



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.200021 OF 2025

(PAR/POS)

BETWEEN:

MALLINATH S/O LATE LINGANAGOUDA,
SINCE DIED BY HIS LR's

1. SHILPA W/O LATE MALLINATH @ MALLANNA
AGE:30 YEARS, OCC:HOUSEHOLD,
R/O. KANTALAKAY VILLAGE,
POST. GOGI, TQ.SHAHAPUR,
DIST.YADGIR – 585 202.

2. BASAWARAJ S/O LATE MALLIKARJUN
@ MALLANNA, AGE:14 YEARS, MINOR,
OCC:STUDENT, U/G OF NATURAL MOTHER,
PETITIONER NO.1.

...APPELLANTS

(BY SRI. GAWALI DEEPAK K, ADVOCATE)

AND:

1. SMT. PARAVATAMMA W/O LATE LINGANGOUDA
AGE: 66 YEARS, OCC:HOUSEHOLD,
R/O. VILLAGE NAGARAGUNDA,
TQ.DEVADURGA, DIST.RAICHUR – 584 111.
2. BASAWARAJ S/O LATE LINGANGOUDA
AGE:36 YEARS, OCC: AGRICULTURE,



R/O. VILLAGE NAGARAGUNDA,
TQ.DEVADURGA, DIST.RAICHUR – 584 111.

3. KUMARI RAJESHWARI D/O LATE LINGANGOUDA
AGE:38 YEARS, OCC: AGRICULTURE,
R/O. VILLAGE NAGARAGUNDA,
TQ.DEVADURGA, DIST.RAICHUR – 584 111.
4. KUMARI BASAMMA D/O LATE LINGANGOUDA
AGE:36 YEARS, OCC: AGRICULTURE,
R/O. VILLAGE NAGARAGUNDA,
TQ.DEVADURGA, DIST.RAICHUR – 584 111.
5. SMT. MAHADEVAMMA W/O LATE LINGANGOUDA
AGE:56 YEARS, OCC:HOUSEHOLD,
R/O. VILLAGE NAGARAGUNDA,
TQ.DEVADURGA, DIST.RAICHUR – 584 111.
NOW AT SADYAPUR, TQ.SHAHAPUR,
DIST.YADGIR.
6. KUMARI SAVITRAMMA D/O LATE
LINGANGOUDA, AGE: 29 YEARS,
OCC: HOUSEHOLD,
R/O. VILLAGE NAGARAGUNDA,
TQ.DEVADURGA, DIST.RAICHUR – 584 111.
NOW AT YELAGATTA VILLAGE – 584 139
TQ. LINGASUGUR, DIST.RAICHUR.

...RESPONDENTS

(R1 TO R6 ARE SERVED, HELD SUFFICIENT)

THIS RSA IS FILED UNDER SECTION 100 OF C.P.C.,
PRAYING TO A) ALLOW THE APPEAL BY SETTING ASIDE
THE JUDGMENT DATED 04.06.2010 AND DECREE DATED
16.06.2010, PASSED BY THE PRL. SENIOR CIVIL JUDGE,
RAICHUR, IN O.S. NO.58/2008 AND JUDGMENT DATED
21.09.2011 PASSED BY ADDL. DIST. JUDGE, RAICHUR,
R.A. NO.84/2010, IN THE INTEREST OF JUSTICE AND
EQUITY AND ETC.



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

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

ORAL JUDGMENT

The notice issued to the respondents No.1 to 6 is returned duly served. The respondents No.1 to 6 are called out, absent. The service of notice to respondents No.1 to 6 is held sufficient.

2. The learned counsel for the appellants files memo furnishing copy of the death certificate of the deceased respondent No.2, which would show that the defendant No.2 died on 07.04.2013. There is a delay of 4004 days in filing the present appeal and the application IA No.1/2024 is filed by the appellants for condoning the delay in filing the appeal.

3. Heard the learned counsel for the appellants. Perused the relevant materials on record.



4. As per papers on record, it would be clear that respondents No.1 to 4 filed the suit before the before the Court of Principal Senior Civil Judge, Raichur (the trial Court) in OS No.58/2008 against the deceased defendant No.2 and the respondents No.5 and 6 for the relief of partition and separate possession their shares in suit properties. The said suit was decreed in part granting 1/6th share each to the plaintiffs No.1 to 4 and also to the defendants No.2 and 3. Thereafter, the plaintiffs filed the appeal before the Court of Additional District Judge, Raichur (the First Appellate Court) in RA No.84/2010 challenging the judgment and decree of the trial Court.

5. The First Appellate Court as per the judgment and decree dated 21.09.2011 allowed the appeal and the judgment and decree of the trial Court stands confirmed with modification that the plaintiffs together are entitled to 22/24th share in suit properties. The LRs



of the defendant No.2 are the appellants in the present appeal before this Court challenging the judgment and decree of the First Appellate Court.

6. It is pertinent to note that the defendants No.1 and 3 have not chosen to challenge the impugned judgment and decree of the First Appellate Court. Moreover, the impugned judgment was passed on 21.09.2011. As per the documents now produced by the appellants, the defendant No.2 died on 07.04.2013. This would clearly show that the defendant No.2 was alive for the period of 1 year and 7 months after disposal of the appeal by the First Appellate Court. During his life time the defendant No.2 did not choose to challenge the impugned judgment and decree.

7. Moreover, the contention of the appellants that they were not aware of the disposal of the appeal by the First Appellate Court, does not merit consideration at this stage, as it is not the case of the appellants that



they were not residing with the deceased defendant No.2 during his life time. There is no sufficient cause made out by the appellants to condone the inordinate delay of 4004 days in filing the present appeal.

8. Further, the grounds urged by the appellants in the appeal do not show any substantial question of law to be considered in the appeal on hand. The alleged substantial questions of law mentioned in the appeal memo are only regarding the facts of the case. Hence, even on merits of the appeal, there is no substantial question of law made out by the appellants to entertain the present appeal by this Court.

9. As mentioned herein above, the appellants have not made out any sufficient cause to condone the inordinate delay of 4004 days in filing the appeal. Consequently, IA No.1/2025 filed by the appellants is liable to be dismissed.



10. In the result, the application - IA No.1/2025
is hereby dismissed.

11. Consequently, this appeal filed by the
appellants is dismissed as barred by limitation.

Sd/-
(TYAGARAJA N. INAVALLY)
JUDGE

SMP
List No.: 1 Sl No.: 17
CT: SB