



**IN THE HIGH COURT OF KARNATAKA, AT DHARWAD**

**DATED THIS THE 24<sup>TH</sup> DAY OF MARCH, 2026**

**PRESENT**

**THE HON'BLE MR. JUSTICE H.P.SANDESH**

**AND**

**THE HON'BLE MR. JUSTICE B. MURALIDHARA PAI**

**REGULAR FIRST APPEAL NO. 100077 OF 2025 (PAR/POS)**

**BETWEEN:**

FAKKIRAPPA S/O YALLAPPA SURANAGI  
AGED ABOUT 53 YEARS, AGRICULTURE,  
R/O. YALLAPURA TAFG HONNATTI,  
DIST.HAVERI 581 115.

...APPELLANT

(BY SRI S.G. KADADAKATTI AND SRI AMIT ANANDHALLI,  
ADVOCATE)

**AND:**

1. SMT. NINGAVVA W/O HANUMAPPA DOLLINA  
AGED ABOUT 55 YEARS, OCC. HOUSEHOLD WORK,  
R/O. YALLAPURA TARF HONNATTI,  
TQ. RANEBENNUR, DIST. HAVERI 581115.
2. SMT. CHOUDAVVA W/O SUBASAPPA JAJJURI  
AGED ABOUT 51 YEARS, OCC. HOUSEHOLD WORK  
R/O. DEVARAGUDDA, TQ. RANEBENNUR  
DIST. HAVERI 581115.
3. NINGAPPA S/O HONNAPPA SILLERA,  
AGED ABOUT 53 YEARS, AGRICULTURE,  
R/O. MADLERI, TQ. RANEBENNUR,  
DIST HAVERI 581 115.



KARIYALAPPA S/O YALLAPPA SURANGI  
SINCE DEAD BY HIS LR'S (DATE OF DEATH 29-01-  
2024)

4. SMT. BHARAMAVVA W/O KARIYALLAPPA SURANAGI  
AGED ABOUT 5 YEARS, OCC. HOUSEHOLD WORK,  
R/O. YALLAPURA TARF HONNATTI,  
TQ. RANEBENNUR, DIST. HAVERI 581115.
5. SMT. YALLAMMA W/O HONNAPPA SILLERA  
AGED ABOUT 36 YEARS, OCC. HOUSEHOLD WORK  
R/O. YALLAPURA TARF HONNATTI,  
TQ. RANEBENNUR, DIST. HAVERI 581115.
6. SMT. LATA @ GEETA W/O RAVI ASUNDI  
AGED ABOUT 34 YEARS, OCC. HOUSEHOLD WORK  
R/O. YALLAPURA TARF HONNATTI,  
TQ. RANEBENNUR, DIST. HAVERI 581115.
7. SMT. SUNITA W/O NAGARAJ BANNIMATTI  
AGED ABOUT 32 YEARS, OCC. HOUSEHOLD WORK,  
R/O. YALLAPURA TARF HONNATTI,  
TQ. RANEBENNUR, DIST. HAVERI 581115.
8. MALATESH S/O KARIYALLAPPA SURANAGI  
AGED ABOUT 31 YEARS, OCC. HOUSEHOLD WORK  
R/O. YALLAPURA TARF HONNATTI,  
TQ. RANEBENNUR, DIST. HAVERI 581115.
9. HONNAPPA S/O HONNAPPA SILLER  
AGED ABOUT 43 YEARS, OCC. AGRICULTURE,  
R/O. MEDLERI, TQ. RANEBENNUR,  
DIST. HAVERI 581 115.
10. MAILAPPA S/O HONNAPPA SILLER  
AGED ABOUT 41 YEARS, OCC. AGRICULTURE  
R/O. MDLERI, TQ. RANEBENNUR,  
DIST. HAVERI 581 115.
11. RAMAPPA S/O HONNAPPA SILLER  
AGED ABOUT 39 YEARS, OCC. AGRICULTURE,



R/O. MEDLERI, TQ. RANEBENNUR,  
DIST. HAVERI 581 115.

12. LAKSHMAPPA S/O HONNAPPA SILLER  
AGED ABOUT 38 YEARS, OCC. AGRICULTURE  
R/O. MEDLERI, TQ. RANEBENNUR  
DIST. HAVERI 581 115.
13. NAGAVVA W/O NINGAPPA KAMBALI  
AGBED 37 YEARS, OCC. HOUSEHOLD WORK,  
R/O. DOMBARAHALLI TQ. HUVINAHADAGALI,  
DIST. VIJAYANAGAR 581 115.
14. BASAVARAJ S/O HONNAPPA SILLER  
AGED ABOUT 35 YEARS, OCC. AGRICULTURE  
R/O. MEDLERI, TQ. RANEBENNUR,  
DIST. HAVERI 581 115.

...RESPONDENTS

(BY SRI G.N. NARASAMMANAVAR, ADVOCATE FOR R1 AND R2;  
NOTICE ISSUED TO R3, R4, R5, R6, R7, R9, R10, R11, R12 AND  
R14 ARE SERVED BUT UNREPRESENTED;  
R8-ABATED V/O. DATED 24.03.2026;  
SERVICE OF NOTICE TO R13 IS HELD SUFFICIENT)

THIS RFA IS FILED UNDER SECTION 96 OF CPC., PRAYING  
TO SET ASIDE THE JUDGMENT AND DECREE DATED 31.07.2024  
PASSED IN O.S.NO.50/2022 ON THE FILE OF THE II  
ADDITIONAL SENIOR CIVIL JUDGE AND JUDICIAL MAGISTRATE  
FIRST CLASS, RANEBENNUR AND REMAND BACK THE SUIT TO  
TRAIL COURT FOR FRESH DISPOSAL IN ACCORDANCE WITH  
LAW BY ALLOWING THE APPEAL.

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

CORAM: THE HON'BLE MR. JUSTICE H.P.SANDESH

AND

THE HON'BLE MR. JUSTICE B. MURALIDHARA PAI



**ORAL JUDGMENT**

(PER: HON'BLE MR. JUSTICE H.P.SANDESH)

This matter is listed for admission. Heard the learned counsel for the appellants as well as the learned counsel for the respondents.

2. The suit was filed for the relief of partition and separate possession. Notice was also issued against the appellants herein and they were represented through counsel but not contested the matter. They have not even filed their written statement. When the case was posted for evidence, the counsel appearing for the defendants, who are the appellants herein, filed a memo for retirement. Despite service of notice on retirement memo, the defendant No.2 and 4 to 9 have remained absent. The defendant No.1 and 3 appeared before the Trial Court but they have not chosen to contest the suit. The Trial Court passed the impugned judgment and decree granting 1/5<sup>th</sup> share each to plaintiffs in the suit schedule properties.

3. The counsel appearing for the appellants herein would submit that the document produced by the plaintiffs i.e.,



Ex.P-14, certified copy of the mutation register bearing M.R.No.1508 dated 06.08.1980 itself discloses that already there was a partition between the propositus and his sons but the appellants herein have not filed their written statement and not led any evidence.

4. When such being the case, the matter requires reconsideration by the Trial Court and hence, the judgment and decree of the Trial Court requires to be set aside on certain terms and having taken note of the fact that the property measures to the extent of more than 13 acres of land and the defendants are squatting over the property, even they have not chosen to file their written statement and are enjoying the property and when the suit is filed for the relief of partition, the defendants ought to have taken specific defence by filing their written statement but they have not filed any written statement and even not led evidence. When such being the case, the matter requires reconsideration and hence, it is appropriate to remand the matter back to the Trial Court by imposing cost of Rs.2,00,000/- on the appellants since the suit schedule



properties are to the extent of more than 13 acres. Hence, the following:

**ORDER**

- (i) The judgment and decree dated 31.07.2024 in O.S.No.50/2022 passed by the II-Additional Senior Civil Judge and JMFC, Ranebennur is set aside and the matter is remanded back to the Trial Court by imposing cost of Rs.2,00,000/- on the appellants herein with a direction to the Trial Court to dispose of the suit by giving opportunity to the defendants to file their written statement and proceed in accordance with law within a period of nine months from 17.04.2026.
- (ii) The counsels on both sides are directed to assist the Trial Court in disposal of the suit within the time stipulated.
- (iii) It is made clear that no further extension of time will be given to the Trial Court to dispose of the suit.
- (iv) The cost of Rs.2,00,000/- imposed on the appellants herein shall be deposited before the Trial Court on or before 17.04.2026, failing which the impugned judgment passed by the Trial Court will remain.



- (v) On deposit of the cost, the Trial Court is directed to release Rs.1,75,000/- in favour of the plaintiffs, in equal proportion. Remaining amount of Rs.25,000/- shall vest with the State.
- (vi) The appellants/defendants are directed to file their written statement on or before 17.04.2026.
- (vii) After filing of the written statement by the defendants/appellants herein the Trial Court shall give an opportunity to the plaintiffs and the defendants to lead their evidence and dispose of the suit in accordance with law within the time stipulated.
- (viii) The Registry is directed to send back the Trial Court Records, forthwith.

**Sd/-  
(H.P.SANDESH)  
JUDGE**

**Sd/-  
(B. MURALIDHARA PAI)  
JUDGE**

YAN, CT-CMU  
LIST NO.: 1 SL NO.: 11