she was
aged about 20 years when her marriage
occurred with the said Hanamanthraya
and the said Hanamanthraya was aged
about 28 years and whereas, the PW.2
has deposed that during the said
marriage the plaintiff No1 was aged
about 15 to 16 years and her deceased
son Hanamanthraya was aged about 25
years. That, there is no corroboration in
the evidence of the PWs.1 and 2.

22. That, the PW.2 though, in her chief affidavit on one hand deposed that she had attended the marriage of her deceased son Hanamanthraya and the plaintiff No.1 but, in her cross – examination dated:- 23.06.2025 in page No.02 in para No.03 at 01st line and in page No.03 in para No.06 at 01st line has deposed as under:-

Para No.03 at 01st line:-

1 ನೇ ವಾದಿಯ ತವರೂರು ಯಾವುದು ಎಂದು ನನಗೆ ಗೊತ್ತಿರುವುದಿಲ್ಲ. 1 ನೇ ವಾದಿಯ ತಂದೆ - ತಾಯಿಯ ಹೆಸರುಗಳು ಗೊತ್ತಿರುವುದಿಲ್ಲ.

Para No.06 at 01st line:-

1 ನೇ ಪ್ರತಿವಾದಿ ನನ್ನ ಸದರಿ ಮೃತ ನನ್ನ ಮಗನ ಹೆಂಡತಿಯಾಗಿದ್ದು ಅವರಿಗೆ ಇಬ್ಬರು ಮಕ್ಕಳು ಇರುತ್ತಾರೆ ಎಂದರೆ ಸರಿ. ನನ್ನ ಮುಖ್ಯ ವಿಚಾರಣೆ ಪತ್ರದಲ್ಲಿರುವ ವಿಚಾರಣೆಗಳು ನನಗೆ ಗೊತ್ತಿರುವುದಿಲ್ಲ. 1 ನೇ ವಾದಿ ಹೇಳಿರುವಂತೆ ನಾನು ಸಾಕ್ಷಿ ಹೇಳುತ್ತಿದ್ದೇನೆ ಎಂದರೆ ಸರಿ.

It is significant to note here that, from the said evidence of the PW.2 it clearly appears that on the say of the plaintiff No.1 she has narrated the false things in her chief affidavit. That, the evidence of PW.2 is not trust worthy one.

23. It is significant to note here that, the plaintiffs have not examined any independent witness to demonstrate that the plaintiff No.1 and the said Hanamanthraya have lived together as husband and wife. That, in absence of any cogent and material evidence the contentions of the plaintiffs that the plaintiff No.1 is the legally wedded wife of the deceased Hanamanthraya do not assume any importance.

24. It is significant to note here that, the defendants No.1 to 3 are claiming that the defendant No.1 is the legally wedded wife of the deceased Hanamanthraya. That, the defendants have also not specifically pleaded

that in their pleadings when the marriage of the defendant No.1 and the deceased Hanamanthraya was occurred. It is significant to note here that, the plaintiffs in cross – examination of the DW.1 in para No.01 at 03rd line themselves have elicited as under:-

ನನ್ನ ಮದುವೆಯು ದಿಃ **26.05.1997** ರಲ್ಲಿ
ಆಗಿರುತ್ತದೆ.

That, the said suggestion is sufficient to hold that the defendant No.1 is the legally wedded wife of the deceased Hanamanthraya. That, the Ex.D35 reveals that the marriage of the defendant No.1 and the said deceased Hanamanthraya was occurred on 26.05.1997.

25. It is to be noted here that, the DW.2 in his chief affidavit has deposed that the defendant No.1 is only the legally wedded wife of the his deceased brother Hanamanthraya and the defendants No.2 and 3 are their children and the plaintiff No.1 is not the legally wedded of his said deceased brother. That, the plaintiffs in cross – examination of this witness have tried to demonstrate that the defendant No.1 is not legally wedded of his deceased brother Hanamanthraya but, all their efforts were went in vain.

26. It is significant to note here that, the plaintiffs have mainly relied upon the Ex.P4. It is significant to note here that, the Voter list is prepared on the statement and particulars furnished by some person. It is in the nature of self serving evidence. It is true that, there is presumption of correctness of voter list. That, this presumption however, can be resulted by other evidence which may be direct or circumstantial. It is only a piece of corroborative evidence. That, the Ex.P4

will not come to the aid of the plaintiffs. That, the plaintiffs have failed to prove that the plaintiff No.1 is the legally wedded wife of deceased Hanamantraya and the plaintiffs No.2 and 3 are their legitimate children and on the other hand the defendants No.1 to 3 have proved that, the defendant No.1 is the legally wedded wife of the said deceased Hanamantraya and the defendants No.2 and 3 are their legitimate children. Hence, issue No.1 is answered in the **NEGATIVE and issue No.4 in the AFFIRMATIVE.**

27. **Issues No.2 and 3:-** That, as these issues are connected together, I have taken the for joint discussion to avoid repetition of facts. It is to be noted here that, as discussed on issue No.1 the plaintiffs have failed to prove that, the plaintiff No.1 is the legally wedded wife of said deceased Hanamantraya and plaintiffs No.2 and 3 are their legitimate children. Hence, the plaintiffs are not entitled to get any family pension and other service benefits of deceased Hanamantraya including job on

compensatory ground and they are also not entitled for any share in the suit properties. Hence, issues No.2 and 3 are answered in the **NEGATIVE**.

28. **Issue No.5:-** That, the defendants No.1 to 3 have pleaded that the suit is bar for mis-joinder of parties and non-joinder of necessary parties. But, have not explained to whom the plaintiffs have not impleaded in the present and who are the mis-joinder of the parties to the suit. Hence, issue No.5 is answered in the **NEGATIVE**.

29. It is to be noted here that, the defendants No.1 to 3 in their pleadings have submitted that, prior to instituting the present suit the plaintiffs have not issued the notice to the defendants No.4 to 7 as required under Section 80 of the Code of Civil Procedure, Hence, the present suit is not maintainable.

30. That, the plaintiffs have placed their reliance on following decisions:

1. AIR 1971 SC 442

Gangappa Gurupadappa Gugwad Gulbarga.

V/S

Rachawwa Gugwad and Ors.

Wherein it has held that, if the Court decides the various issues raised on the pleadings, it is difficult to see why the admudicaion of the rights of the parties, apart from the question as to the applicability of Section 80 of the Code and absence of notice thereunder should not operate as res judicate in a subsequent suit where the identical questions arise for determinations between the same parties.

2. AIR 1991 Ker 80

T.P.K.Nair

V/s

The Union of India (UOI) and Ors.

Wherein it has held that, Civil Procedure Code, 1908 (CPC) – Section 80

**- Suit against Union of India and Marine Products Exports Development Authority
- Prior notice under Section 80 CPC had been issued, inspite of the fact that provision of Section 80 were not applicable in the instant case - held, even though Section 80 was not applicable, the suit will not be barred by limitation in view of the provisions of Section 15(2) of Limitation Act.**

31. It is to be noted here that, the plaintiffs have filed the Interim application under section 80(2) of the Code of the Civil Procedure with a prayer to dispense with the issuance of notice to the defendants No.4 to 7 prior to institution of the present suit and this Court on 24-03-2021 had allowed the said application. In view of the said order the said contention of the defendants No.1 to 3 do not assume importance.

32. **Issue No.6:-** That, as discussed on issues No.1 to 4, the plaintiffs are not entitled for any relief as prayed for. Hence, issue No.6 is answered in the **NEGATIVE**.

33. **Issue No.7:-** That, as discussed on issues No.1 to 6, I proceed to pass the following :-

ORDER

That, the suit of the plaintiffs is dismissed.

That, no orders as to cost.

That, draw the decree accordingly.

(Directly dictated to the stenographer, typed by her, corrected by me and then pronounced in the open Court on this 07th day of March-2026)

(Hema Pastapur)
Sr. Civil Judge and JMFC,
Shahapur.

ANNEXURE

List of witnesses examined on behalf of plaintiffs:-

PW.1 : Renuka W/o Late Hanamanthraya Pujari.
PW.2 : Ratnawwa W/o Mareppa Poojari.

List of documents marked on behalf of plaintiffs:-

Ex.P.1 Death certificate of deceased Hanamanthraya.
Ex.P.2 Copy of Property extract of suit item No.1.
Ex.P.3 Copy of Letter.
Ex.P4 Copy of Voter list for the year 2022.

- Ex.P.5 Namune – D issued by the Tahasildar, Surpur.
- Ex.P.6 Voter identity card of plaintiff No.1.
- Ex.P.7 Election card of plaintiff No.1.
- Ex.P.8 Aadhar card of plaintiff No.2.
- Ex.P.9 Aadhar card of plaintiff No.3.
- Ex.P.10 NPHH card of plaintiffs.
- Ex.P.11 Copy of Form – A.
- Exs.P.12 & 17 Postal receipts.
- Exs.P.13 & 18 Postal orders.
- Ex.P.14 School transfer certificate of the plaintiff No.2.
- Ex.P.15 Study certificate of the plaintiff No.2.
- Ex.P.16 Copy of Form – A.
- Ex.P.19 Copy of School transfer certificate of the plaintiff No.3.
- Ex.P.20 Study certificate of the plaintiff No.3.

List of witnesses examined on behalf of defendants No.1 t 3:-

- DW.1 Renuka W/o Hanamanthraya Poojari.
- DW.2 Ashok S/o Mareyappa.

List of documents marked on behalf of defendants No.1 to 3:-

- Ex.D.1 Annexure - I
- Ex.D.2 Affidavit dated:- 06.09.2003.
- Ex.D.3 Residential certificate issued by the Gram panchayath, Kollur.
- Ex.D.4 Certified copy of Namune – 12.
- Ex.D.5 School certificate of the defendant No.1.

- Ex.D.6 Death certificate of deceased Hanamanthraya.
- Ex.D.7 Certified copy of Assessment list.
- Ex.D.8 Medical document of deceased Hanamanthraya.
- Exs.D.9 and 10 LIC bonds.
- Ex.D.11 Marriage photos.
- Ex.D.11(a) Compact disk.
- Ex.D.12 Election identity card of defendant No.1.
- Ex.D.13 Aadhar card of deceased Hanamanthraya.
- Ex.D.14 Election identity card of deceased Hanamanthraya.
- Ex.D.15 Pan card.
- Exs.D.16 and 17 Identity cards of deceased Hanamanthraya.
- Ex.D.18 Covering letter.
- Ex.D.19 Service certificate of deceased Hanamanthaya.
- Ex.D.20 Last pay certificate.
- Ex.D.21 Certified copy of Appointment letter.
- Ex.D.22 Certified copy of Namune - ಓ.
- Ex.D.23 Certified copy of Form No.7.
- Ex.D.24 Copy of List of death benefits of deceased Hanamanthraya.
- Ex.D.25 Copy of Letter.
- Ex.D.26 Letter addressed by the deceased Hanamanthraya to the Assistant Executive Engineer, Yadgir.
- Ex.D.27 Certified copy of Sale deed.

- Ex.D.28 Janapanapatra dated;- 16.05.2016.
Exs.D.29 School Certificates of defendant No.1.
and 30
Ex.D.31 Letter dated;- 11.08.2021.
Ex.D.32 LIC bond of deceased Hanamanthraya.
Exs.D.33 Annexure – I.
and 34
Ex.D.35 Marriage invitation card.

(Hema Pastapur)
Sr. Civil Judge and JMFC,
Shahapur.