



IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 24TH DAY OF MARCH, 2026

PRESENT

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

AND

THE HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA

REGULAR FIRST APPEAL NO.200090 OF 2020 (PA/DE/IN)

BETWEEN:

GOUTAM S/O RAJA R. JAHAGIRDAR,
AGE: 60 YEARS, OCC: MEDICAL PRACTITIONER,
R/O: H.NO.1-55/5-A/1, OLD JEWARGI ROAD,
BEHIND MOHAN LODGE, KALABURAGI.

...APPELLANT

(BY SRI. NARENDRA M. REDDY, ADVOCATE)

Digitally signed by
KHAJAAMEEN
MALAGHAN
Location: HIGH
COURT OF
KARNATAKA

AND:

1. RAJA S/O RANGACHAR JAHAGIRDAR,
SINCE DECEASED.
THE APPELLANT AND RESPONDENT NO.2 ARE THE LEGAL
REPRESENTATIVES OF THE
DECEASED - RESPONDENT NO.1
2. SMT. GAYATRI D/O RAJA R. JAHAGIRDAR,
(W/O GOPALRAO KULKARNI),
AGE: 53 YEARS, OCC: HOUSEHOLD,
R/O "VARDHA APARTMENTS",
1ST FLOOR, BEHIND SANGAMESHWAR COLLEGE,
RAILWAY LINES, SOLAPUR-413001.
STATE: MAHARASHTRA.



3. SMT. ALKA W/O ARUN BORGAONKAR,
AGE: 73 YEARS, OCC: HOUSEHOLD,
R/O: BESIDE POST OFFICE,
OPP. SAWADI COMPLEX, BORGAONKAR BUILDING,
SUPER MARKET ROAD, KALABURAGI-585102.

...RESPONDENTS

(BY SRI. SHIVAKUMAR KALLOOR, ADVOCATE FOR R1;
SRI. NAGARAJ PATIL, ADVOCATE FOR R2;
SRI. MANJUNATH MALLAYYA SHETTY, ADVOCATE FOR R3)

THIS REGULAR FIRST APPEAL IS FILED UNDER ORDER XLI
RULE 1 READ WITH SECTION 96 OF CPC, PRAYING TO CALL FOR THE
ENTIRE RECORDS IN O.S.NO.45/2012 ON THE FILE OF THE 1ST
ADDL. SENIOR CIVIL JUDGE, KALABURAGI, (B) SET-ASIDE THE
JUDGMENT AND DECREE DATED 10.03.2020 PASSED IN
O.S.NO.45/2012 ON THE FILE OF THE 1ST ADDL. SENIOR CIVIL
JUDGE, KALABURAGI, CONSEQUENTLY, DECREE THE SUIT OF THE
PLAINTIFF IN O.S.NO.45/2012, ON THE FILE OF THE 1ST ADDL.
SENIOR CIVIL JUDGE, KALABURAGI, (C) AWARD COSTS OF THE
SUIT AND THIS PROCEEDINGS, (D) PASS SUCH OTHER ORDER/S,
OR RELIEFS AS THIS HON'BLE COURT DEEMS FIT UNDER THE FACTS
AND CIRCUMSTANCES OF THE CASE IN THE INTEREST OF JUSTICE
AND EQUITY.

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



CORAM: HON'BLE MR. JUSTICE SURAJ GOVINDARAJ
and
HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE SURAJ GOVINDARAJ)

1. The plaintiff in O.S.No.45/2012 is before this Court seeking the following relief:-

"(a) To call for the entire records in O.S.No.45/2012 on the file of the I Addl. Senior Civil Judge, Kalaburagi, (b) Set-aside the judgment and decree dated 10.03.2020 passed in O.S.No.45/2012 on the file of the 1st Addl. Senior Civil Judge, Kalaburagi, consequently, decree the suit of the plaintiff in O.S.No.45/2012 on the file of the 1st Addl. Senior Civil Judge, Kalaburagi, (c) Award costs of the suit and this proceedings, (d) Pass such other order/s, or reliefs as this Hon'ble Court deems fit under the facts and circumstances of the case in the interest of justice and equity."

2. The suit in O.S.No.45/2012 was filed before the I Addl. Senior Civil Judge, at Kalaburagi, seeking for the following reliefs:-

I. A decree be granted declaring that gift deed bearing document No.1684/2003-04 dated 02.06.2003 pertaining to the part of the suit house bearing No.1-760 is void, ineffective and not binding on the plaintiff.

II. A decree be granted declaring the gift deed document bearing No.2595/2004-05 dated 09.07.2004, pertaining to the suit house bearing No.1-655/5-A/1 and 1-655/5-A/2 is void, ineffective, an not binding on the plaintiff.



III. A decree effecting partition and separate possession of plaintiff's 1/3rd share in the suit properties be granted.

IV. The defendants be perpetually restrained from causing interference in the plaintiff's right of remaining in possession and occupation of his 1/3rd share in the suit house bearing No.1-655/5-A/1 and 1-655/5A/2.

V. Granting any other relief to which the plaintiff is found entitled to.

3. In the said suit, counter claim was filed by defendant No.3 contending that he is the actual owner of the property, which came to be dismissed. The suit having been dismissed, the plaintiff is before this Court.

4. During pendency of the matter, defendant No.1's father has also expired leaving behind the plaintiff and defendant No.2 to succeed to his properties. Defendant No.3 is stated to be a third party who is not concerned with the family and not having any interest in the property.

5. The parties have entered into a compromise and a compromise petition has been filed signed by the appellant, defendants No.2 and 3, identified by their respective advocates. The said compromise petition reads as under:-



"1) The plaintiff/appellant filed suit O.S.No.45/2012 on the file of Ist Addl. Senior Civil Judge at Kalaburagi for the relief of declaration, partition, separate possession and perpetual injunction against the defendants and the same was objected by the defendants/respondents and the said suit was dismissed by the trial court vide judgment and decree dated:10.03.2020.

2) That the appellant being aggrieved by the judgment and decree dated: 10.03.2020 in O.S.No.45/2012 passed by the learned I Addl. Senior Civil Judge at Kalaburagi is before this Hon'ble court as against the dismissal of the suit.

3) That as agreed by the parties that the suit properties have been derived as below:

i) That the H.No.1-760 in CTS.No:1811 and 1818 comprising the compound area along with open space situated behind Vithal Mandir, Upper Lane, Station Bazar, Kalaburagi.

This property was owned and possessed by Dr. R. B. Jahagirdar grandfather of the plaintiff and defendant No.2. Dr. R. B. Jahagirdar purchased this property from one Muralidhar Rao out of his earnings. This is the self acquired property of the grandfather of the plaintiff and defendant No.2. Partition was effected by the deceased grandfather of the plaintiff and defendant No.2 in the year 1955-56 and this property was allotted to the share of defendant No.1 i.e., father of plaintiff and defendant No.2. Since, then the defendant No.1 is the owner and possessor of the said property.

ii) That H.No.1-655/5A/1 and H.No.1-655/5A/2 with CTS.No:2021 situated at old Jewargi road comprising of the residential and commercial shops.

This property was owned and possessed by Dr. Sundrabai Borgoankar. She purchased this property out of her earnings. It was her self acquired property. Dr. Sundrabai Borgoankar bequeathed the said property to Smt. Sunanda Jahagirdar foster daughter of Dr. Sundrabai Borgoankar vide document No.1-1971-72. Dr. Sundrabai Borgoankar died in the year 1994. Since, then Dr. Sunanda Jahagirdar is the absolute owner and possessor of this property. Sunanda Jahagirdar mother of



the plaintiff and defendant No.2 gifted this property to her husband R. R. Jahagirdar Advocate. i.e., defendant No.1 on 09.07.2004 vide document No.1684/2003-04. Since, then the defendant No.1 is the owner and possessor of this property.

4) That, due to intervention of respectable persons, the parties have arrived for compromise on the following terms and conditions.

The properties to be partitioned are as follows:

i) That the H.No.1-760 in CTS.No:1811 and 1818 comprising the compound area along with open space measuring 7724 Sq. ft situated behind Vithal Mandir, Upper Lane, Station Bazar, Kalaburagi.

Boundaries of this property is as follows;

South: Road connection Railway Station and Old Jewargi Road,

North: Residence of Ramakrishna Pawar.

East: Road towards Vithal Mandir.

West: Private properties.

This property is the ancestral property of the parties to this suit. The plaintiff and defendant No.2 are the co-parceners of the property. The plaintiff and defendant No.2 has equal share in the property. The plaintiff and defendant No.2 are the joint owners of this property. It is agreed between the parties that the said property be mutated in their names as joint owners. It is also agreed that the said property shall be sold/disposed off and the proceeds of the sale will be divided equally between the parties.

ii) H.No.1-655/5A/1 and H.No.1-655/5A/2 which consists of a house and 4 shops with a staircase. This property measures 1) H.No.1-655/5A/1 measuring 4921 Sq. ft and 2) H.No.1-655/5A/2 which are the shops measuring 679 Sq. ft situated behind Mohan Lodge, Old Jewargi Road, Station Bazar, Kalaburagi.



Boundaries of this property are as follows;

East- Garden of Municipality

West- Old Jewargi Road,

North- Mohan Lodge,

South- Lane and then house of Uday Honguntikar

Hence, this property was owned and processed by the mother of plaintiff and defendant No.2. Defendant No.1 was father of the parties, who expired on 21.09.2022. Mother of the parties died on 10.07.2004. This is not the self-acquired property of defendant No.1. This is also the joint family property of the parties to this suit.

The plaintiff and defendant No.2 are the joint owners of the property also. It is agreed between the parties that the property will be mutated in the names of both the plaintiff and defendant No.2 as both have half share each in this property.

It is also agreed between the parties that though the plaintiff and defendant No.2 are entitled for half share in the property, the entire house will be in enjoyment and use of the plaintiff and his wife during their lifetime.

It is also agreed between the parties that neither the plaintiff nor the defendant No.2 have any right to mortgage, sell or demolish their half portion of the property during the lifetime of the plaintiff and his wife.

As the house and shops rent is utilized by the plaintiff and his wife, the property tax, water tax, electricity bill and any other govt. taxes if levied will be paid by the plaintiff and his wife during their lifetime.

As the house and shops are enjoyed by the plaintiff and his wife, the defendant No.2 has no right to evacuate them from this property during their lifetime.

That it is further agreed by the parties that after the demise of defendant No.2 her half share in this property shall be transferred in the name of her sons Agasti S/o Gopal Kulkarni and Akshay S/o Gopal Kulkarni.



5) That for the above said compromise the respondent No.3 is not having objection for the same as she has no right and title in the suit schedule properties.

6) That the said compromise between the parties is with free will, without coercion or undue influence, in order to have cordial relationship between the parties to the suit."

6. Upon enquiry with all three parties present before this Court, they submit that they have voluntarily entered into the compromise petition. It is affirmed that the same has been executed without any fraud, undue influence, or coercion.
7. The appellant and defendant No.2 submit that the property bearing House No.1-760 in CTS Nos.1811 and 1818 shall be mutated in their joint names. They further state that they intend to sell the said property and divide the sale proceeds equally between them.
8. The appellant and defendant No.2 further submit that, in respect of the properties bearing House No.1-655/5A/1 and House No.1-655/5A/2, comprising four shops (hereinafter referred to as the "schedule properties"), the same shall stand mutated jointly in the names of the plaintiff and defendant No.2, each having an undivided half share therein.



9. Notwithstanding the above, it is expressly agreed as follows:

- 9.1. The plaintiff and his wife shall, during their joint lives and thereafter the survivor of them during his or her lifetime, have a life interest in the schedule properties, with the full and exclusive right to receive and appropriate the entire rental income and usufruct arising therefrom. Such life interest shall not include any right of alienation, transfer, encumbrance, or creation of third-party interests so as to prejudice the rights of the remainderman;
- 9.2. Upon the demise of both the plaintiff and his wife, the vested remainder in the schedule properties shall devolve absolutely upon defendant No.2, who shall thereupon be entitled to full ownership, possession and all incidental rights thereto;
- 9.3. In the event that defendant No.2 predeceases both the plaintiff and his wife, or does not survive the termination of the aforesaid life interest, the remainder shall devolve, in equal shares, upon her sons, namely, Agasti Kulkarni and Akshay Kulkarni, as substituted remaindermen, who shall thereupon take the properties absolutely.



9.4. It is clarified that the life interest created herein is limited strictly to the right of enjoyment of income (usufruct), and no ownership rights in the corpus of the schedule properties shall vest in the plaintiff or his wife beyond such limited interest. The corpus shall remain subject to the vested remainder and substitution as stipulated above.

10. Defendant No.3, who is also present before this Court, has unequivocally stated that she has no right, title or interest in any portion of the subject properties and has no objection whatsoever to the arrangement arrived at between the plaintiff and defendant No.2.
11. In view of the above, the compromise petition is taken on record and accepted.
12. The Registry is directed to draw up a decree in terms of the said compromise petition within a period of 30 days from the date of this order.

**Sd/-
(SURAJ GOVINDARAJ)
JUDGE**

**Sd/-
(DR.CHILLAKUR SUMALATHA)
JUDGE**