



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 11TH DAY OF MARCH, 2026

PRESENT

THE HON'BLE MR. JUSTICE H.P.SANDESH

AND

THE HON'BLE MR. JUSTICE B. MURALIDHARA PAI

REGULAR FIRST APPEAL NO.100494 OF 2019 (PAR/POS)

BETWEEN:

SRI. MARUTI S/O. BHARMAJI SHINDE,
AGE: 64 YEARS, OCC. AGRICULTURE AND BUSINESS,
R/O. H.NO. 1612, NAVI GALLI, SHAHAPUR,
BELAGAVI, DIST.BELAGAVI-590003.

...APPELLANT

(BY SRI. VISHWANATH HEGDE, ADVOCATE)

AND:

1. SMT. SHASHIKALA BHARMAJI SHINDE
AGE: 59 YEARS, OCC. HOUSEHOLD WORK,
R/O. H. NO. 415, KARBAR GALLI,
VADGAON, BELAGAVI,
DIST. BELAGAVI-590001.
2. SMT. SHARADA W/O. BABURAO MUCHANDI,
AGE: 67 YEARS, OCC. HOUSEHOLD WORK,
R/O.H. NO. 415, KARBAR GALLI,
VADGAON, BELAGAVI,
DIST. BELAGAVI-590001.
3. SMT. SUNITA W/O. VINAYAK HANNIKARI,
AGE: 66 YEARS, OCC. HOUSEHOLD WORK,
R/O. H. NO. 43/57, TANAJI GALLI,
BELAGAVI, DIST. BELAGAVI-590001.





4. SMT. SULOCHANA W/O. BALAKRISHNA GAWADE,
AGE: 62 YEARS, OCC. HOUSEHOLD WORK,
R/O. 2422, KACHERI GALLI,
SHAHAPUR, BELAGAVI,
DIST. BELAGAVI-590003.
5. SMT. KALPANA W/O. LAXMAN GORAL,
AGE: 56 YEARS, OCC. HOUSEHOLD WORK,
R/O. H. NO. 495, LAXMI GALLI,
MACCHE TAL, BELAGAVI,
DIST. BELAGAVI-590001.
6. SMT. ANASUYA W/O. KRISHNAJI SHINDE,
AGE: 87 YEARS, OCC. HOUSEHOLD WORK,
R/O. H. NO. 81/3, "SHIVAKRUPA BUILDING",
3RD CROSS, BHARAT NAGAR,
SHAHAPUR, BELAGAVI,
DIST. BELAGAVI-590003.
7. SHRI DEEPAK S/O. KRISHNAJI SHINDE,
AGE: 65 YEARS, OCC. CYCLE SHOP,
R/O. H. NO. 81/3, "SHIVAKRUPA BUILDING",
3RD CROSS, BHARAT NAGAR,
SHAHAPUR, BELAGAVI,
DIST. BELAGAVI-590003.
8. SHRI MOHAN S/O. KRISHNAJI SHINDE,
AGE: 72 YEARS, OCC. BUSINESS,
R/O. SANJIVANI NIVAS, SAI NAGAR,
JUNNE BELAGAVI, P. B. ROAD,
BELAGAVI, DIST. BELAGAVI-590001.
9. SHRI. GOPAL S/O. KRISHNAJI SHINDE,
AGE: 67 YEARS, OCC. POWER LOOMS,
R/O. H. NO. 1612, NAVI GALLI- BACK SIDE,
DOUBLE ROAD, SHAHAPUR,
BELAGAVI, DIST. BELAGAVI-590001.
10. SHRI RAVINDRA S/O. KRISHNAJI SHINDE,
AGE: 59 YEARS, OCC. CYCLE SHOP,
R/O. R. S. NO. 117/2, PLOT NO. 2,
SAMRUDDHI COLONY, ANAGOL, VADGAON ROAD,
BELAGAVI DIST. BELAGAVI-590001.



11. SOU. UMA W/O. MARUTI JADHAV,
AGE: 59 YEARS, OCC. HOUSEHOLD,
R/O. PLOT NO.425, B.U.D.A. SCHEME NO.47,
SAHAYADRI NAGAR, BELAGAVI,
DIST. BELAGAVI-590003.
12. SHRI KISHOR S/O. KRISHNAJI SHINDE,
AGE: 55 YEARS, OCC. KIRANA SHOP,
R/O. SAMRUDDHI COLONY,
ANAGOL, VADGON ROAD,
BELAGAVI, DIST. BELAGAVI-590001.
13. SHRI MAHADEV S/O. NINGOJI SHINDE,
AGE: 85 YEARS, OCC. AGRICULTURE,
R/O. C/O. ADV. KIRAN MAHADEV SHINDE,
IN FRONT OF RAILWAY MAHADEV SHINDE
IN FRONT OF RAILWAY QUARTERS,
GOOD SHED ROAD, SHASHTRI NAGAR
BELAGAVI, DIST. BELAGAVI-590003.
14. SHRI RAMAKRISHNA MINAJI SHINDE
AGE: 53 YEARS, OCC. AGRICULTURE,
R/O. H. NO. 1612, NAVI GALLI,
SHAHAPUR, BELAGAVI,
DIST. BELAGAVI-590003.
15. SMT. ANJANA RAMACHANDRA CHOUGULE
AGE: 72 YEARS, OCC. HOUSEHOLD WORK,
R/O. GOOD SHED ROAD,
BELAGAVI, DIST. BELAGAVI-590003.
16. SMT. SHALAN SURESH JADHAV
AGE: 67 YEARS, OCC. HOUSEHOLD WORK,
R/O. CHAVAT GALLI, BELAGAVI,
DIST. BELAGAVI-590003.
17. SMT. JAYASHRI MAHADEV BHADAWANKAR
AGE: 57 YEARS, OCC. HOUSEHOLD WORK,
R/O. UPPAR GALLI, KHASBAGH,
BELAGAVI, DIST. BELAGAVI-590003.
18. SMT. SAVITA PARASHRAM BHATKANDE
AGE: 45 YEARS, OCC. HOUSEHOLD WORK,



R/O. PAWAR GALLI, SHAHAPUR,
BELAGAVI, DIST. BELAGAVI-590003.

19. SHRI SANTAJI SAMBHAJI BIRJE
AGE: 41 YEARS, OCC. BUSINESS,
R/O. 202/A, SARVODAYA MARG,
HINDWADI, BELAGAVI,
DIST. BELAGAVI-590003.
20. MISS GAURI SAMBHAJI BIRJE
AGE: 33 YEARS, OCC. STUDENT,
R/O. 202/A, SARVODAYA MARG,
HINDWADI, BELAGAVI,
DIST. BELAGAVI-590003.
21. SMT. DEVAYANI DEEPA SULEBHAVIKAR
AGE: 43 YEARS, OCC. HOUSEHOLD,
R/O. H. NO. 172/2B, SHIVGIRI BUILDING,
NEW KHB COLONY, DAJIBA DESAI ROAD,
SHIVANAGAR, HINDALGA,
BELAGAVI, DIST. BELAGAVI-591108.
22. SMT. PRIYA PARASHRAM HONGEKAR
AGE: 39 YEARS, OCC. HOUSEHOLD,
R/O. H. NO. 434 (B), MAYANA GALLI,
KADOLI, BELAGAVI,
DIST. BELAGAVI-590003.
23. SHRI SHAILESH BHARAT HADGAL
AGE: 37 YEARS, OCC. PVT. SERVICE,
R/O. B-107, RATNADEEP,
CHS LTD., 90 FT ROAD,
NEW KELKAR COLLEGE MULUND,
EAST MUMBAI-400081,
MAHARASHTRA.
24. MISS SAMPADA BHARAT HADGAL
AGE: 33 YEARS, OCC. STUDENT,
R/O. B-107, RATNADEEP,
CHS LTD., 90 FT ROAD,
NEW KELKAR COLLEGE MULUND,
EAST MUMBAI-400081, MAHARASHTRA.



25. SMT. ARCHANA HITESH PALKAR
AGE: 35 YEARS, OCC. HOUSEHOLD WORK,
R/O. B-107, RATNADEEP,
CHS LTD., 90 FT ROAD,
NEW KELKAR COLLEGE MULUND,
EAST MUMBAI-400081, MAHARASHTRA.

26. SMT. MADHURI NIKHIL CHAVAN
AGE: 39 YEARS, OCC. HOUSEHOLD WORK,
R/O. B-11, ALPHA, CHS LTD., 90 FT ROAD,
INDRA PRASTH PARK, MULUND,
EAST MUMBAI-400081, MAHARASHTRA.

...RESPONDENTS

(BY SRI. DEEPAK DESHPANDE AND SRI. VINAYKUMAR BHAT, ADVS. FOR R1;
SRI. ANAND ASHTEKAR AND SRI. AKSHAY KATTI, ADVS. FOR R11;
NOTICE ISSUED TO R2-R10, R12-R25-SERVED BUT UNREPRESENTED;
NOTICE TO R26-DISPENSED WITH)

THIS RFA IS FILED UNDER SECTION 96 OF CPC., PRAYING TO CALL FOR THE RECORDS AND SET ASIDE THE JUDGMENT AND DECREE DTD. 31.07.2019 PASSED IN O.S.NO.118/2012 BY III ADDITIONAL SENIOR CIVIL JUDGE, BELAGAVI, CONSEQUENTLY DISMISS THE SUIT OF THE PLAINTIFF IN O.S.NO.118/2012 ON THE FILE F III ADDL. SENIOR CIVIL JUDGE AND C.J.M. BELAGAVI AND ETC.

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

CORAM: THE HON'BLE MR. JUSTICE H.P.SANDESH
AND
THE HON'BLE MR. JUSTICE B. MURALIDHARA PAI



ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE H.P.SANDESH)

Heard the learned counsel for the appellant, counsel appearing for respondent No.1 and also counsel appearing for respondent No.11 on main appeal as well as on IA No.1/2026 for production of additional documents.

2. The suit was filed by the plaintiff seeking the relief of partition in respect of the property of the deceased father of the plaintiff i.e. Bharmaji in respect of Item No.1 and 2 of 'A' schedule property and also in respect of Item No.1 to 3 of open space and house properties, which is more fully described in the 'B' schedule.

3. Now, the counsel appearing for respondent No.11 files an application IA No.1/2026 praying this Court to receive the documents as additional evidence, as that of there was oral partition among the sons of original propositus Ningoji and a separate suit was filed before the trial Court in OS No.103 of 2018 among the members of Krishnaji and the said suit was also decreed and an appeal is pending before the appellate Court.

4. The counsel appearing for respondent No.1 submits that they are not going to claim any share in respect of Item



No.2 of the plaint 'A' schedule property, admittedly it was not within their knowledge that the said property was allotted in favour of father of respondent No.11 and restricts the claim in respect of Item No.1 of 'A' schedule property as well as Item Nos.1 to 3 of 'B' schedule property.

5. The counsel appearing for the appellant would vehemently contend that though earlier there were no any documents before the Court with regard to the partition among the sons of original propositus and in view of filing of the additional document before this Court by way of IA No.1/2026, that earlier partition was reduced into writing and the appellant also not disputing the same. The counsel would also submit that the plaintiff is the sister of the appellant herein and respondent No.1 to 5 and their father died intestate and no testamentary document as there was any execution of any such document.

6. Having considered the submission of appellant's counsel and also the counsel appearing for respondent No.1 and respondent No.11, there is no dispute with regard to the fact that originally the property belongs to the original propositus Ningoji and he was having four sons and also in view of the production of additional document before this Court by way of IA



No.1/2026 that there was already oral partition among the sons of original propositus and there is a force in the contention of the counsel appearing for the plaintiff/respondent that they are not claiming any right in respect of Item No.2 of 'A' schedule property and so also counsel appearing for the appellant submits that there was no document before the Court with regard to the earlier partition is concerned and now in view of the production of additional document by the counsel appearing to the respondent No.11, it clearly discloses that there was earlier partition among the brothers and now the legal heirs of Bharmaji are equally entitled for share over the suit schedule properties and hence the judgment and decree of the trial Court requires to be modified only to an extent that the plaintiff and defendant Nos.1 to 5 are entitled for 1/6th share each in the property of Item No.1 of 'A' schedule property and Item Nos.1 to 3 of 'B' schedule property, in view of no dispute with regard to the relationship that they are the LRs of Bharmaji.

7. Since there is no dispute with regard to the relationship between the parties and also the fact that there was oral partition among the sons of original propositus and the same was reduced into writing, IA No.1/2026 filed for production of



additional documents requires to be allowed and accordingly, it is allowed.

8. Having heard the learned counsel for the respective parties and in view of the respective submissions, we are of the opinion that the impugned judgment and decree of the trial requires to be modified.

9. In view of the above discussions, we pass the following:

ORDER

- a) This Regular First Appeal is ***allowed in part.***
- b) The impugned judgment and decree of the trial Court is modified to an extent that the plaintiff and defendant No.1 to 5 are entitled for 1/6th share each in Item No.1 of 'A' schedule property and so also Item No.1 to 3 of 'B' schedule property.

**Sd/-
(H.P.SANDESH)
JUDGE**

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

JTR
CT:PA
LIST NO.: 1 SL NO.: 10