



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.200263 OF 2016 (DEC/INJ)

BETWEEN:

1. ABDULSAHEB S/O HUSAINSAB NEGINAL,
AGE: 66 YEARS, OCC: AGRICULTURE,
R/O. LALASANGI, TQ. INDI,
DIST.VIJAYAPURA-586 211.
2. NABILAL S/O HUSAINSAB NEGINAL,
SINCE DECEASED BY HIS LR's,
 - 2(A) SAKINABEGUM W/O NABILAL NEGINAL,
AGE: 55 YEARS, OCC: H.H. WORK,
NOW R/AT JAYALAXMI NAGAR,
BEHIND BADE PLOT,
JAMAKHANDI ROAD,
VIJAYAPURA-586 101.
 - 2(B) RIYAZ S/O NABILAL NEGINAL,
AGE: 31 YEARS, OCC: COOLIE,
NOW R/AT JAYALAXMI NAGAR,
BEHIND BADE PLOT,
JAMAKHANDI ROAD,
VIJAYAPURA-586 101.
 - 2(C) SULTANA S/O NABILAL NEGINAL,
AGE: 30 YEARS, OCC: H.H.WORK,
NOW R/AT JAYALAXMI NAGAR,
BEHIND BADE PLOT,

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BASALINGAPPA S
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Location: HIGH
COURT OF
KARNATAKA



JAMAKHANDI ROAD,
VIJAYAPURA-586 101.

2(D) SUFFIYA D/O NABILAL NEGINAL,
AGE: 27 YEARS, OCC: COOLIE,
NOW R/AT JAYALAXMI NAGAR,
BEHIND BADE PLOT,
JAMAKHANDI ROAD,
VIJAYAPURA-586 101.

2E) ZIKARA D/O NABILAL NEGINAL,
AGE: 23 YEARS, OCC: COOLIE,
NOW R/AT JAYALAXMI NAGAR,
BEHIND BADE PLOT,
JAMAKHANDI ROAD,
VIJAYPURA-586 101.

2(F) SURAJA S/O NABILAL NEGINAL,
AGE: 28 YEARS, OCC: AGRICULTURE,
NOW R/AT JAYALAXMI NAGAR,
BEHIND BADE PLOT,
JAMAKHANDI ROAD,
VIJAYAPURA-586 101.

3) MAIBUB S/O HUSAINSAB NEGINAL,
AGE: 60 YEARS, OCC: PRIVATE SERVICE,
R/O. INDI ROAD, NADAGOUDA ADDE,
NEAR GOLLAR ONI,
VIJAYAPURA-586 101.

...APPELLANTS

(BY SRI SACHIN M. MAHAJAN, ADVOCATE)

AND:

1. HAJILAL S/O HUSAINSAB NEGINAL,
AGE: 68 YEARS, OCC: AGRICULTURE,
R/O. LALASANGI TQ. INDI,
DIST. VIJAYAPURA-586 211.



2. THE TAHASILDAR,
INDI, TQ. INDI,
DIST. VIJAYAPURA-586 211.
3. THE VILLAGE ACCOUNTANT,
LALASANGI VILLAGE, TQ. INDI,
DIST. VIJAYAPURA-586 211.
4. THE SECRETARY,
THE STATE OF KARNATAKA,
REPRESENTED BY
THE DEPUTY COMMISSIONER,
VIJAYAPURA-586 101.

...RESPONDENTS

(BY SRI G.G. CHAGASHETTI, ADVOCATE, FOR R1;
SRI MAQBOOL AHMED, AGA, FOR R2 TO R4)

THIS RSA IS FILED UNDER SECTION 100 OF CPC,
PRAYING TO SET ASIDE THE JUDGMENT AND DECREE
DATED 19.08.2016 PASSED IN RA NO.19/2016 ON THE
FILE OF THE COURT OF THE II ADDITIONAL DISTRICT
JUDGE, VIJAYAPURA, AT VIJAYAPURA AND TO
CONFIRMING THE JUDGMENT AND DECREE DATED
13.01.2016 PASSED IN OS NO.479/2011 ON THE FILE OF
COURT OF THE SENIOR CIVIL JUDGE AND JMFC, INDI, AT
INDI.

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

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



ORAL JUDGMENT

Heard the learned counsel for the appellants and also the learned counsel for the respondents. Perused the relevant materials on record.

2. The appellants are the defendants No.1 to 3, the respondent No.1 is plaintiff and the respondents No.2 to 4 are defendants No.4 to 6 in the suit in OS No.479/2011 before the Trial Court, wherein, the suit filed by the respondent No.1/plaintiff was dismissed as per the judgment and decree dated 13.01.2016. Thereafter, the plaintiff filed the appeal before the learned II Addl. District Court, Vijayapura, ('the First Appellate Court' for short) in RA No.19/2016. The First Appellate Court allowed the appeal as per the judgment and decree dated 19.08.2016 and thereby set aside the judgment and decree of the Trial Court and hence, the suit filed by the plaintiff is decreed with costs through out.



3. Being aggrieved by the judgment and decree of the First Appellate Court, the defendants No.1 to 3 are before this Court in the second appeal.

4. As per the papers on record, it would be clear that the plaintiff filed the suit for the relief of declaration and consequential relief of injunction on the contention that he is owner of the suit property having purchased the same under the registered sale deed dated 04.08.1975, which was subsequently rectified on 15.02.1977 under the registered deed.

5. It is not in dispute that defendants No.1 to 3 are brothers of the plaintiff. The contention of the defendants No.1 to 3 is that subsequently Katha was changed in the names of the plaintiff and the defendants No.1 to 3 by effecting partition. But there is absolutely no registered document forthcoming from the defendants No.1 to 3 to show that the partition was effected in respect to suit property among themselves and the plaintiff. It is



an undisputed fact that the parties to the suit are Muslims governed under Muslim Law. Therefore, when it is admitted fact that the suit property was purchased by the plaintiff under a registered document, the suit property would become the absolute property of the plaintiff. Hence, as submitted by the learned counsel for the plaintiff, the reasoning of the Trial Court in the impugned judgment while answering issue No.3 that the defendants No.1 to 3 have proved that the partition was already taken place on 12.07.1984, does not merit consideration in law and also on the facts of the case, as the partition among Muslims cannot be effected without any registered document.

6. Moreover, the reasoning of the First Appellate Court in the impugned judgment would clearly show that the defendants No.1 to 3 admitted that the suit property was purchased in the name of the plaintiff. Hence, even though the sale deed was not produced by the plaintiff in the suit, it would not affect the right of the plaintiff in



respect to suit property. Therefore, there is absolutely no substantial question of law to be considered in the appeal on hand.

7. The document at Ex.D3 is the Mutation Entry and hence, as held by the First Appellate Court the alleged partition on the basis of such document cannot be accepted. The present appeal being the second appeal, the question as to whether or not the First Appellate Court committed error in not considering the documents produced under Order XLI Rule 27 of CPC cannot be considered by this Court in the appeal on hand. Therefore, any of the substantial questions of law set out by the appellants in the grounds of appeal does not merit consideration. There is no any substantial question of law for consideration in the appeal on hand. Consequently, there is no reason to interfere with the reasoning of the First Appellate Court in the impugned judgment in RA No.19/2016 and hence, the defendants No.1 to 3 have to make out any ground to admit this appeal.



8. In the result, this appeal filed by the defendants No.1 to 3 is hereby ***dismissed.***

Sd/-
(TYAGARAJA N. INAVALLY)
JUDGE

SBS
List No.: 1 Sl No.: 23
CT: SB