

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 18TH DAY OF JANUARY, 2006

BEFORE

THE HON'BLE Mr. JUSTICE K.L.MANJUNATH

REGULAR SECOND APPEAL No.36/2003

BETWEEN:

1. Damodhar Thaku Naik,
Since deceased by L.Rs.
 - 1A) Tara w/o Damodhar Naik,
57 years, Occ: Household work,
R/o Laxmeshwar, Tq: Ankola.
Dist: Uttara Kannada.
 - 1B) Aruna s/o Damodhar Naik,
23 years, Occ: Student,
rest - do -
 - 1C) Prasad s/o Damodhar Naik,
19 years, rest - do -
 - 1D) Akshata d/o Damodhar Naik,
16 years, minor by guardian
R/by mother Tara w/o Damodhar
Naik, rest - do -
2. Ganesh s/o Thaku Naik,
49 years, R/o Laxmeshwar,
Tq: Ankola. Dist: U.K..
3. Ramesh s/o Thaku Naik,
46 years, rest - do -
4. Anandi w/o Thaku Naik,
79 years, rest - do - .. APPELLANTS
(By Advocate Sri.Vighneshwar S.Shastri)

AND:

1. U.F.M. Honnappa s/o Jannu Naik, 51 years, Occ: Private Service, R/o Laxmeshwar, Tq: Ankola. Dist: U.K.
 2. Ashok s/o Jannu Naik, 47 years, Rest - do -
 3. Gangadhar s/o Jannu Naik, 44 years, Occ: Shop keeper, rest - do -
 4. Satish s/o Jannu Naik, 41 years, Occ: Coolie, rest - do -
 5. Pradeep s/o Jannu Naik, 37 Years, Occ: Coolie, rest - do -
 6. Chinni Rayanappa Naik, 53 years, Occ: Household work, R/o Kumbarkeri, Ankola, dist: U.K..
 7. Gouri Jannu Naik, 74 years, Occ: Household work, R/o Laxmeshwar, tq: Ankola. Dist: Uttara Kannada.
- (R-7 dead, by L.Rs. R-1 to 6 who are on record) .. RESPONDENTS
- (Advocate Sri.M.A.Subramani for R-1 to 6)
(R-2 to 5 .. served)

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This Regular Second Appeal is filed under Sec.100 of CPC against the judgment and decree dated 30.10.2002 passed in R.A.32/2000 on the file of the Prl. Civil Judge (Sr.Dn.), Karwar, allowing the appeal and setting aside the judgment and decree dated 27.1.2000 passed in O.S.88/1993 on the file of the Civil Judge (Jr.Dn.), Ankola.

This appeal is coming on for final hearing this day, the Court made the following:

J U D G M E N T

Appellants were the plaintiffs before the trial court in O.S.88/93. The suit was filed by the plaintiffs for partition and separate possession in respect of the suit properties. Suit of the plaintiffs was decreed declaring that plaintiffs are entitled to 7 guntas along with residential house situated in Sy.No.37/1^{2★} and the remaining area has been declared as the property of the defendants.

★ Corrected
vide Court
Order dt. 11/10/12
A\$BJ.

2. Defendants filed an appeal before the Prl. Civil Judge (Sr.Dn.), Karwar in R.A.32/2000. The appeal filed by the defendants was allowed. Judgment and decree of the trial court was set

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aside and the suit filed by the plaintiffs came to be dismissed. Being aggrieved by the divergent findings of the courts below, plaintiffs legal representatives have come in this second appeal.

3. After arguing the matter for some time, this court has suggested to settle the matter amicably between the parties. Accordingly, parties have settled the matter and the appellants have filed an affidavit and in the same lines respondents have also filed separate affidavit. Affidavits filed by the respective parties are placed on record. In terms of the affidavits, this appeal is disposed of. Judgment and decree of the appellate court is hereby set aside and the judgment and decree of the trial court is restored. Accordingly, Registry is directed to draw the modified decree.

Handwritten signature

**Sd/-
JUDGE**