



IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 25TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE TYAGARAJA N. INAVALLY

REGULAR SECOND APPEAL NO.2297 OF 2007 (SP)

BETWEEN:

SHAMSUNDAR S/O CHUNILAL TOSHNIVAL,
SINCE DECEASED BY LR's

1(A) KANCHAN W/O LATE SHAMSUNDAR
TOSHNIVAL, AGE: 67 YEARS,
OCC: HOUSEHOLD AND BUSINESS,

1(B) ARVIND S/O LATE SHAMSUNDAR
TOSHNIVAL, AGE: 44 YEARS,
OCC: BUSINESS,

1(C) AJAY S/O LATE SHAMSUNDAR TOSHNIVAL,
AGE: 34 YEARS, OCC: ENGINEER,
REPRESENTED BY PROPOSED APPELLANT
NO.1(B), ARVIND S/O LATE SHAMSUNDAR
TOSHNIVAL, ALL ARE R/O. ANAND NAGAR,
KALABURAGI – 585 102.

1(D) ANURADHA D/O LATE SHAMSUNDAR
TOSHNIVAL, AGE: 47 YEARS,
OCC: ENGINEER, R/O. RAMKOT,
HYDERABAD,

1(E) ANNAPURNA D/O LATE SHAMSUNDAR
TOSHNIVAL, AGE: 41 YEARS, OCC:
CHARTED ACCOUNTANT, R/O. VIJAYA
NAGAR, BENGALURU.





2. RAGHUNATH S/O CHUNILAL TOSHNIVAL,
AGE: 56 YEARS, OCC: BUSINESS AND
AGRICULTURE,
3. HANUMANLAL S/O CHUNILAL TOSHNIVAL,
AGE: 50 YEARS, OCC: BUSINESS AND
AGRICULTURE, BOTH ARE R/O. SEDAM,
NOW R/AT ANAND NAGAR, S.B. TEMPLE ROAD,
KALABURAGI – 585 102.

...APPELLANTS

(BY SRI. GANESH S. KALABURAGI, ADVOCATE)

AND:

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

} Amended as per
order dated:
01.08.2024

1(A) INDUMATI W/O LATE CHANDRASHEKAR
KALKAM, AGED ABOUT: 61 YEARS,
OCC: HOUSEHOLD,

1(B) JAIJAGADISH S/O LATE
CHANDRASHEKHAR KALKAM,
AGED ABOUT: 42 YEARS, OCC:

1(C) JAIPRAKASH S/O LATE CHANDRASHEKHAR
KALKAM, AGED ABOUT: 42 YEARS,
OCC:

ALL R/O H.NO.3/1/50,
OPPOSITE DR. MURLIDHAR RAO
DESHPANDE HOSPITAL,
DBR COMPOUND,
MATRU CHAYA COLLEGE ROAD,
SEDAM, DIST. KALABURAGI – 585 222.

...RESPONDENTS

(BY SRI. S.B. HANGARKI, ADVOCATE R1(A-C))



HC-KAR



THIS RFS IS FILED UNDER SECTION 100 CPC, PRAYING TO SET ASIDE THE JUDGMENT AND DECREE DATED 25.06.2007 PASSED IN R.A. NO.32/2003 BY THE LEARNED CIVIL JUDGE (SR.DN), SEDAM, SETTING ASIDE THE JUDGMENT AND DECREE DATED 19.02.2003 PASSED IN O.S. NO.112/1997 BY THE LEARNED CIVIL JUDGE (JR.DN), SEDAM, AND TO PASS ALL OTHER APPROPRIATE ORDERS WHICH THIS HON'BLE COURT DEEMS FIT, IN THE CIRCUMSTANCES OF THE CASE, IN THE INTEREST OF JUSTICE.

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

CORAM: HON'BLE MR. JUSTICE TYAGARAJA N. INAVALLY

ORAL JUDGMENT

There is no representation from the learned counsel for the appellants.

2. The appellants herein are the plaintiffs before the Civil Judge Court, Sedam (the trial Court) in OS No.112/1997 for the relief of specific performance of contract and injunction. The suit was decreed as per the judgment and decree dated 19.02.2003. Thereafter, the defendant filed the appeal before the Senior Civil Judge, Sedam (the First Appellate Court) in RA



No.32/2003. The said appeal was allowed by the First appellate Court as per the judgment and decree dated 25.06.2007 and hence, the judgment and decree of the trial Court is set aside and the suit of the plaintiff stood dismissed. Hence, the plaintiffs/ appellants are before this Court in the second appeal.

3. The appeal has been admitted as early as on 31.05.2008. There is no reason to grant any further adjournment.

4. In the result, this appeal is hereby dismissed for non prosecution.

5. The records of the First Appellate Court and the trial Court shall be returned to the concerned Courts along with copy of this order forthwith.

Sd/-
(TYAGARAJA N. INAVALLY)
JUDGE