



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.100650/2025 (PAR/POS)

BETWEEN:

GAJANAN S/O. MABLU DESHABHANDARI,
AGE: 59 YEARS, OCC: AGRICULTURIST,
R/O. GUNAVANTE, HEBBARHITTALA,
TQ. HONAVAR, DIST: UTTARA KANNADA-581348.

...APPELLANT

(BY SRI JAGADISH PATIL AND
SRI SUJEET S. HIEMATH, ADVOCATES)

AND:

1. U.F.M. SURESH S/O. GANAPATI DESHBHANDARI,
AGE: 52 YEARS, OCC: AGRICULTURIST,
R/O. GUNAVANTE, HEBBARHITTALA
TQ. HONAVAR (U.K.)-581348,

(L.R. OF DEFENDANT NO.1 DECEASED
GANAPATI S/O. PURSAYYA DESHBHANDARI).

2. GANGADHAR S/O. GOVIND DESHBHANDARI,
AGE: 51 YEARS, OCC: AGRICULTURIST,
R/O. GUNAVANTE, HEBBARHITTALA,
TQ. HONAVAR, DIST: UTTARA KANNADA-581348.
3. HARISCHANDRA GOVIND DESHBHANDARI,
AGE: 46 YEARS, OCC: AGRICULTURIST,
R/O. GUNAVANTE, HEBBARHITTALA,
TQ. HONAVAR, DIST: UTTARA KANNADA-581348.





4. SMT. YAMUNA @ SUMANA
@ LAXMAN DESHBHANDARI,
AGE: 50 YEARS, OCC: HOUSEHOLD WORK,
NOW AT: PLOT NO.6, SUKHAVANI,
IMPIRIAL PHASE-3, NEAR JANASEVA
SAHAKARI BANK, AJAMARE ROAD,
MORAWADI, PIMPRI, POONA-411018.
5. SMT. RADHA W/O. VASANT BHANDARI,
AGE: 49 YEARS, OCC: HOUSEHOLD,
R/O. DIVAGI, TALUK: KUMTA,
DIST: UTTAR KANNADA-581440.
6. SMT. ANITA W/O. ANANT DESHBHANDARI,
AGE: 46 YEARS, OCC: HOUSEHOLD,
R/O. GUDEANGADI, BAADA, TALUK: KUMTA,
DIST: UTTAR KANNADA-581351.
7. SMT. DAKSHAYINI
W/O. PRABHAKAR BHANDARI,
@ SUMITRA PRABHAKAR HALDIPUR,
AGE: 45 YEARS, OCC: HOUSEHOLD,
R/O. HOUSE NO.288, MOURYA COLONY,
TAPKEER NAGAR, NERA PULEWADI,
PIMPRI, POONA-411017.
8. SMT. GANAPI
W/O. GOVIND DESHBHANDARI,
AGE: 55 YEARS, OCC: HOUSEHOLD WORK,
R/O. GUNAVANTE, HEBBARHITTALA,
TQ: HONAVAR, DIST: UTTAR KANNADA-581348.
9. MOHAN S/O. NARAYAN DESHBHANDARI,
AGE: 71 YEARS, OCC: AGRICULTURIST,
R/O. GUNAVANTE, HEBBARHITTALA,
TQ: HONAVAR, DIST: UTTAR KANNADA-581348.
10. UMESH S/O. NARAYAN DESHBHANDARI,
AGE: 68 YEARS, OCC: AGRICULTURIST,
R/O. GUNAVANTE, HEBBARHITTALA,
TQ: HONAVAR, DIST: UTTAR KANNADA-581348.



11. SMT. GODAVARI
W/O. GOVIND DESHBHANDARI,
AGE: 66 YEARS, OCC: HOUSEHOLD,
R/O. KALBHAG, TQ: KUMTA,
DIST: UTTAR KANNADA-581343.
12. SMT. SHAKUNTALA
W/O. PURUSHOTTAM DESHBHANDARI,
AGE: 61 YEARS, OCC: HOUSEHOLD,
R/O. DIVAGI, TALUK: KUMTA,
DIST: UTTAR KANNADA-581440.
13. GANAPATI S/O. NARAYAN DESHBHANDARI,
AGE: 56 YEARS, OCC: AGRICULTURIST,
R/O. GUNAVANTE, HEBBARHITTALA,
TQ: HONAVAR, DIST: UTTAR KANNADA-581348.
14. PRABHAKAR S/O. NARAYAN DESHBHANDARI,
AGE: 51 YEARS, OCC: AGRICULTURIST,
R/O. GUNAVANTE, HEBBARHITTALA,
TQ: HONAVAR, DIST: UTTAR KANNADA-581348.
- SMT. MADEVI W/O. BABU DESHBHANDARI,
SINCE DECEASED BY HER L.RS
RESPONDENT NO.15 & 16.
15. BABU S/O. VAIKUNT DESHBHANDARI
PUTTANAMANE, AGE: 58 YEARS, OCC:
AGRICULTURIST, R/O. MARATIKOPPA,
NEW MARKET YARD, POST: SIRSI, TQ: SIRSI,
DIST: UTTAR KANNADA-581401.
16. HARSHA S/O. BABU DESHBHANDARI PUTTANAMANE,
AGE: 18 YEARS, OCC: STUDENT,
R/O MARATIKOPPA, NEW MARKET YARD,
POST: SIRSI, TQ: SIRSI,
DIST: UTTAR KANNADA-581401.
17. TIMMAPPA GANAPAYYA GOUDA,
AGE: 61 YEARS, OCC: AGRICULTURIST,
R/O. GUNAVANTE, HEBBARHITLU,



TQ. HONAVAR,
DIST: UTTAR KANNADA-581348.

18. VASU KRISHNA BHANDARI,
AGE: 50 YEARS, OCC: AGRICULTURIST,
R/O. GUNAVANTE, HEBBARHITTALA,
TQ: HONAVAR, DIST: UTTAR KANNADA-581348.

...RESPONDENTS

(BY SRI A. P. HEGDE JANMANE AND
SRI VIJAY M. MALALI, ADV. FOR R1 & R3)

THIS REGULAR SECOND APPEAL IS FILED UNDER SECTION 100 OF THE CODE OF THE CIVIL PROCEDURE, PRAYING TO SET ASIDE THE JUDGMENT AND DECREE 25.06.2025 PASSED IN R.A.NO.15/2020 BY SENIOR CIVIL JUDGE AND JMFC COURT, HONNAVAR AND CONSEQUENTLY TO CONFIRM THE JUDGMENT AND DECREE, DATED 07.01.2020 PASSED IN O.S.NO.21/2014 BY PRINCIPAL CIVIL JUDGE AND JMFC COURT, HONNAVAR, BY ALLOWING THIS APPEAL WITH COSTS, IN THE INTEREST OF JUSTICE AND EQUITY.

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 appeal is listed for admission, with consent of both the learned counsel appearing on behalf of the parties, the matter is taken up for final disposal.



2. This Regular Second Appeal is filed by plaintiff No.2 challenging the judgment and decree dated 25.06.2025 passed in R.A.No.15 of 2020 by the Senior Civil Judge and JMFC, Honnavar¹, which is not only confirming the judgment and decree dated 07.01.2020 passed in O.S.No.21 of 2014 by the Principal Civil Judge and JMFC, Honnavar², also by granting partition in the suit schedule 'B' property.

3. For the sake of convenience and easy reference, the parties are referred to as per their rankings before the Trial Court.

4. The plaintiffs have filed the suit for partition and separate possession claiming 1/3rd share in the suit schedule 'A' property only, as it is joint family property. The suit schedule 'B' property is included only as pasture, so there could not be any defect in the plaint that the other properties were left out, but the prayer of the plaintiffs is to

¹ hereinafter referred to as 'the First Appellate Court' for short

² hereinafter referred to as 'the Trial Court' for short



decree the suit filed for partition insofar as suit schedule 'A' property is concerned.

5. The Trial Court has decreed the suit insofar as suit schedule 'A' property is concerned and dismissed the suit insofar as the specific allotment of the particular part of the schedule properties is concerned.

6. Being aggrieved by the judgment and decree passed by the Trial Court, defendant Nos.1(a), 2 to 7 and 17 have preferred Regular Appeal in R.A.No.15 of 2020 before the First Appellate Court and the First Appellate Court has modified the judgment and decree passed granting share in respect of the suit schedule 'B' property also.

7. Being aggrieved by the judgment and decree passed by the First Appellate Court, the appellant/plaintiff No.2 has preferred the instant regular second appeal by



raising various grounds in the memorandum of appeal and stating that substantial questions of law are involved.

8. Learned counsel for the appellant/plaintiff No.2 has submitted that the suit schedule 'B' property is the self acquired property of the plaintiffs and thus, it is not amenable for partition. It is submitted that during the year 1970-71, plaintiff No.1 encroached the suit schedule 'B' property and thereafter paid the upset price and thus the Government granted suit schedule 'B' property in favour of plaintiff No.1. Thus, it is self acquired of plaintiff No.1. Hence, this is rightly considered by the Trial Court, but the First Appellate Court has wrongly appreciated this evidence on record, resulting into erroneous decree regarding the suit schedule 'B' property.

9. On the other hand, learned counsel for the respondents/defendants submitted that during the year 1970-71, the plaintiffs and defendants were residing jointly as members of the Joint Hindu Family and the upset price



paid was also from the joint nucleus fund; thus, the suit schedule 'B' property is joint family property, which is rightly considered upon re-appreciating the evidence on record and in detail and giving reasons, the First Appellate Court has decreed the suit in respect of suit schedule 'B' property.

10. Upon considering the rival contentions, the Trial Court has observed in Ex.P.6 and P.11 rightly the grant was made only in the name of plaintiff No.1 alone and not on behalf of the family. Just because grant is made in the name of plaintiff No.1, it cannot be said that it is self acquired property by virtue of grant when all were living jointly in the joint family. The said grant enures to the benefit of the joint family. In this regard the First Appellate Court has placed reliance on the judgment of the Hon'ble Supreme Court in the case of ***B.L.Shreedhar and others vs. K.M.Munireddy (dead) and others***, reported in ***AIR 2003 SC 578*** and it is observed at paragraph No.10 in the



said judgment that even if grant is made under the Act to any member of the family, the benefit enures to the whole family.

11. Considering the aforesaid principles, the Trial Court has not appreciated this fact and law in a correct perspective manner.

12. The plaintiffs have not produced any documents to show that grant was made after separation of joint family. The plaintiffs in the plaint at paragraph No.3 have contended that though all have been residing separately, but they are cultivating the property jointly and they are in joint possession by cultivation. As observed above, the B schedule property has been given temporarily for cultivation on 25.05.1970 itself and at that point of time there was no severance in the joint family. After ten years of grant of land temporarily, the A schedule property is granted by the Land Tribunal. It is not disputed that A and B schedule properties are joint family properties. Therefore, prior to ten



years from grant of A schedule property, the plaintiffs and defendants had been cultivating the B schedule property jointly. Therefore, in this regard the First Appellate Court has rightly appreciated the evidence on record. Therefore, the grant of land in the year 1971 was during existence of joint family between the plaintiff No.1 and defendants.

13. Further, PW.1 in the course of cross-examination has admitted that A schedule property and B schedule property are adjoining to each other and at that time Govind and Ganapathi were living in Gunavanthi only. Further admitted that during the year 1972-73 there was no partition in the joint family and when the brothers of father of plaintiff were going to ghatta, the entire property was being cultivated by plaintiff No.1. Therefore, the First Appellate Court has correctly assessed the evidence but that is not so done by the Trial Court.

14. Therefore the First Appellate Court has rightly appreciated the evidence on record by holding that B



schedule property is also joint family property. The First Appellate Court has placed reliance on the principle of law laid down by the Hon'ble Supreme Court stated supra.

15. Whereas, the order of the Trial Court found in this regard is cryptic in nature and the evidence on record is not properly appreciated. Therefore, the First Appellate Court has rightly corrected this error of the Trial Court and rightly held that B schedule property is also joint family property. Therefore, the First Appellate Court is correct in granting partition in both the A and B schedule properties, which needs no interference. Therefore, there is no perversity found in the order passed by the First Appellate Court. Hence, there are no substantial questions of law involved to entertain the appeal. Therefore, the appeal is liable to be dismissed at the admission stage itself. Therefore, the appeal is ***dismissed***.



16. In view of disposal of the appeal, pending interlocutory applications, if any, stand disposed of as they do not survive for consideration.

17. No order as to costs.

Sd/-
(HANCHATE SANJEEVKUMAR)
JUDGE

SRA: Para 1 to 9
MRK: Para 10 to end
CT-AN, List No.: 1 Sl No.: 26