



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 27<sup>TH</sup> DAY OF MARCH, 2026**

**BEFORE**

**THE HON'BLE MR. JUSTICE ASHOK S.KINAGI**

**REGULAR SECOND APPEAL NO. 534 OF 2026 (RES)**

**BETWEEN:**

SMT VIRAJAMMA @ KARAGAMMA  
W/O. LATE K. B. MAHADEVAPPA,  
DEAD BY LRS

1. SMT.MANGALAMMA,  
D/O. LATE K. B. MAHADEVAPPA,  
AGE 38 YEARS.  
R/O. KUNDAKERE VILLAGE,  
TERAKANAMBI HOBLI,  
GUNDLUPET TALUK-571111.
2. SRI. RAJENDRA,  
S/O. LATE K. B. MAHADEVAPPA,  
AGE 26 YEARS,  
R/O. KUNDAKERE VILLAGE,  
TERAKANAMBI HOBLI,  
GUNDLUPET TALUK-571111.

...APPELLANTS

(BY SRI. NAGARAJA R C., ADVOCATE)

**AND:**

1. SMT BELLAMMA  
W/O. LATE KONGALAPPA,  
AGE 68 YEARS





R/O. KUNDAKERE VILLAGE,  
TERAKANAMBI HOBLI,  
GUNDLUPET TALUK-571111.

2. SRI. SHIVANANJAPPA K  
S/O. LATE KONGALAPPA,  
AGE 51 YEARS.  
R/O. KUNDAKERE VILLAGE,  
TERAKANAMBI HOBLI,  
GUNDLUPET TALUK-571111.
3. SRI. PRAKASH,  
S/O. LATE KONGALAPPA,  
AGE 47 YEARS  
R/O. KUNDAKERE VILLAGE,  
TERAKANAMBI HOBLI,  
GUNDLUPET TALUK-571111.
4. SMT.SUNDRAMMA,  
D/O. LATE KONGALAPPA,  
AGE 42 YEARS.  
R/O. KUNDAKERE VILLAGE,  
TERAKANAMBI HOBLI,  
GUNDLUPET TALUK-571111.
5. SRI. LOKESH,  
S/O.LATE KONGALAPPA,  
AGE 39 YEARS.  
R/O. KUNDAKERE VILLAGE,  
TERAKANAMBI HOBLI,  
GUNDLUPET TALUK-571111.

...RESPONDENTS

THIS RSA IS FILED U/S. 100 OF CPC AGAINST THE  
JUDGMENT AND DECREE DATED 17.12.2025 PASSED IN RA  
NO. 11/2022 ON THE FILE OF THE SENIOR CIVIL JUDGE AND  
JMFC, GUNDLUPET, DISMISSING THE APPEAL AND  
CONFIRMING THE JUDGMENT AND DECREE DATED 07.07.2021



PASSED IN OS NO. 74/2013 ON THE FILE OF THE ADDITIONAL CIVIL JUDGE AND JMFC, GUNDLUPET.

THIS APPEAL, COMING ON FOR ADMISSION, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE ASHOK S.KINAGI

**ORAL JUDGMENT**

This appeal is filed by the appellants challenging the judgment and decree dated 17.12.2025 passed in RA No. 11 of 2022 by the Court of learned Senior Civil Judge and JMFC, Gundlupet ('First Appellate Court' for short) and the judgment and decree dated 07.07.2021 passed in OS No. 74 of 2013 by the Court of the learned Civil Judge and JMFC, Gundlupet ('Trial Court' for short).

2. For the sake of convenience, the parties are referred to based on their ranking before the Trial Court. Appellants were the defendants and respondents were the plaintiffs.



3. Brief facts leading rise to the filing of this appeal are as follows:

3.1. The plaintiffs filed a suit for redemption of mortgage. It is the case of the plaintiffs that, on 20.04.1981, one Kongalappa – the husband of plaintiff No.1 and father of plaintiff Nos.2 to 5 had mortgaged the suit schedule property in favour of one K.B.Mahadevappa – the husband of defendant No.1 and father of defendant Nos.2 and 3 for a sum of ₹3,000/- for a period of 3 years, and after the demise of Kongalappa, the plaintiffs requested K.B.Mahadevappa for redemption of mortgage. He refused to redeem the mortgage. Hence, a cause of action arose for the plaintiffs to file a suit for redemption of mortgage.

3.2. The defendants filed a written statement denying the averments made in the plaint and



contented that, Kongalappa had relinquished his right in favour of K.B.Mahadevappa by executing a relinquishment deed dated 19.07.1983. Based on the relinquishment deed, K.B.Mahadevappa became the absolute owner of the suit schedule property and the suit filed by the plaintiff is not maintainable. Hence, the plaintiff has filed a false suit and prays to dismiss the suit.

3.3. The Trial Court, based on the pleadings of the parties, framed the relevant issues.

3.4. The plaintiffs, to substantiate their case, plaintiff No.2 was examined as PW1 and marked 3 documents as Exs.P1 to P3. In rebuttal, defendant No.3 was examined as DW1 and marked 11 documents as Exs.D1 to D11. The Trial Court, after appreciating the verbal and documentary evidence,



decreed the suit of the plaintiffs with costs vide judgment dated 07.07.2021.

3.5. The defendants, aggrieved by the judgment and decree passed in OS No. 74 of 2013, preferred an appeal in RA No. 11 of 2022 before the First Appellate Court.

3.6. The First Appellate Court, after re-appreciating the entire evidence on record, dismissed the appeal vide judgment dated 17.12.2025.

4. The defendants, aggrieved by the impugned judgments, file this regular second appeal.

5. Heard the arguments of the learned counsel for the defendants.

6. Learned counsel for the defendants submits that, one Kongalappa executed a relinquishment deed



in favour of K.B.Mahadevappa and based on the relinquishment deed, the name of K.B.Mahadevappa was entered in the revenue records. Hence, K.B.Mahadevappa became the absolute owner of the suit schedule property based on relinquishment deed. He submits that, both the Courts below have not considered the document i.e., relinquishment deed properly. He submits that, the impugned judgments passed by the Courts below are arbitrary and erroneous. Hence, on these grounds, he prays to allow the appeal.

7. Perused the records and considered the submissions of the learned counsel for the defendants.

8. It is undisputed fact that, the suit schedule property was owned and possessed by Kongalappa. During his lifetime, he had executed registered mortgage deed in favour of K.B.Mahadevappa.



Kongalappa passed away leaving behind the plaintiffs. After the demise of Kongalappa, the plaintiffs approached the defendants and requested to redeem the mortgage. The defendants have refused to redeem the mortgage on the ground that Kongalappa had executed a relinquishment deed relinquishing his right in the suit schedule property in favour of K.B.Mahadevappa.

9. To prove that, Kongalappa had executed a relinquishment deed, the defendant has produced the unregistered relinquishment deed at Ex.D11. Admittedly, the value of the suit schedule property is more than ₹100/-. If any property worth more than ₹100/-, the right has to be transferred by way of a registered instrument as per Section 17 of the Registration Act, 1908. Admittedly, the alleged relinquishment deed is an unregistered document. Hence, it is inadmissible in evidence. The learned



counsel for the defendants admits that the defendants have not paid the duty and penalty on the said document. Both the Courts below have concurrently recorded a finding that the defendants have failed to establish that Kongalappa had executed a relinquishment deed and K.B.Mahadevappa became the absolute owner based on alleged relinquishment deed. Both the Courts below were justified in passing the impugned judgments holding that the plaintiffs are entitled to get redeemed the mortgage as the plaintiffs have already deposited the mortgage amount. In view of the same, I do not find any error in the impugned judgments and any substantial question of law that arises for consideration in this appeal.

10. In view of the above discussion, I proceed to pass the following:



**ORDER**

- i. The appeal is ***dismissed***;
- ii. The impugned judgments and decrees passed by the Courts below are hereby confirmed;
- iii. No order as to the costs;
- iv. Pending IA(s), if any, shall stand disposed of.

**Sd/-  
(ASHOK S.KINAGI)  
JUDGE**

PA  
List No.: 1 SI No.: 27