



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD
DATED THIS THE 24TH DAY OF FEBRUARY, 2026
BEFORE
THE HON'BLE MR. JUSTICE HANCHATE SANJEEVKUMAR
REGULAR SECOND APPEAL NO.100585 OF 2019 (PAR)

BETWEEN:

1. GOURAWWA W/O. SHIVAPPA BADDI,
AGE: 68 YEARS, OCC: AGRICULTURE,
R/O. BENDAWAD, TAL. RAIBAG,
DIST. BELAGAVI, PIN-591317.
2. KASTURI W/O. YALLAPPA BANI,
AGE: 53 YEARS, OCC: AGRICULTURE,
R/O. BENDAWAD, TAL. RAIBAG,
DIST. BELAGAVI, PIN-591317.

...APPELLANTS

(BY SRI S. B. HEBBALLI, ADVOCATE)

AND:

REVAPPA S/O. MALLAPPA BANI,
AGE: 33 YEARS, OCC: AGRICULTURE,
R/O. BENDAWAD, TAL. RAIBAG,
DIST. BELAGAVI, PIN-591317,
NOW AT MUDALAGI, TQ. GOKAK, PIN-591304.

...RESPONDENT

(BY SRI VINAY S. KOUJALAGI, ADVOCATE)

THIS REGULAR SECOND APPEAL IS FILED UNDER SECTION 100 OF THE CODE OF CIVIL PROCEDURE, PRAYING TO SET ASIDE THE JUDGMENT AND DECREE PASSED DATED 19.06.2019 IN R.A.NO.60/2016, ON THE FILE OF 1ST ADDITIONAL SENIOR CIVIL JUDGE GOKAK, DISMISSING THE APPEAL AND CONFIRMING THE JUDGMENT AND DECREE DATED 04.07.2016 PASSED IN O.S.NO.33/2014, ON THE FILE OF THE CIVIL JUDGE AND JMFC, MUDALAGI DECREING THE SUIT OF THE





RESPONDENT/PLAINTIFF AND DISMISS THE SUIT OF THE PLAINTIFF/RESPONDENT IN THE INTEREST OF JUSTICE.

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

ORAL JUDGMENT

(PER: THE HON'BLE MR. JUSTICE HANCHATE SANJEEVKUMAR)

Though the matter is listed for admission, with the consent of learned counsels appearing for both the parties, the matter is taken up for final disposal.

2. This regular second appeal is filed by defendants No.1 and 2 calling in question the judgment and decree dated 19.06.2019 passed in R.A.No.60/2016 on the file of I Additional Senior Civil Judge, Gokak¹, thereby confirmed the judgment and decree dated 04.07.2016 passed in O.S.No.33/2014 on the file of Civil Judge and JMFC, Mudalagi².

3. For the purpose of convenience, ranking of the parties is referred to as per their status before the Trial Court.

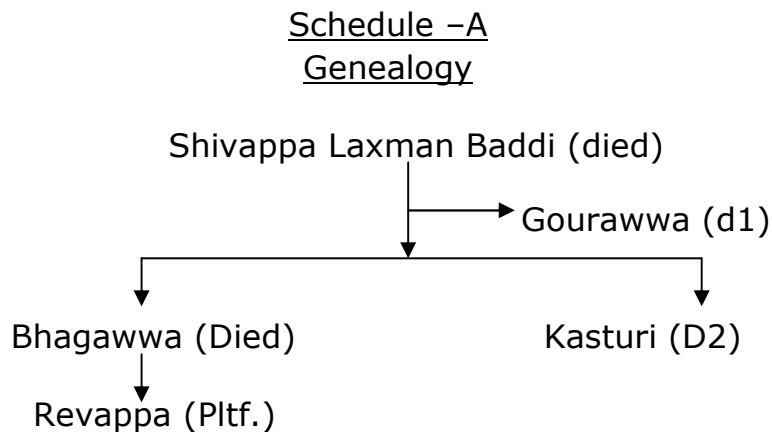
¹ Hereinafter referred to as the 'First Appellate Court'

² Hereinafter referred to as the 'Trial Court'



4. The plaintiff initially has filed the suit for partition and separate possession by mentioning agricultural land as the suit schedule property. Later on, amendment was made to the plaint, whereby the house property was also included as part of the suit schedule property. The Trial Court has decreed the suit for partition and granted 1/3rd share in the suit schedule properties to the plaintiff by metes and bounds. Aggrieved by the said judgment and decree, an appeal was preferred before the First Appellate Court. The First Appellate Court, upon reappreciation of the evidence on record, has concurred with the findings arrived at by the Trial Court and dismissed the appeal. Against this, the present regular second appeal is filed.

5. Learned counsel for the appellants/defendants No.1 and 2 produced the genealogy of the family, which is as follows:





6. Learned counsel for the appellants/defendants submitted that the suit schedule properties are the self acquired properties of the original propositus, Shivappa Laxman Baddi, and not ancestral properties. He contended that the plaintiff has not produced any evidence to show that the suit schedule properties are ancestral properties. Therefore submitted that both the Trial Court and the First Appellate Court were correct to hold that the suit schedule properties are self acquired properties of Shivappa Laxman Baddi. It is his further submission that both the Trial Court and the First Appellate Court have not properly considered the fact that Gourawwa, the wife of Shivappa Baddi, had transferred the suit schedule properties in favour of defendant No.2-Kasturi by way of giving a varadi to the revenue authorities. Hence, he contends that the plaintiff is not entitled to any share in the suit schedule properties.

7. Upon considering the evidence on record and findings arrived at by both the Trial Court and the First Appellate Court it is evident that though defendant No.1-Gourawwa contended that she had transferred the suit schedule properties in favour of defendant No.2-Kasturi, was only by way of giving a varadi to



the revenue authorities. There is no registered instrument of conveying of the properties by defendant No.1 in favour of defendant No.2. Therefore, both the Trial Court and the First Appellate Court were correct and justified in holding that there could not have been any valid conveyance of properties by submission of a varadi to the revenue authorities, and such transfer cannot be recognised in the eye of law. Hence, both the Trial Court and the First Appellate Court are justified in rejecting the contention of the defendants that defendant No.1 has transferred the suit properties in the name of defendant No.2. Therefore, it is proved that whatever transfer stated to have been made by defendant No.1 in favour of defendant No.2 is not taken in the eye of law. Hence, the rejection of contention of defendants No.1 and 2 in this regard is found to be correct and justified.

8. In view of the concurrent findings recorded by both the Trial Court and the First Appellate Court that the suit schedule properties are self acquired properties of Shivappa Baddi, the succession to the said properties is governed by Section 8 of the Hindu Succession Act. Consequently, the suit schedule properties



are equally divided upon the plaintiff and defendants No.1 and 2 to the extent of $1/3^{\text{rd}}$ share each. Therefore, there is no error in the judgments and decrees passed by both the Trial Court and the First Appellate Court and there is no substantial question of law arises for consideration of the present regular second appeal. Therefore, the appeal is liable to be dismissed at the stage of admission itself.

9. Accordingly, the appeal is ***dismissed***.

10. Learned counsel for the appellants/defendants No.1 and 2 submitted that defendants No.1 and 2 will offer cash amount to the plaintiff in lieu of her share and this may be observed in the order. If such proposal is made by the defendants No.1 and 2 to the plaintiff, the same shall be worked out in the final decree proceedings. In such an event, the Final Decree Court shall consider and decide the matter in accordance with law.

Sd/-
(HANCHATE SANJEEVKUMAR)
JUDGE