



**IN THE HIGH COURT OF KARNATAKA
KALABURAGI BENCH**

DATED THIS THE 25TH DAY OF JANUARY, 2023

BEFORE

THE HON'BLE MR.JUSTICE C.M.POONACHA

RSA No.2297/2007 (SP&INJ)

BETWEEN

1. SHAMSUNDER S/O. CHUNILAL TOSHNIVAL
SINCE DECEASED BY LRs.,

A. KANCHAN W/O. LATE SHAMSUNDRA TOSHNIVAL
AGE: 67 YEARS, OCC; HOUSEHOLD AND BUSINESS

B. ARVIND S/O. LATE SHAMSUNDRA TOSHNIVAL
AGE: 44 YEARS, OCC: BUSINESS

C. AJAY S/O. LATE SHAMSUNDRA TOSHNIVAL
AGE: 34 YEARS, OCC: ENGINEER
REPRESENTED BY PROPOSED APPELLANT
NO.1(B), ARIVND S/O. LATE SHAMSUNDRA
TOSHNIVAL, ALL ARE R/O. ANAND NAGAR
KALABURAGI

D. ANURADHA D/O. LATE SHAMSUNDRA TOSHNIVAL
AGE: 47 YEARS, OCC: ENGINEER
R/O. RAMKOT, HYDERABAD

E. ANNAPURNA D/O. LATE SHAMSUNDRA TOSHNIVAL
AGE: 41 YEARS, OCC: CHARTERD ACCOUNTANT
R/O. VIJAYA NAGAR, BENGALURU

2. RAGHUNATH S/O. CHUNILAL TOSHNIVAL
AGED ABOUT 56 YEARS, OCC: BUSINESS
AND AGRIL



3. HANUMANLAL S/O.CHINILAL TOSHINIVAL
AGED ABOUT 50 YEARS, OCC: BUSINESS AND AGRIL
ALL ARE R/O. SEDAM NOW AT ANAND NAGAR
S.B. TEMPLE ROAD, GULBARGA.

...APPELLANTS

[BY SRI GANESH S. KALBURGI, ADVOCATE

FOR 1(A) TO 1(E) AND A2 AND 3]

AND

SHAMRAO S/O. CHANDRAPPA
AGED ABOUT 70 YEARS, OCC: BUSINESS
AND AGRIL., R/O. D.B.R. COMPOUNDS SEDAM
DIST. GULBARGA 585 222

...RESPONDENT

**(BY SRI B. D. HANGARKI AND
SRI J B HANGARKI, ADVOCATES)**

THIS RSA IS FILED U/S. 100 OF CPC AGAINST THE
JUDGEMENT AND DECREE DTD 25.6.07 PASSED IN R.A.NO
32/03 ON THE FILE OF THE CIVIL JUDGE (SD), SEDAM,
ALLOWING THE APPEAL AND SETTING ASIDE THE JUDGEMENT
AND DECREE DTD 19.2.03 PASSED IN OS 112/97 ON THE FILE
OF THE CIVIL JUDGE (JR.DN), SEDAM, DECREETING THEIR SUIT
FOR SPECIFIC PERFORMANCE AND INJUNCTION.

THIS APPEAL COMING ON FOR ORDERS THIS DAY, THE
COURT DELIVERED THE FOLLOWING:

JUDGMENT

Vide order dated 25.09.2021, this Court, recording
the submission of the learned counsel for the appellants
that the sole respondent has died, granted time to bring
the legal representatives on record. Despite sufficient time



2023:KHC-K:531

having been granted from the said date, legal representatives of the deceased sole respondent have not been brought on record.

In view of the aforementioned, the above appeal is dismissed as having abated.

**SD/-
JUDGE**

Srt