



IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 5TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE E.S.INDIRESH

MISCL. FIRST APPEAL NO.201726 OF 2025 (CPC)

BETWEEN:

VIJAYKUMAR S/O HUNNU PAWAR,
AGED ABOUT 51 YEARS, OCC: AGRICULTURE,
R/O. KUMATAGI LT,
TQ. AND DIST. VIJAYAPRA-586 127.

...APPELLANT

(BY SRI D. P. AMBEKAR, ADVOCATE)

AND:

1. SMT. SONABAI W/O UMASING PAWAR,
AGED ABOUT 56 YEARS, OCC: HOUSEHOLD,
R/O. KUMATAGI LT,
TQ. AND DIST. VIJAYAPURA-586 127.

2. SMT. GIRIJABAI W/O HUNNU PAWAR,
AGE ABOUT 63 YEARS, OCC: AGRICULTURE,
R/O. KUMATAGI LT,
TQ. AND DIST. VIJAYAPUR-586 127

...RESPONDENTS

THIS MFA IS FILED UNDER ORDER 43 RULE 1(R) OF
CPC, PRAYING TO A) ALLOW THIS APPEAL AND SET-ASIDE THE
ORDER DATED 30.09.2024 PASSED BY THE III ADDITIONAL
SENIOR CIVIL JUDGE AND JMFC VIJAYAPURA DISMISSING IA





NO.I FILED BY THE APPELLANT HEREIN UNDER ORDER 39 RULE 1 AND 2 OF CPC IN O.S.NO.45/2024; CONSEQUENTLY ALLOW THE SAID IA NO.1 FILED BY THE APPELLANT HEREIN UNDER ORDER 39 RULE 1 AND 2 OF CPC IN SAID OS NO. 45/2024 ON THE FILE OF THE III ADDL. SENIOR CIVIL JUDGE AND JMFC VIJAYAPURA WITH COSTS THROUGHOUT AND SUCH FURTHER OR OTHER RELIEFS BE GRANTED TO WHICH THE APPELLANT HEREIN WOULD BE FOUND ENTITLED TO ON THE FACTS AND CIRCUMSTANCES OF THE CASE.

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

CORAM: HON'BLE MR. JUSTICE E.S.INDIRESH

ORAL JUDGMENT

Heard the learned counsel appearing for the appellant.

2. This appeal is filed by the appellant/plaintiff, assailing the order dated 30.09.2024 on I.A.Nos.I and II, filed under Order XXXIX Rules 1 and 2 of the Civil Procedure Code, on the file of the learned III Additional Senior Civil Judge and JMFC at Vijayapur (hereinafter referred to as 'Trial Court').



3. Having taken note of the submission made by the learned counsel appearing for the appellant and the finding recorded by the Trial Court at paragraph No.14 of the impugned order, it is forthcoming that, the judgment and decree in O.S.No.188/2016, came to be confirmed in R.A.No.4/2021.

4. It is argued by Sri D.P.Ambekar, the learned counsel appearing for the appellant/plaintiff that, respondent No.2 is the mother of the plaintiff and respondent No.1 is the maternal aunt of the plaintiff i.e., respondent Nos.1 and 2 are the sisters.

5. In that view of the matter, as execution petition in E.P.No.267/2025 is pending consideration before the competent Court, I am not inclined to interfere in the present appeal. However, it is open for the appellant/plaintiff to urge the grounds in the existing Execution Petition in E.P.No.267/2025 including the averments made in the present appeal.



NC: 2026:KHC-K:1054
MFA No. 201726 of 2025

With these observations, the appeal is disposed on.

Sd/-
(E.S.INDIRESH)
JUDGE

SRT
List No.: 1 SI No.: 8
CT:PK