



IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 3RD DAY OF FEBRUARY, 2026

PRESENT

THE HON'BLE MR. JUSTICE R.NATARAJ

AND

THE HON'BLE MR. JUSTICE TYAGARAJA N. INAVALLY

REGULAR FIRST APPEAL NO.200201 OF 2024 (PAR/POS)

BETWEEN:

1. NAGANGOUDA S/O VIRUPAKSHAPPAGOUA PATIL,
AGE: 61 YEARS, OCC: AGRICULTURE,
R/O. H.NO.117, BHAVANI NAGAR,
NEAR ITAGI PETROL BUNK AND SAINIK SCHOOL,
VIJAYAPURA.
2. BASANGOUDA S/O VIRUPAKSHAPPAGOUA PATIL,
AGE: 57 YEARS, OCC: AGRICULTURE,
R/O. H.NO.27 KADOOR, YERIGONAL,
TQ. KUSTAGI, DIST. KOPPAL-583 281.
3. GURURAJ S/O VIRUPAKSHAPPAGOUA PATIL,
AGE: 45 YEARS, OCC: AGRICULTURE,
R/O. WARD NO.35, ATHANI ROAD,
BHAVAI NAGAR, VIJAYAPURA.

...APPELLANTS

(BY SRI. VINAYAK APTE, ADVOCATE)

AND:

1. SMT. RENUKA W/O NARASANGOUDA PATIL,
DIED BY LRs.
- 1A) NARASANGOUDA S/O SANGANGOUDA PATIL,
AGE: 65 YEARS, PENSIONER, R/O. VIDYA



NAGAR, MUDNAL LAYOUT, MUDDEBIHAL,
DIST. VIJAYAPURA.

1B) KIRAN S/O NARASANGOUDA PATIL,
AGE: 27 YEARS, OCC: MEDICAL PRACTITIONER,
R/O. VIDYA NAGAR, MUDNAL LAYOUT,
MUDDEBIHAL, DIST. VIJAYAPURA.

1C) ASHWINI D/O NARASANGOUDA PATIL,
AGE: 25 YEARS, OCC: HOUSEHOLD,
R/O. VIDYA NAGAR, MUDNAL LAYOUT,
MUDDEBIHAL, DIST. VIJAYAPURA.

1D) PRATIBHA D/O NARASANGOUDA PATIL,
AGE: 23 YEARS, OCC: HOUSEHOLD,
R/O. VIDYA NAGAR, MUDNAL LAYOUT,
MUDDEBIHAL, DIST. VIJAYAPURA.

2. SHANTABAI W/O VIRUPAKSHAPPAGOU DA PATIL,
AGE: 75 YEARS, OCC: HOUSEHOLD,
R/O. NEAR B.V. PATIL ADVOCATE HOUSE,
VIDYANAGAR, TQ. HUNGUND, DIST. BAGALKOT.

SHIVANGOUDA S/O GURUSANGANGOUDA PATIL,
(S.G. PATIL) AGE: 89 YEARS, OCC: RETD. PRINCIPAL
R/O. CHIDARI ROAD, IRANI GALLI,
VIVEKANAND NAGAR, TQ. DIST. BIDAR,
DIED BY LR s.

3. SMT. SHAKUNTALA W/O LATE SHIVANGOUDA PATIL,
AGE: 75 YEARS, OCC: HOUSEHOLD,
R/O. CHIDARI ROAD, IRANI GALLI,
VIVEKANAND NAGAR, TQ. DIST. BIDAR.

4. MALLIKARJUN S/O LATE SHIVANGOUDA PATIL,
AGE: 50 YEARS, OCC: PRIVATE SERVICE,
R/O. CHIDARI ROAD, IRANI GALLI,
VIVEKANAND NAGAR, TQ. DIST. BIDAR.

5. JYOTI D/O LATE SHIVANGOUDA PATIL
W/O SANJAY PATIL, AGE: 55 YEARS,



OCC: SERVICE, R/O. BHAVANI NAGAR,
NEAR ITAGI PETROL BUNK AND SAINIK SCHOOL,
VIJAYAPURA.

6. ARATI D/O LATE SHIVANGOUDA PATIL
W/O SANJEEV BIRADAR BIRADAR,
AGE: 48 YEARS, OCC: HOUSEWORK,
R/O. CHIDARI ROAD, IRANI GALLI,
VIVEKANAND NAGAR, TQ. DIST. BIDAR.

...RESPONDENTS
(BY SRI. VARUN PATIL, ADV. FOR R1(A) TO R1(D);
V/O DATED:24.06.2025, NOTICE TO R2 IS HELD SUFFICIENT;
NOTICE TO R3 TO R6 IS SERVED)

THIS REGULAR FIRST APPEAL IS FILED UNDER SECTION
96 OF THE CODE OF CIVIL PROCEDURE, PRAYING TO CALL FOR
THE RECORDS IN O.S NO.157/2018 ON THE FILE OF SENIOR
CIVIL JUDGE AND JMFC MUDDEBIHAL AND ALLOW THE APPEAL
BY SETTING ASIDE THE JUDGMENT AND DECREE
DATED:15.07.2024 BY REMITTING BACK THE MATTER TO THE
TRIAL COURT FOR FRESH DISPOSAL IN ACCORDANCE WITH
LAW, IN THE INTEREST OF JUSTICE AND EQUITY.

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

CORAM: HON'BLE MR. JUSTICE R.NATARAJ
AND
HON'BLE MR. JUSTICE TYAGARAJA N. INAVALLY



ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE R.NATARAJ)

This appeal is filed by defendant Nos.2, 3 and 5 in O.S.No.157/2018 dated 15.07.2024 on the file of the Senior Civil Judge and JMFC at Muddebihal, challenging the ex parte judgment and decree.

2. When this appeal is listed for admission, with the consent of the learned counsel for the appellants and learned counsel for respondent No.1, it is taken up for final disposal.

3. The learned counsel for defendant Nos.2, 3 and 5 submitted that the notice of the suit was not claimed and that the Trial Court proceeded to hold that the service of notice is sufficient. He contends that defendant Nos.2, 3 and 5 are not residing at the address mentioned in the cause title of the suit, but are residing at the address mentioned in the cause title of the appeal. He therefore contends that the Trial Court committed an error in placing



defendant Nos. 2, 3 and 5 ex parte and proceeding with the suit.

4. Per contra, the learned counsel for respondent No.1 submitted that defendant Nos. 2, 3 and 5 were aware of the proceedings of the suit, as defendant Nos.1 and 4 were represented by an advocate. Likewise, defendant No.6 was also represented by an advocate. He therefore submits that defendant Nos.2, 3 and 5 were bound to know the pendency of the suit.

5. We have considered the submissions made by the learned counsel for defendant Nos.2, 3 and 5 and the learned counsel for the plaintiff.

6. The only point that arises for consideration in this appeal is whether an opportunity deserves to be granted to defendant Nos.2, 3 and 5 to contest the suit on merits.



7. Defendant Nos. 2, 3 and 5 have filed a written statement before this Court, which is taken on record. It appears from the contentions of the learned counsel for the appellant and the learned counsel for respondent No.1/plaintiff that defendant Nos.2, 3 and 5 were placed ex parte as they did not accept the notice issued by the Court. As the suit is decreed ex parte decree, defendant Nos.2, 3 and 5 were not able to place their defence, but are unknowingly bound by the judgment and decree which is impugned herein. Though the conduct of defendant Nos.2, 3 and 5 in waiting for the proceedings in the suit to go on from the year 2018 till the year 2024 is unacceptable, an opportunity deserves to be granted to them by suitably compensating respondent No.1/plaintiff, as the proprietary rights of the defendant Nos.2, 3 and 5 would be affected.



8. In that view of the matter, we pass the following:

- i) The appeal is ***allowed***.
- ii) The impugned judgment and decree dated 15.07.2024 passed by the Trial Court is set aside, subject to payment of costs of Rs.50,000/- payable by defendant Nos.2, 3 and 5 to respondent No.1 before the Trial Court on the next date of hearing.
- iii) The parties shall appear before the Trial Court on 25.02.2026.
- iv) Office is directed to forward the written statement filed by defendant Nos.2, 3 and 5 to the Trial Court for further needful action.



- v) The Trial Court may consider expediting the framing of issues and recording of evidence and shall ensure that the suit is disposed of within a period of one year from the date of receipt of a copy of this order.

Sd/-
(R.NATARAJ)
JUDGE

Sd/-
(TYAGARAJA N. INAVALLY)
JUDGE

SHS
List No.: 1 Sl No.: 8