



IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 27TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE TYAGARAJA N. INAVALLY

MISCL SECOND APPEAL NO.200298 OF 2025 (RO)

BETWEEN:

TATAPPA S/O PIDDAPPA KOLLI,
AGE:47 YEARS, OCC:AGRICULTURE,
R/AT DIVALGUDDA-SHORAPUR,
TQ. SHORAPUR, DIST. YADAGIRI.

...APPELLANT

(BY SRI. JITENDRA RAO AND SRI. GURURAJ GOPALRAO
K., ADVOCATES)

AND:

1. SIDDAMMA W/O LATE NINGAPPA KOLLI,
AGE:60 YEARS, OCC:HOUSEHOLD,
2. NINGAMMA D/O LATE NINGAPPA KOLLI,
AGE: YEARS, OCC:HOUSEHOLD,
3. SUVARANA D/O LATE NINGAPPA KOLLI,
AGE:32 YEARS, OCC:HOUSEHOLD,
4. RENUKA D/O LATE NINGAPPA KOLLI,
AGE:22 YEARS, OCC:STUDENT,
5. RAJU S/O LATE NINGAPPA KOLLI,
AGE:21 YEARS, OCC:STUDENT,



6. MAREPPA S/O LATE PIDDAPPA KOLLI,
AGE:42 YEARS, OCC:AGRICULTURE,
ALL ARE R/O. DIVALAGUNDA,
TQ. SHORAPUR,
7. SHIVARAJ S/O TIPPANNA NAIKODI,
AGE:44 YEARS, OCC:AGRICULTURE,
R/O. C/O NAGANNA DESAI HOUSE,
DONNIGERA SHORAPUR, TQ. SHORAPUR,
DIST. YADAGIR.

...RESPONDENTS

(BY SRI. KRUPA SAGAR PATIL, ADVOCATE FOR R1 TO R5,
V/O DATED 13.02.2026, APPEAL AGAINST R6 IS ABATED,
SERVICE OF NOTICE TO R7 IS HELD SUFFICIENT)

THIS MSA IS FILED UNDER SECTION 100 R/W
ORDER 43 RULE 1, PRAYING TO A) ALLOW THE APPEAL
AND SET ASIDE THE JUDGMENT AND DECREE DATED
13.10.2025 PASSED BY THE LEARNED SENIOR CIVIL
JUDGE AND JMFC, SHORAPUR IN R.A. NO.29/2023, B)
RESTORE THE JUDGMENT AND DECREE DATED
12.05.2020 PASSED IN O.S. NO.199/2017 BY THE CIVIL
JUDGE AND JMFC, SHORAPUR, AND ETC.

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

2. The appellant is the plaintiff before Civil Judge and JMFC, Shorapur (the trial Court) in OS No.199/2017, wherein she sought for the relief of possession and mandatory injunction directing the defendant No.3 to demolish the illegal construction put up over the suit schedule property. The respondents are LR's of the deceased defendant No.1 and the defendants No.2 and 3. The trial Court decreed the suit for the relief of mandatory injunction and also for possession directing the defendant No.3 to demolish the illegal construction.



3. As per the papers on record, it is undisputed fact that plaintiff and defendants No.1 and 2 are brothers. The plaintiff has not sought for any relief to show that he is owner of the suit property. Moreover, as forthcoming on record, in spite of appearance the defendants did not choose to file any written statement and contest the suit.

4. The First Appellate Court allowed the appeal filed by the defendants No.2 and 3 and other five persons and remanded the matter to the trial Court for fresh disposal with a direction to give opportunity to file the written statement and also opportunity to both the parties to lead their evidence. Therefore, no hardship will be cause to the plaintiff, if the matter is remanded to the trial Court. There would no substantial issue arise for consideration in the appeal on hand.

5. The substantial questions of law mentioned in the appeal memo are not at all the questions of law to



be considered in the appeal by this Court. Mere fact that the First Appellate Court remanded the matter back to the trial Court for fresh disposal, cannot be a question of law for consideration in the appeal.

6. Further, even if the defendant No.2 intends to construct any building in the suit property or there is any illegal construction in the suit property, such construction is subject to the final result of the suit. Hence, the present appeal does not merit consideration.

7. In the result, I proceed to pass the following:

ORDER

This appeal is hereby dismissed.

Sd/-
(TYAGARAJA N. INAVALLY)
JUDGE

SMP
List No.: 1 Sl No.: 35
CT: SB