



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 23RD 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. 100375 OF 2024 (PAR/POS)

C/W

REGULAR FIRST APPEAL NO. 100376 OF 2024

IN RFA NO. 100375/2024
BETWEEN:

1. SMT. ANASAVVA W/O TIPPANAGOUDA BHARAMGOUDRA,
AGE:72 YEARS, OCC: HOUSEHOLD WORK,
R/O:SOOLIKATTI, TQ: KALAGHATAGI
DIST: DHARWAD- 591 126.
2. SMT. SHANKRAVVA, W/O SIDDAPPA TIRLAPUR,
AGE: 49 YEARS, OCC: HOUSEHOLD,
R/O:SOOLIKATTI, TQ:KALAGHATAGI- 591 126.
3. SMT. KAMALAVVA W/O SHIDRAMAPPA SHIVALLI,
AGE:47 YEARS, OCC: HOUSEHOLD WORK,
R/O:SULLA, TQ:HUBBALLI- 580 023.
4. SHRI GURUSHIDDAGOUDA S/O TIPPANAGOUDA
BHARAMAGAUDRA, AGE:45 YEARS, OCC: AGRICULTURE,
R/O: SOOLIKATTI, TQ: KALAGHATAGI- 591 126.
5. SRI MADEVAGOUDA S/O TIPPANAGOUDA BHARAMAGAUDRA,
AGE:43 YEARS, OCC: AGRICULTURE,
R/O: SOOLIKATTI, TQ: KALAGHATAGI- 591 126.
6. SMT. SAVITRI W/O BASANAOGUDA BHARAMAGAUDRA,
AGE:57 YEARS, OCC: HOUSEHOLD,
R/O:SOOLIKATTI, TQ:KALAGHATAGI,
DIST: DHARWAD- 591 126.



7. SMT. RENAKANAGOUDA S/O BASANAGOUDA
BHARAMAGOULDRA,
AGE:45 YEARS, OCC: AGRICULTURE,
R/O: SOOLIKATTI, TQ:KALAGHATAGI,
DIST: DHARWAD- 591 126.

8. SMT. HEMAVATI W/O CHANNAPPA BAJI,
AGE:34 YEARS, OCC: HOUSEHOLDWORK,
R/O: KUSUGAL, TQ: HUBBALLI,
DIST: DHARWAD-580 023.

9. SMT. SHIVALEELA W/O SUBHAS BAJI,
AGE:31 YEARS, OCC: HOUSEHOLD WORK,
R/O: KUSUGAL, TQ :HUBBALLI,
DIST :DHARWAD-580 023

...APPELLANTS

(BY SRI. R.H. ANGADI, ADVOCATE)

AND:

1. SMT. MADEVI W/O YALLAPPAGOUDA BHARAMAGOULDRA,
AGE: 67 YEARS, OCC: HOUSEHOLD,
R/O: ADARAGUNCHI, MARARAHALLI ONI,
TQ:HUBBALLI- 580 028.

2. SHRI SHANKARAGOUDA S/O YALLAPPAGOUDA
BHARAMAGOULDRA,
AGE:47 YEARS, OCC: AGRICULTURE,
R/O: ADARAGUNCHI, MARARAHALLI ONI,
TQ:HUBBALLI- 580 028.

3. SMT. MANJULA W/O BASAPPA TOTAD,
AGE:44 YEARS, OCC:HOUSEHOLD,
R/O:ADARAGUNCHI, MARARAHALLI ONI,
TQ: HUBBALLI-580 028.

4. SMT. NAGARATNA S/O YALLAPPAGOUDA BHARAMAGOULDRA,
AGE: 42 YEARS, OCC: PRIVATE WORK,
R/O:ADARAGUNCHI, MARARAHALLI ONI,
TQ:HUBBALLI-580 028.

5. SMT. RENUKA W/O IRAPPA PALLED,
AGE:37 YEARS, OCC: HOUSEHOLD,
R/O: KUNDAGOL, TQ: KUNDAGOL- 581 113



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RFA No. 100375 of 2024
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6. SHRI SHIDRAMAGOU DA S/O NINGANAGOU DA
BHARAMAGOU DRA,
AGE:57 YEARS, OCC: AGRICULTURE,
R/O: ADARAGUNCHI, MARARAHALLI ONI,
TQ:HUBBALLI- 580 028.
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AGE:40 YEARS, OCC: HOUSEHOLD,
R/O:SULLA, TQ: HUBBALLI- 580 023.
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R/O:KUNDAGOL, TQ: KUNDAGOL- 581 113.
9. SMT. NEELAVVA W/O ISHWARAPPA VIJAPUR,
AGE: 62 YEARS, OCC: HOUSEHOLD WORK,
R/O:SOOLIKATTI, TO: KALAGHATAGI- 591 126
- 10.VEERABHADRAPPA S/O CHANNABASAPPA TOTAD,
AGE:72 YEARS, OCC:AGRICULTURE,
R/O ADARAGUNCHI, TQ: HUBBALLI- 580 028.
- 11.SMT. IRAPPAVVA W/O SHARANAPPA PATIL,
AGE:47 YEARS, OCC: HOUSEHOLD WORK,
R/O KADAPATTI, TQ:KUNDAGOL -581 113.
- 12.SMT NIRMALA W/O SHEKAPPA HUBBALLI,
AGE: 55 YEARS, OCC: HOUSEHOLD WORK,
R/O:KUBIHAL, TQ:KUNDAGOL-581 113
- 13.SMT SAVITRI W/O SHANKARAGOU DA BHARAMAGOU DRA,
AGE: 43 YEARS, OCC: HOUSEHOLD WORK,
R/O ADARAGUNCHI, TO: HUBBALLI-580028,
- 14.SMT. RENUKA W/O GURUSHIDDAPPA KURATTI,
AGE:41 YEARS, OCC:HOUSEHOLD WORK,
R/O:NOOLVI, TQ:HUBBALLI- 580028.

...RESPONDENTS

(BY SRI. SUNIL D. DESAI AND SMT. SHEBA A. KHANAPUR,
ADVOCATES FOR R1 TO R5, R10 TO R14;
SRI VISHWANATH S. BICHAGATTI AND SRI. JAYAWANT KAMBLI,
ADVOCATES FOR R6;
NOTICE ISSUED TO R7 TO R9 ARE SERVED BUT UNREPRESENTED)



NC: 2026:KHC-D:4395-DB
RFA No. 100375 of 2024
C/W RFA No. 100376 of 2024

THIS RFA IS FILED UNDER SECTION 96 OF CPC., PRAYING TO, ALLOW THE APPEAL AND SET ASIDE THE IMPUGNED JUDGMENT AND DECREE ALLOWING THE COUNTER CLAIM FILED BY DEFENDANT NO. 6 TO 9 AND 11, PASSED IN O.S.NO.127/2017, DATED 21/12/2023, ON THE FILE OF THE IIIRD ADDITIONAL SENIOR CIVIL JUDGE AND JUDICIAL MAGISTRATE FIRST CLASS, HUBBALLI, AND CONSEQUENTLY DISMISS THE COUNTER CLAIM FILED BY DEFENDANT NO.6 TO 9 AND 11 BY ALLOWING THIS APPEAL, IN THE INTEREST OF JUSTICE AND EQUITY.

IN RFA NO. 100376/2024
BETWEEN:

1. SMT. ANASAVVA W/O TIPPANAGOUDA BHARAMGOUDRA,
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...APPELLANTS

(BY SRI. R.H. ANGADI, ADVOCATE)

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AGE:41 YEARS, OCC:HOUSEHOLD WORK,
R/O:NOOLVI, TQ:HUBBALLI- 580028.

...RESPONDENTS

(BY SRI SUNIL DESAI, ADVOCATE ACCEPT NOTICE FOR R2 TO
R5, R7, R9 TO R13;
SRI VISHWANATH S. BICHAGATTI AND SRI JAYAWANT KAMBLI,
ADVOCATES FOR R1;
NOTICE ISSUED TO R6 AND R7 ARE SERVED BUT
UNREPRESENTED)

THIS RFA IS FILED UNDER SECTION 96 OF CPC., PRAYING
TO, ALLOW THE APPEAL AND SET ASIDE THE IMPUGNED
JUDGMENT AND DECREE PASSED IN O.S.NO.127/2017, DATED
21/12/2023, PASSED BY THE IIIRD ADDITIONAL SENIOR CIVIL
JUDGE AND JUDICIAL MAGISTRATE FIRST CLASS, HUBBALLI, BY
ALLOWING THIS APPEAL, TO MEET THE ENDS OF JUSTICE.



THESE APPEALS, COMING ON FOR ORDERS, THIS DAY,
JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE H.P.SANDESH
AND
HON'BLE MR. JUSTICE B. MURALIDHARA PAI

ORAL JUDGMENT

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

These matters are listed for consideration of interlocutory applications, particularly the delay application i.e., I.A.No.1/2024 and there was a delay of 145 days in filing the appeal in both the appeals.

2. Heard the counsel appearing for the appellants and also the counsel appearing for the respondents.

3. This appeal is filed by defendant Nos.1 to 5 and 12(a) to 12(d) and originally suit was filed for the relief of partition and possession. When the plaintiff makes the claim of partition in respect of the suit schedule properties and other defendants have also made the counter claim in respect of those properties, the appellants have appeared through counsel on 27.11.2017 and written statement was not filed within a stipulated period of 90 days and ultimately the trial Court on



12.02.2018 had taken note that the written statement is not filed. It is also important to note that the suit was disposed of on 21.12.2023 and inspite of represented through counsel in 2017, no efforts are made from 27.11.2017 till disposal of the suit 21.12.2023 almost for a period of 6 years 1 month and now also, come up with these two appeals against the judgment and decree of the trial Court in favour of the plaintiff as well as the counter claim made by the defendants were also allowed. The appellant is squatting on the property almost a decade from 2017 to 2026 and no effort was made even for filing of written statement or for even cross-examining the witnesses and when such being the case, we do not find any ground to consider this delay application to condone the delay and having the knowledge of the suit which was filed for seeking the relief of partition and possession, the appellant slept over almost a decade and enjoying the property and when such being the case, very object would be defeated, if such appeal is entertained by this Court and amendment was made in the year 2002 itself, fixing the date of 30 days, 60 days, 90 days and even during that period also, written statement was not filed. Even after the limited period also, no efforts were



made to even seek the permission of the Court to file the written statement and when such being the case, it cannot be whims and fancy of the appellant to come and seek for relief.

4. The counsel appearing for the appellant would vehemently contend that this Court can impose the reasonable cost and remand the matter. We do not find any force in the said submission of the appellant counsel also when the appellant squatting on the property and enjoying the same and even not filed the written statement within the time stipulated and even after expiry of the time. Even for disposal of the suit, almost 7 years was taken by the trial Court and no such effort was made during the said period and hence, we are of the opinion that it is not a case for entertaining this appeal by condoning the delay and also on merits. Even considering the condonation of delay, I.A.No.1/2024 and having taken note of in both the matters, plaintiffs as well as other defendants were succeeded in seeking the relief of partition and also the counter claim and when such being the case and property is also to the larger extent i.e., more than 10 acres of land and appellant is squatting on the property and now counsel would contend that



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properties, which have been included are, also the self-acquired property of the appellant that would have been stated and taken the defence in the written statement itself while filing the same and agitated the matter before the trial Court and same has not been made and after almost a decade, this type of appeals cannot be entertained. Hence, we do not find any ground to condone the delay of 145 days as well as considering the material on record that no contest was made by the appellant and hence, IA's are dismissed, consequently the appeals are ***dismissed***.

Sd/-
(H.P.SANDESH)
JUDGE

Sd/-
(B. MURALIDHARA PAI)
JUDGE

RKM
CT-CMU
LIST NO.: 1 SL NO.: 7