

IN THE HIGH COURT OF KARNATAKA
KALABURAGI BENCH

DATED THIS THE 27TH DAY OF APRIL 2018

BEFORE

THE HON'BLE MR.JUSTICE R.DEVDAS

R.F.A.No.1710/2005

BETWEEN:

1. Kashamma D/o Vaijanath
@ Vaijappa Kankatte W/o Chandrakant,
Aged about 36 years,
Occ. Agriculture & Household,
R/o Wagalgaon,
Tq. Bhalki, Dist. Bidar.
2. Smt Nagamma W/o Vaijanath
@ Vaijappa Kankatte,
Aged about 65 years,
Occ. Agriculture and Household work,
R/o Navadgi,
Now R/o Village Khatgaon,
Tq. Bhalki, Dist. Bidar.
Dead by LR i.e., Appellant No.1 Kashamma
(Amended vide order dated 27.04.2018)

... Appellants

(By Smt.Hema L.K. Advocate)

AND:

1. Vaijanath @ Vaijappa
S/o Basappa Kankatte,
Aged about 58 years,

Occ. Agriculture,
R/o Navadgi, Tq. Bhalki,
Dist. Bidar – 585 328.

2. Mallikarjun calling himself as
son of Vaijanath @ Vaijappa,
Age about 40 years,
Occ. Agriculture, R/o Navadgi,
Tq. Bhalki, Dist. Bidar 585 328.

... Respondents

(By Sri Gurubasava C.Nayak Advocate)

This Regular First appeal is filed under Section 96 of the Civil Procedure Code, praying to set aside the impugned judgment and decreed dated 31.08.2005 made in O.S.No.140/1998 passed by the Civil Judge (Sr.Dn.) Bhalki and further allow the suit as prayed for in the interest of justice and equity.

This appeal coming on for orders this day, the Court delivered the following:

J U D G M E N T

The counsel for the appellants has filed a memo stating that appellant No.2 died on 06.08.2013 and she has left behind appellant No.1 the sole surviving daughter as her legal heir. It is therefore, prayed that since the sole legal heir is already on record, she may be

permitted to prosecute the appeal. This day, the parties have also reported a settlement. Therefore, the memo is accepted and the first appellant is permitted to prosecute the appeal as the sole surviving legal heir of appellant No.2. The first appellant is permitted to amend the cause title accordingly.

2. The parties to the appeal have filed an application under Order 23 Rule 3 r/w Section 151 of the Code of Civil Procedure for having entered into a compromise. As per the memorandum of compromise the parties have amicably resolved to divide the suit schedule properties in the following manner.

3. The appellant shall become the absolute owner in possession of Sy.No.105/3 measuring 04 acres 01 gunta in Navadagi Village, Bhalki Taluk, Bidar District. With the ownership being admitted to the appellant with respect to Sy.No.105/3 measuring

04 acres 01 gunta, the appellant gives up her right and interest with respect to the following properties :

- “a. Sy.No.7 measuring 3 acres.
- b. Sy.No.103/4 measuring 2 acres 1 guntas.
- c. Sy.No.110 measuring 3 acres 28 guntas
- d. Sy.No.112/2 measuring 1 acres 20 guntas
- e. Sy.No.118/4 measuring 2 acres.
- f. Sy.No.112/3 measuring 2 acres.
- g. Sy.No.112/5 measuring 3 acres
- h. Sy.No.140 measuring 3 acres 23 guntas
- i. Sy.No.10/1 measuring 2 acres 33 guntas
- j. Sy.No.10/2 measuring 1 acres 16 guntas
- k. House No.1/21
- l. Shop No.79
- m. Cattle shed No.32.”

4. All the parties are present before the court, on the asking of the court all the three have admitted that they have entered into this compromise on their own will and volition. They admit to have understood the terms of the compromise and therefore this court

directs the parties to affix their signature on the order sheet and the learned counsel shall identify the signatures/thumb impression of the parties with respect to their clients.

The appeal is accordingly allowed in terms of the compromise petition.

The office is directed to draw-up the decree in terms of the compromise petition.

**Sd/-
JUDGE**

sn/SMP