

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13TH DAY OF FEBRUARY 2015

BEFORE

THE HON'BLE MR. JUSTICE ANAND BYRAREDDY

REGULAR FIRST APPEAL No.1111 OF 2013

BETWEEN:

1. Miss Prema N.K.,
Daughter of Late D.N.Kalashettappa,
Aged about 46 years,
2. Miss. N.K.Shyamalla,
Daughter of Late D.N.Kalashettappa,
Aged about 44 years,
3. Miss. N.K.Kusuma,
Daughter of Late D.N.Kalashettappa,
Aged about 42 years,
4. Smt. Geetha,
Wife of Prem Kumar Jain,
Aged about 43 years,
641, 10th B Main,
Jayanagar, 4th Block,
Bangalore – 560 020.
5. Smt. Ambuja,
Daughter of Late D.N.Kalashettappa,
Aged about 39 years,

All are resident of 14 and 15,
Railway Parallel Road,
Nehru Nagar,
Bangalore – 560 020.

... APPELLANTS

(By Shri. R. Mahesh, Advocate [absent])

AND:

Mr. N.K.Vijay Kumar,
Son of D.N.Kalashettappa,
Aged Major,
Residing in outhouse 14 and 15
Railway Parallel Road,
Nehru Nagar,
Bangalore – 560 020.

....RESPONDENT

(By Shri. A. Ananda Shetty, Advocate [absent])

This Regular First Appeal filed under Section 96 read with Order 41 of the Code of Civil Procedure, 1908, against the judgment and decree dated 30.03.2013 passed in O.S.No.254/2004 on the file of XVII Additional City Civil and Sessions Judge, Bengaluru, partly decreeing the suit for partition.

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

JUDGMENT

None appears for the appellants.

On 30.06.2014, the appellants were imposed with costs of Rs.500/- for failure to comply with the office objections. It was further directed by a peremptory order that if the office objections are not complied with, the matter to be listed for dismissal on 11.07.2014. It then transpires that the counsel for the appellants has stated in the Registry that the genealogical tree would be produced within two weeks, since the husband of the fifth appellant had passed away and would furnish instructions only after the eleventh day ceremony and he had undertaken to serve copies of the appeal memo to the caveator.

However, insofar as the value for the purpose of jurisdiction was concerned, was not stated. It is then noticed by the office that the genealogical tree was not filed as undertaken and also the acknowledgement for having served the caveator was also not furnished and it is only now the matter is listed before the Court.

The learned counsel for the appellants remains absent. The suit is for partition by the daughters in respect of challenging the registered partition deed dated 29.03.1967. On that background, the total negligence on the part of the counsel does not warrant any further extension of time. The appeal is dismissed for non-prosecution.

**Sd/-
JUDGE**

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