



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. 200098 OF 2021 (RO-)

BETWEEN:

VIJAYKUMAR DIED PER LRs
PLAINTIFF BEFORE TRIAL COURT,
DIED BEFORE FILING RA.

- 1) KALINDA W/O LATE VIJAYKUMAR,
AGED ABOUT: 43 YEARS,
OCC: AGRICULTURE AND HOUSEHOLD,
R/O. VILLAGE KASHIMPUR,
TQ. BHALKI, DIST. BIDAR- 585 401.
2. NAMRATA D/O LATE VIJAYKUMAR,
AGED ABOUT:23 YEARS,
OCC: HOUSEHOLD,
R/O. VILLAGE KASHIMPUR,
TQ. BHALKI, DIST. BIDAR- 585 401.
3. SWETA D/O LATE VIJAYKUMAR,
AGED ABOUT:21 YEARS,
OCC: HOUSEHOLD,
R/O. VILLAGE KASHIMPUR,
TQ. BHALKI, DIST. BIDAR- 585 328.
4. NIKITA D/O LATE VIJAYKUMAR,
AGED ABOUT:20 YEARS,



OCC: HOUSEHOLD,
R/O. VILLAGE KASHIMPUR,
TQ. BHALKI, DIST. BIDAR- 585 328.

5. DHATRI D/O LATE VIJAYKUMAR,
AGED ABOUT:19 YEARS,
OCC: AGRICULTURE AND HOUSEHOLD,
R/O. VILLAGE KASHIMPUR,
TQ. BHALKI, DIST. BIDAR- 585 328.
6. SUBHIDRA D/O LATE VIJAYKUMAR,
AGED ABOUT:18 YEARS,
OCC: HOUSEHOLD,
R/O. VILLAGE KASHIMPUR,
TQ. BHALKI, DIST. BIDAR- 585 328.
7. VAYU S/O LATE VIJAYKUMAR,
AGED ABOUT:16 YEARS,
OCC: STUDENT, MINOR,
UNDER GUARDIANSHIP OF HIS MOTHER
I.E., KALINDA W/O LATE VIJAYKUMAR,
AGED ABOUT:43 YEARS,
OCC: AGRICULTURE AND HOUSEHOLD,
R/O. VILLAGE KASHIMPUR,
TQ. BHALKI, DIST. BIDAR- 585 328.
8. LALITABAI W/O LATE HANAMANTRARAO,
AGED ABOUT:75 YEARS,
OCC: AGRICULTURE,
R/O. VILLAGE KASHIMPUR,
TQ. BHALKI, DIST. BIDAR- 585 328.
9. NIRMALABAI W/O LATE VILASRAO,
AGED ABOUT:50 YEARS,
OCC: HOUSEHOLD AND AGRICULTURE,



R/O. VILLAGE KASHIMPUR,
TQ. BHALKI, DIST. BIDAR- 585 328.

10. LAXMIKANTH S/O LATE VILASRAO,
AGED ABOUT: 26 YEARS,
OCC: AGRICULTURE,
R/O. VILLAGE KASHIMPUR,
TQ. BHALKI, DIST. BIDAR- 585 328.

11. SRIKANTH S/O LATE VILASRAO,
AGED ABOUT: 25 YEARS,
OCC: AGRICULTURE,
R/O. VILLAGE KASHIMPUR,
TQ. BHALKI, DIST. BIDAR- 585 328.

...APPELLANTS

(BY SRI. K.M. GHATE, ADVOCATE)

AND:

ALIMODDIN DIED PER LRS

1. SYED AZEEMUDDIN S/O LATE SYED
ALIMODDIN, AGED ABOUT: 71 YEARS,
OCC: AGRICULTURE, R/O. ALIAMBER,
TQ. AND DIST. BIDAR- 585 401.

2. SYED MOIZUDDIN S/O LATE SYED
ALIMODDIN, AGED ABOUT: 65 YEARS,
OCC: AGRICULTURE, R/O. ALIAMBER,
TQ. AND DIST. BIDAR- 585 401.

3. SYED GOUSUDDIN S/O LATE SYED
ALIMODDIN, AGED ABOUT: 55 YEARS,
OCC: AGRICULTURE, R/O. ALIAMBER,
TQ. AND DIST. BIDAR- 585 401.



4. SYED ALLAUDDIN S/O LATE SYED
ALIMODDIN, AGED ABOUT:53 YEARS,
OCC: AGRICULTURE, R/O. ALIAMBER,
TQ. AND DIST. BIDAR- 585 401.
5. NOOR JAHAN BEGUM D/O LATE SYED
ALIMODDIN, AGED ABOUT:55 YEARS,
OCC: HOUSEHOLD AND AGRICULTURE,
R/O. VILLAGE CHIDRI, TQ. AND
DIST. BIDAR- 585 401.
6. RASOOL BEE D/O LATE SYED
ALIMODDIN, AGED ABOUT:51 YEARS,
OCC: HOUSEHOLD AND AGRICULTURE,
R/O. ALIAMBER, TQ. AND
DIST. BIDAR- 585 401.
7. AHEMAD MIYAN S/O ISMAIL SAB
DIED BEFORE THE 1ST APPELLATE COURT,
8. HANAMANTRAO S/O SHAMARAO,
(DEFENDANT NO.3 BEFORE TRIAL COURT)
9. SUDHAM S/O NAMDEVRAO BIRADAR,
AGED ABOUT:55 YEARS,
OCC: BUSINESS, R/O. VILLAGE ALIABAD,
TQ. BHALKI, DIST. BIDAR- 585 401.
10. VITHAL S/O NAMDEVRAO BIRADAR,
AGED ABOUT:65 YEARS,
OCC: BUSINESS, R/O. VILLAGE
ALIABAD, TQ. BHALKI,
DIST. BIDAR- 585 328.

...RESPONDENTS



(BY SRI. LIYAQAT FAREED USTAD, ADVOCATE FOR R1 TO R6, R7 & R8 ARE DIED AS PER ___,
V/O DATED 18.12.2024, NOTICE TO R9 IS DISPENSED WITH, R10 SERVED)

THIS MSA IS FILED UNDER SECTION 105(2) OF CIVIL PROCEDURE CODE 1908 R/W ORDER 43 RULE 1(u) OF CPC., PRAYING TO A) PLEASE TO CALL FOR THE RECORDS OF O.S. NO.56/1998 ON THE FILE OF CIVIL JUDGE (SR.DN) BHALKI DATED: 07.03.2005 AND B) CALL FOR THE RECORDS IN RA NO.12/2015 ON THE FILE OF ADDL. DISTRICT AND SESSIONS JUDGE, BIDAR AND THEREBY PLEASED TO SET ASIDE THE JUDGMENT AND ORDER OF REMAND PASSED ON 15.12.2020, BY ALLOWING THE INSTANT APPEAL WITH COSTS THROUGHOUT, TO MEET THE ENDS OF JUSTICE AND EQUITY.

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 learned counsel for the respondents No.1 to 6. Perused the relevant materials on record.

2. The appellants are the LR's of plaintiff No.1 and the plaintiff No.3 to 5 before the Senior Civil Judge Court, Bhalki (the trial Court) in OS No.56/1998,



wherein the plaintiffs filed the suit for the relief of the declaration of their ownership and for injunction in respect of the suit property and also declaring the sale deed dated 27.04.1988, wherein the defendant No.3 sold the property in favour of defendant No.1 as null and void. The respondents No.1 to 6 are LRs of defendant No.1.

3. The contention of the learned counsel for the appellants is that the defendant No.1 during the pendency of the suit sold the property in favour of defendant No.2 and the defendant No.2 in turn sold the said property to the defendant No.5. Hence, there would no interest remain on the LRs of defendant No.1 in respect of suit property.

4. However, as submitted by the learned counsel for the respondents No.1 to 6, the plaintiffs challenged the sale deed dated 27.04.1988, wherein originally the defendant No.3 sold the property in favour of defendant



No.1. Therefore, when the earlier sale deed in favour of the defendant No.1 itself was under challenged, the contention of the learned counsel for the appellants that the interest of LRs of the defendant No.1 ceases on the defendant No.1 selling the property in favour of the defendant No.2, does not stand for consideration on the facts of the case and also in the case.

5. Moreover, as per the impugned judgment, the First Appellate Court allowed the appeal and remanded the matter back to the trial Court with direction to decide the matter afresh giving opportunity to both the parties. Therefore, any of the contentions put forth by the plaintiff would be agitated once again before the trial Court. Hence, there is no substantial question of law to be considered in the appeal on hand.

6. Moreover, the substantial question of law mentioned in the appeal memo is whether the First Appellate Court is correct in condoning the delay of 9



years 9 months and 24 days in preferring the appeal before the said Court. In the absence of satisfactory and sufficient ground, is the question of facts and not the question of law. The other questions of law mentioned in the appeal memo are also not the question of law to be considered in the appeal on hand. Hence, the appeal does not merit consideration of the facts of the case and also in law and therefore, the appeal fails.

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

ORDER

This appeal is filed by the appellants
is hereby dismissed.

Sd/-
(TYAGARAJA N. INAVALLY)
JUDGE

SMP
List No.: 1 Sl No.: 32
CT: SB