



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 31<sup>ST</sup> DAY OF AUGUST, 2023**

**BEFORE**

**THE HON'BLE MS. JUSTICE JYOTI MULIMANI**

**REGULAR SECOND APPEAL NO.1674 OF 2008 (DEC/INJ)**

**BETWEEN:**

1. H.CHANDRASHEKAR  
S/O HONNEGOWDA,  
AGED ABOUT 34 YEARS,
2. NAGARAJU. N.H  
S/O HONNEGOWDA,  
AGED ABOUT 24 YEARS,

BOTH ARE R/AT  
H.MALLIGERE VILALGE,  
MANDYA TALUK - 571 402.

...APPELLANTS

(BY SRI. D.R.SUNDARESHA., ADVOCATE)

**AND:**

1. JAYAMMA  
W/O H.N.SHIVALINGEGOWODA,  
D/O LATE MADIAH @ BOOSAPPA,  
AGED ABOUT 62 YEARS,  
R/AT HELALU VILLAGE,  
DUDDA HOBLI,  
MANDYA TALUK - 571 402.
2. SHIVARATHNAMMA  
W/O BASAVIAH,  
D/O MADIAH @ BOOSAPPA,  
SINCE DIED BY HER  
LRs. R1 & R3 ARE ALREADY ON RECORD



3. LAKSHMAMMA  
W/O HONNEGOWDA,  
D/O LATE MADIAH @ BOOSAPPA,  
AGED ABOUT 50 YEARS,  
R/AT H.MALLIGERE VILLAGE,  
DUDDA HOBBI, MANDYA TALUK.

...RESPONDENTS

(BY SRI. V.RAGHAVENDRA., ADVOCATE FOR  
GURU GANESH ASSOCIATES FOR R1;  
R1 AND R3 ARE LRS' OF DECEASED R2;  
R3 - SERVED)

THIS REGULAR SECOND APPEAL IS FILED UNDER  
SECTION 100 OF THE CPC., SEEKING CERTAIN RELIEFS.

THIS REGULAR SECOND APPEAL IS COMING ON FOR  
FINAL HEARING, THIS DAY, THE COURT DELIVERED THE  
FOLLOWING:

### **JUDGMENT**

Sri.D.R.Sundaresha., learned counsel for the appellants  
has appeared through video conferencing.

Sri.V.Raghavendra., learned counsel on behalf of Guru  
Ganesh Associates for respondent No.1 has appeared in person.

2. This is an appeal from the Court of the Addl. District  
Judge at Mandya.

3. For the sake of convenience, the parties shall be  
referred to as per their status and rankings before the Trial  
Court.



4. The plaint averments are these:

The plaintiffs filed a suit on the file of Prl.Civil Judge (Sr.Dn) and CJM, Mandya in O.S.No.227/1997 seeking the relief of declaration that they are the absolute owners in lawful possession of the item Nos.1 to 6 and have vested legal rights and title over the suit schedule items 7 & 8 and also sought for permanent injunction restraining the defendants, their agents, servants or anybody on their behalf from causing any kind of interference with their peaceful possession and enjoyment over the suit schedule item Nos.1 to 6. The defendants filed a written statement and denied the averments made in the plaint. Based on the pleadings, issues were framed. The parties led evidence.

The Trial Court vide Judgment and Decree dated 30.03.2007 dismissed the suit. Aggrieved by the Judgment and Decree of the Trial Court, the plaintiffs preferred an appeal before the Appellate Court. The First Appellate Court vide Judgment and Decree dated 03.04.2008 confirmed the Judgment and Decree of the Trial Court and dismissed the appeal. Hence, this Regular Second Appeal is filed by the plaintiffs under Section 100 of CPC.



5. This Court on 24.06.2010 admitted the appeal and framed the following substantial question of law:

1. Whether the Judgment & Decree of both the Courts below are perverse in recording the finding with regard to the legal status of the parties as well as the nature of the properties?

6. Learned counsel for the appellants and respondents have urged several contentions. Heard, the contentions urged on behalf of the respective parties and perused the appeal papers and records with utmost care.

7. Suffice it to note that, one Madaiah @ Boosappa and Puttamma are the spouses. They had three daughters namely Jayamma, Shivarathnamma, and Lakshmmamma. It is the contention of the plaintiffs that the suit schedule properties are the ancestral properties of Madaiah, and he died intestate. After his death, his wife Puttamma became the absolute owner of the properties and during her lifetime, she settled the properties by way of a settlement deed dated:23.01.1980 in favor of the plaintiffs and hence, they sought to contend that they become the absolute owners of the properties. During the



pendency of the suit defendant No.1 Puttamma died and her legal representatives were brought on record. Smt.Jayamma one of the daughters came on record as the legal representative of deceased Puttamma and filed a written statement contending that she had already filed a suit seeking the relief of partition in respect of the suit schedule properties; she contended that Puttamma had no absolute right to execute the settlement deed in favor of the plaintiffs. Among other grounds, she prayed for the dismissal of the suit.

It is not in dispute that the Puttamma is the wife of the original Propositus - Madaiah and the properties belonged to Madaiah. It is also not in dispute that he died intestate. After his death, the properties devolved upon his legal heirs. Hence, Puttamma had no absolute right to settle the properties, much less to execute a Settlement Deed in respect of the entire properties in favor of the plaintiffs. The Trial Court extenso referred to the material on record and rightly dismissed the suit. The Appellate Court on re-appreciation of the material on record, rightly dismissed the appeal and confirmed the Judgment and Decree of the Trial Court. I am satisfied that it has been appreciated from the correct perspective. In my view,



the findings recorded by both Courts are neither vitiated by non-consideration of relevant evidence nor there is an erroneous approach to the matter.

8. The substantial question of law framed by this Court on 24.06.2010 is answered.

9. Resultantly, the Regular Second Appeal is ***dismissed.***

**Sd/-  
JUDGE**

MRP  
List No.: 2 Sl No.: 3