



CNR: KAHC020202142023

NC: 2026:KHC-D:15990
RSA No. 101014 of 2023

IN THE HIGH COURT OF KARNATAKA AT DHARWAD

DATED THIS THE 24TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE B. MURALIDHARA PAI

REGULAR SECOND APPEAL NO.101014 OF 2023
(PAR/POS)

BETWEEN:

1. SMT. JAYAVVA W/O. BASAVARAJ HALASUR,
AGE: 48 YEARS, OCC. AGRICULTURE,
R/O. TAVARAMELLIHALLI, TQ. SAVANUR,
NOW AT R/O. VANAHALLI,
TQ. SHIGGAON, DIST. HAVERI.
2. SAVITA @ KAVITA D/O. BASAVARAJ HALASUR,
AGE: 22 YEARS, OCC. STUDENT,
R/O. TAVARAMELLIHALLI, TQ. SAVANUR,
NOW AT R/O. VANAHALLI,
TQ. SHIGGAON, DIST. HAVERI.

...APPELLANTS

(BY SRI. ARAVIND D. KULKARNI, ADVOCATE)

AND:

1. SMT. GIRIJAVVA W/O. SHIVAPPA KARADAGI,
AGE: 48 YEARS, OCC HOUSE WIFE,
R/O. BOMMANAHALLI, TQ. HANGAL,
DIST. HAVERI-581110.
2. SMT. CHINNAVVA W/O. NAGAPPA AKKI,
AGE: 46 YEARS, OCC. HOUSEWIFE,
R/O. ANDALAGI, TQ. SHIGGAON,
DIST. HAVERI-581110.
3. SMT. CHANNAVVA W/O. SOMAPPA PUJAR,
AGE: 44 YEARS, OCC. AGRICULTURE,
R/O. TERADAHALLI, TQ. BYADAGI,
C/O. CHINNAVVA W/O. NAGAPPA AKKI,





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R/O. ANDALAGI, TQ. SHIGGAON,
DIST. HAVERI-581110.

4. SMT. SHOBHA W/O. CHANNABASAPPA VANAHALLI,
AGE: 40 YEARS, OCC. AGRICULTURE,
R/O. NEAR SCHOOL NO.2,
HULAGUR ROAD, SHIGGAON,
TQ. SHIGGAON, DIST. HAVERI-581110.
5. MAHADEVAPPA S/O. SHIVAPPA HALASUR,
AGE: 45 YEARS, OCC. AGRICULTURE,
R/O. TAVARAMELLIHALLI,
TQ. SAVANUR, DIST. HAVERI-581110.

...RESPONDENTS

(BY SRI. K.H. BAGI, ADVOCATE FOR C/R1 TO R4 IN
CP.NO.23877/2023;
SRI. ABHISHEK BARIGIDAD, ADVOCATE FOR R5)

THIS RSA IS FILED U/SEC.100 OF CPC, PRAYING TO A. ALLOW
THE APPEAL AND SETTING ASIDE THE JUDGMENT AND DECREE IN
R.A.NO.37/2022 DATED 5TH OCTOBER 2023 PASSED BY 1ST
ADDITIONAL DISTRICT AND SESSIONS JUDGE, HAVERI AND ALSO
SETTING ASIDE THE JUDGMENT AND DECREE IN O.S.NO.80/2018
DATED 22.04.2022, PASSED BY SR. CIVIL JUDGE AND JMFC,
SHIGGOAN SITTING AT SAVANUR, THE SUIT O.S.NO.80/2018 BE
DISMISSED WITH COSTS. B. IN THE ALTERNATIVE, AN ORDER OF
REMAND BE PASSED AND MATTER BE POSED/REMANDED TO TRIAL
COURT, WITH DIRECTION TO RE-HEAR BOTH SIDES AND BOTH SIDE
BE GIVEN FULL AND FAIR CHANCE TO PUT FORTH THE CLAIM AND
ETC.

THIS APPEAL, COMING ON FOR FINAL HEARING, THIS DAY,
JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE B. MURALIDHARA PAI



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ORAL JUDGMENT

Heard learned Counsel for the Appellants and learned Counsel for the Respondents.

2. Defendant Nos.1 and 2 in OS No.80/2018 on the file of learned Senior Civil Judge and JMFC, Shiggaon has maintained this regular second appeal.

3. The plaintiffs namely Smt.Neelavva and others maintained the suit in OS No.80/2018 for the relief of partition and separate possession claiming their 1/5th share in schedule 'A' and 'B' properties. According to them the suit properties originally belonged to the propositus namely Sri Shivappa, who died on 03.12.2010 leaving behind his wife (Plaintiff No.1), the daughters (Plaintiff Nos.2 to 5), and two sons namely Basavaraj and Mahadevappa (Defendant No.3). Sri Basavaraj died leaving behind his wife (Defendant No.1) and a daughter (Defendant No.2). The plaintiffs contended that after the death of Sri Shivappa, the parties to the suit are in joint possession and enjoyment of the suit properties and there was no partition in the family.



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4. On service of summons, the defendants appeared before the trial court through their counsel and contested the suit by filing their written statement. They admitted the relationship between the parties to the suit. However, they denied the claim of the plaintiffs regarding the nature of the property and contended that the suit properties are neither the ancestral nor the joint family properties. They stated that there was a partition between Sri Shivappa and his brother namely Sri Rudrappa wherein the suit lands bearing Survey No.122/1B1 measuring 2 acres and Survey No.122/1B2 measuring 1 acre 16 guntas of Tavaramellihalli Village fell to the share of Sri Shivappa and that those lands were tenanted lands. It is stated that Sri Shivappa and his brother filed Form No.7 before the Land Tribunal, Savanur and those lands came to be granted in their favour. Thus, they contended that after the death of Sri Shivappa, those lands were inherited by his legal heirs. The defendants further contended that on 15.06.2006 the plaintiffs voluntarily relinquished their rights in the suit properties by executing Hakku bitta patra(ಹಕ್ಕು ಬಿಟ್ಟ ಪತ್ರ) in the presence of the elders and thereby lost their right to claim



share in the suit properties. Hence, they prayed for dismissal of the suit.

5. Based on the pleadings, the trial Court framed relevant issues, recorded evidence of the parties and on considering the materials available on record, the trial court partly decreed the suit holding that the plaintiffs are entitled for 1/7th share each in the suit properties.

6. The defendants challenged the judgment and decree of the trial court by preferring the appeal in RA No.37/2022. The first appellate court, after re-appreciating the evidence on record, concurred with the findings recorded by the trial Court and confirmed the judgment and decree passed by the trial court. Feeling aggrieved, Defendant Nos.1 and 2 have preferred this regular second appeal.

7. On 31.01.2024, this Court admitted the appeal to consider the following substantial question of law.

*"Whether the plaintiffs being the married daughters were entitled for any share in the suit schedule property which was granted to the predecessors of the defendants under the provisions of Karnataka Land Reforms Act, 1961 more particularly in view of Section 4 of Hindu Succession Act, 1956 and in view of the judgment of the Apex Court in the case of **Har***



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Naraini Devi and Anr. Vs Union of India and others reported in ***AIR 2022 SC 4632*** ?”

8. The factual matrix of the case indicates that the parties to the proceedings are not in dispute regarding their *inter se* relationship. The plaintiffs as well as the defendants claim their right in the suit properties by way of inheritance through Sri Shivappa. The defendants disputed the right of the plaintiffs to claim share in the suit properties on the ground that the suit properties were tenanted lands, and as such, they have no right to claim share in those properties.

9. In ***Smt. Mallawwa Laxman Yadahalli since deceased by LRs Vs Shri Siddappa Mallappa Khavatakoppa, NC:2025:KHC-D:8692***, the co-ordinate bench of this Court following the law laid down by Hon’ble Apex Court in ***N. Padmamma and others Vs S. Ramakrishna Reddy and others***, reported in 2015(1) SCC 417, held that the married daughter is also entitled to share in the lands which were granted by the land tribunal. In this decision, it is further held that the provisions of Hindu Succession Act are having overriding effect over the Karnataka Land Reforms Act and that the said act does not govern the question of



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succession. The similar view has been taken by this Court in the Case of ***Vishnu and Others Vs Smt. Buddavva and others*** reported in ***RSA No.100608/2019***. The defendants have not placed any material on record to take a different view on the legal position regarding the rights of the daughters to claim their share in the tenanted lands and their right to inheritance in the properties of their father.

10. In ***Har Naraini Devi's*** case, cited supra, Hon'ble Apex Court dealt with Section 50(a) of the Delhi Land Reforms Act, 1954 and the effect of the deletion of Section 4(2) of the Hindu Succession Act, 1956. In ***Smt. Mallavva Laxman Yadahalli's*** case, referred supra, the co-ordinate Bench of this Court considered the legal principles laid down in ***Har Naraini Devi's*** case and proceeded to hold that the principles laid down therein is not applicable to the question of deciding the right of a married daughter to inherit the property acquired by the father through grant of occupancy right. Now it is well settled legal position that the daughter has a right to claim share in property, once it is proved that the property continues to be



joint. For foregoing reasons, the substantial question of law framed on 31.01.2024 is answered in the ***affirmative***.

11. In the result, this Court this Court proceeds to pass the following:

ORDER

The regular second appeal is dismissed.

Pending applications if any, stand disposed
of as they do not survive for consideration.

**SD/-
(B. MURALIDHARA PAI)
JUDGE**

HMB
CT:PA
LIST NO.: 1 SL NO.: 51