

: 1 :

**IN THE HIGH COURT OF KARNATAKA
DHARWAD BENCH**

DATED THIS THE 30TH DAY OF NOVEMBER, 2017

BEFORE

THE HON'BLE DR.JUSTICE H.B.PRABHAKARA SASTRY

R.S.A. No. 5448 OF 2012 (INJ)

BETWEEN:

SOMAPPA IRAPPA GHANTI,
AGE 70 YEARS, OCC: WEAVER,
R/O. LAXMESHWAR - 582116
DIST: GADAG.

... APPELLANT

(BY SRI. V.R.PATIL & SRI S.S.KOLIWAD, ADVS.)

AND:

- 1 CHIEF OFFICER,
T.M.C. LAXMESHWAR – 582116,
DIST. GADAG.
- 2 SMT. SAVITRAMMA W/O. CHANAVEERAYYA
MALISHANKARIMATH,
AGE 60 YEARS, OCC: HOUSEHOLD WORK,
R/O. LAXMESHWAR – 582116,
DIST. GADAG.
- 3 PUTTAYYA S/O. CHANAVEERAYYA
MALISHANKARIMATH,
AGE 34 YEARS, OCC: PRIVATE SERVICE,
R/O. LAXMESHWAR – 582116,
DIST. GADAG.
- 4 CHANABASAYYA S/O. CHANAVEERAYYA
MALISHANKARIMATH, AGE 32 YEARS,
OCC: PRIVATE SERVICE,
R/O. LAXMESHWAR – 582116, DIST. GADAG.

: 2 :

- 5 CHANAVEERAPPA S/O. GURUSHANTAPPA
NEERALAGI, AGE 42 YEARS,
OCC: WEAVER, TQ.SHIRAHATTI,
R/O. LAXMESHWAR – 582116, DIST. GADAG.
- 6 ASHOK S/O. MALLAPPA MADALLI,
AGE 27 YEARS, OCC: WEAVER,
R/O. LAXMESHWAR – 582116, DIST. GADAG.
- 7 IRAPPA S/O. FAKKIRAPPA MADALLI,
AGE 37 YEARS, OCC: WEAVER, TQ.SHIRAHATTI,
R/O. LAXMESHWAR – 582116,
TQ. SHIRHATTI, DIST. GADAG,
R/O. BASTI BANA, LAXMESHWAR.
- 8 MALAPPA S/O. YALLAPPA GOJAGOJI,
AGE 52 YEARS, OCC: AGRICULTURE,
R/O. LAXMESHWAR – 582116, DIST. GADAG,
R/O. BASTI BAN, LAXMESHWAR,
TQ. SHIRHATTI.
- 9 MALLAPPA S/O. YALLAPPA GOJAGOJI,
AGE 56 YEARS, OCC: AGRICULTURE,
R/O. LAXMESHWAR – 582116, DIST. GADAG,
R/O. BASTI BAN, LAXMESHWAR,
TQ. SHIRHATTI,
- 10 SHIVAPPA S/O. BASAPPA KOLIWAD,
AGE 72 YEARS, OCC: WEAVER, TQ. SHIRHATTI,
R/O. LAXMESHWAR – 582116, DIST. GADAG,
R/O. BASTIBANA, LAXMESHWAR.

... RESPONDENTS

(BY SRI. G.N.NARASAMMANAVAR, ADV. FOR R1 ;
SRI M.M.HIREMATH, ADV. FOR C/R10 &
SRI LAXMAN T. MANTAGANI, ADV. FOR R10 ;
R2, R4 TO R9 - SERVED)

THIS APPEAL IS FILED UNDER SECTION 100 OF CPC
AGAINST THE JUDGMENT AND DECREE DATED 10.02.2012
PASSED IN R.A.NO.25/2010 ON THE FILE OF THE CIVIL JUDGE
AND CJM, AT LAXMESHWAR, ALLOWING THE APPEAL BY SETTING

: 3 :

ASIDE THE JUDGMENT AND DECREE DATED 02.03.2010 PASSED IN O.S.NO.71/2007 ON THE FILE OF THE CIVIL JUDGE (JR. DN.) AND JMFC, LAXMESHWAR, ALLOWING THE SUIT FILED FOR PERMANENT INJUNCTION.

THIS APPEAL COMING ON FOR **ORDERS** THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

The learned counsel for respondent No.10 filed a memo reporting the death of sole appellant on 09.07.2016. In support of the memo, he has also produced a copy of certificate of death of the appellant. The said document also shows the date of death of the appellant as on 09.07.2016.

2. Respondent No.10 in his memo also stated that in view of expiry of 150 days from the date of death of the appellant, the appeal to be treated as abated. Since the death of the appellant and no effort was made from the legal representatives of the appellant side to bring the legal representatives of the deceased appellant on record, provided, the right to sue survives to the legal representatives and in view of expiry of statutory

: 4 :

limitation to bring the legal representatives of sole appellant on record.

3. Accordingly, the appeal stands abated.

**Sd/-
JUDGE**

MBS/-