

IN THE HIGH COURT OF KARNATAKA  
DHARWAD BENCH

DATED THIS THE 18<sup>TH</sup> DAY OF JULY 2016

BEFORE

THE HON'BLE MR.JUSTICE A.N.VENUGOPALA GOWDA

M.S.A.NO.100082/2014

BETWEEN:

1. GOURAWWA W/O RAMAPPA TALLI,  
AGE: 38 YEARS, OCC: AGRICULTURE,  
R/O. UPPAR ONI, NEAR LAXMI TEMPLE,  
GOKAK, DIST: BELGAUM-591307,
2. MUTTAWA MAYAPPA TAHASILDAR  
AGE: 31 YEARS, OCC: AGRICULTURE  
R/O. SANGAM NAGAR,  
GOKAK DIST: BELGAUM -591307.
3. AWWAKKA SHIDRAM MADENNAVAR  
AGE: 68 YEARS, OCC: AGRICULTURE  
R/O. SANGAM NAGAR,  
GOKA DIST: BELGAUM -591307.
4. SHIVAPPA SHIDRAM MADENNAVAR  
AGE: 33 YEARS, OCC: AGRICULTURE  
R/O. SANGAM NAGAR,  
GOKAK DIST: BELGAUM -591307.
5. SAVAKKA SHIDRAM MADENNAVAR  
AGE: 25 YEARS, OCC: AGRICULTURE  
R/O. SANGAM NAGAR,  
GOKAK DIST: BELGAUM
6. RENUKA SHIDRAM MADENNAVAR  
NOW RENUKA DHAREPPA BIRAJANNAVAR  
AGE: 36 YEARS, OCC: AGRICULTURE  
R/O. GHATAPRABHA,  
GOKAK DIST: BELGAUM-591307.

7. TAYAWWA SHIDRAM MADENNAVAR  
NOW TAYAWWA W/O. SIDDAPPA KALAL  
AGE: 31 YEARS, OCC: AGRICULTURE  
R/O. GHATAPRABHA,  
TQ. GOKAK, DIST: BELGAUM

APPELLANT NOS. 1 TO 3 & 5 TO 7 ARE  
REPRESENTED THROUGH THEIR GPA HOLDER  
APPELLANT NO.4 SHIVAPPA.

... APPELLANTS

(BY SRI. G B NAIK & SMT P G NAIK, ADVOCATES.)

AND

1. BHIMAPPA S/O HANAMANTAPPA MADDANI @  
MADENNAVER, AGE: 64 YEARS,  
OCC: AGRICULTURE, R/O. KEMMANAKOL  
TQ: GOKAK, DIST: BELGAUM-591233.
2. CHINNAVVA W/O. KUMAR MADENNAVAR  
AGE: 33 YEARS, OCC: HOUSEHOLD WORK  
R/O. HIRENANDI, TQ: GOKAK  
DIST: BELGAUM-591233.
3. KUMAR MAHADEV S/O. KUMAR MADENNAVAR  
AGE: 16 YEARS, OCC: STUDENT  
R/O. CHIKANANDI, TQ: GOKAK  
DIST: BELGAUM-591233.  
(SINCE MINOR R/BY HIS GUARDIAN  
RESPONDET N NO.2 CHINNAVVA.)
4. KUMARI ANNAKKA D/O. KUMAR MADENNAVAR  
AGE: 14 YEARS, OCC: STUDENT  
R/O. CHIKANANDI, TQ: GOKAK  
DIST: BELGAUM-591233  
(SINCE MINOR R/BY HER GUARDIAN  
RESPONDENT NO.2 SMT. CHINNAVVA)
5. KUMARI UMASHRI D/O. KUMAR MADENNAVAR  
AGE: 12 YEARS, OCC: STUDENT  
R/O. CHIKANANDI, TQ: GOKAK  
DIST: BELGAUM-591233.  
(SINCE MINOR R/BY HER GUARDIAN  
RESPONDENT NO.2 CHINNAVVA.)

6. KUMARI JAYASHRI D/O.KUMAR MADENNAVAR  
AGE: 10 YEARS, OCC: STUDENT  
R/O. CHIKANANDI, TQ: GOKAK  
DIST: BELGAUM-591233.  
(SINCE MINOR R/BY HER GUARDIAN  
RESPONDENT NO.2 CHINNAVVA.)
7. KUMARI KEERTI D/O. KUMAR MADENNAVAR  
AGE: 08 YEARS, OCC: STUDENT  
R/O. CHIKANANDI, TQ: GOKAK  
DIST: BELGAUM-591233.  
(SINCE MINOR R/BY HER GUARDIAN  
RESPONDENT NO.2 CHINNAVVA.)
8. KRISHNA S/O. BASAPPA MADENNAVAR  
AGE: 31 YEARS, OCC: AGRICULTURE  
R/O. HIRENANADI TQ: GOKAK DIST: BELGAUM
9. KENCHAPPA S/O. BASAPPA MADENNAVAR  
AGE: 29 YEARS, OCC: AGRICULTURE  
R/O. HIRENANADI TQ: GOKAK  
DIST: BELGAUM -591233.
10. TAYAWWA W/O. YALLAPPA KURI  
AGE: 36 YEARS, OCC: HOUSEHOLD WORK  
R/O. KATAKOL,  
TQ: RAMADUR, DIST: BELGAUM-591114.
11. GANGAWWA W/O. REVAPPA GOTUR  
AGE: 33 YEARS, OCC: HOUSEHOLD WORK  
R/O. NAGANUR,  
TQ: GOKAK, DIST: BELGAUM-591224
12. SAVAKKA W/O. MALLAPPA DANDIN  
AGE: 27 YEARS, OCC: HOUSEHOLD WORK  
R/O. MALADINNI,  
TQ: GOKAK, DIST: BELGAUM
13. RUKAMAWWA W/O. HANUMANT SANADI  
AGE: 25 YEARS, OCC: HOUSEHOLD WORK  
R/O. CHIKANANDI,  
TQ: GOKAK, DIST: BELGAUM -591233.
14. LAXMAN S/O. BHIMAPPA MADDANI  
AGE: 63 YEARS, OCC: AGRICULTURE  
R/O. KEMMANAKOL,  
TQ: GOKAK, DIST: BELGAUM -591233.

15. LAKKAWWA W/O. SANNAKENCHAPPA MADDANI  
AGE: 53 YEARS, OCC: AGRICULTURE  
R/O. KEMMANAKOL,  
TQ: GOKAK, DIST: BELGAUM -591233.
16. LAXMIBAI W/O. HANUMANT BHARAMANNAVAR  
AGE: 28 YEARS, OCC: HOUSEHOLD WORK  
R/O. WADDAR ONI,  
TQ: GOKAK, DIST: BELGAUM-591307.
17. HANUMANT S/O. SANNAKENCHAPPA MADDANI  
AGE: 26 YEARS, OCC: AGRICULTURE  
R/O. KEMMANAKOL,  
TQ: GOKAK, DIST: BELGAUM-591233.
18. YALLAWWA W/O. KENCHAPPA MADDANI  
AGE: 23 YEARS, OCC: AGRICULTURE  
R/O. KEMMANAKOL  
TQ: GOKAK, DIST: BELGAUM -591233.
19. KUMAR BHARAMAPPA  
S/O. SANNAKENCHAPPA MADDANI  
AGE: 24 YEARS, OCC: STUDENT  
R/O. KEMMANAKOL  
TQ: GOKAK, DIST: BELGAUM-591233.
20. KUMARI CHANNAWWA  
D/O. SANNAKENCHAPPA MADDANI  
AGE: 16 YEARS, OCC: STUDENT  
R/O. KEMMANAKOL  
TQ: GOKAK, DIST: BELGAUM-591233.

(SINCE MINOR R/BY HER GUARDIAN  
RESPONDENT NO.15 SMT. LAKKAWWA.)

... RESPONDENTS  
(BY SRI RAVI S BALIKAI, ADVOCATE. FOR C/R1)

THIS MISCELLANEOUS SECOND APPEAL IS FILED  
UNDER ORDER XLIII RULE 1(U) OF CPC 1908, AGAINST  
THE JUDGMENT AND DECREE DTD: 05.06.2014  
PASSED IN R.A.NO.64/2013 ON THE FILE OF THE PRL.  
SENIOR CIVIL JUDGE GOKAK, ALLOWING THE APPEAL  
FILED AGAINST THE JUDGEMENT AND DECREE DTD:  
30.10.2013 PASSED IN O.S.NO.98/1999, ON THE FILE

OF THE ADDL. CIVIL JUDGE & JMFC, GOKAK  
DISMISSING THE SUIT FILED FOR DECLARATION,  
ETC.,.

THIS APPEAL COMING ON FOR ADMISSION, THIS  
DAY, THE COURT DELIVERED THE FOLLOWING:

**JUDGMENT**

O.S.No.98/1999 filed by the respondent no.1  
against the appellants and other respondents was  
rejected by the trial Court vide judgment dated  
30.10.2013. R.A.No.64/2013 having been filed, by  
judgment dated 5.6.2014 the Prl. Senior Civil  
Judge, Gokak, allowed the appeal and set aside  
the said judgment and decree and remanded the  
case to the trial Court by making clear that none  
of the observations made in the judgment should  
be considered as a finding for or against the  
parties and the matter shall be decided in  
accordance with law. Assailing the judgment of  
remand dated 5.6.2014 passed in  
R.A.No.64/2015, this second appeal was filed on  
2.9.2014.

2. Heard learned Advocates on both side and perused the record.

3. There is no dispute that after the impugned judgment of remand was passed by the lower appellate Court, the trial Court has taken up the matter and evidence of sole plaintiff has been recorded.

4. Since there is a time gap of nearly two years from the date of this appeal is filed and as the trial Court has taken up the matter pursuant to the judgment of remand passed by the lower appellate Court, there is no justification to entertain this appeal. The plaint having been rejected without a trial, the lower appellate Court remanded the case for trial and disposal in accordance with law. As the evidence which would be recorded in the suit by the trial Court would enure to the benefit of both parties and as the suit is required to be decided in accordance with law with reference to all the contentions raised by

both parties, it would be just to dispose of this appeal by directing the trial Court to expedite the proceedings and decide the suit at an early date.

In the result, the appeal is dismissed by making clear that the trial Court shall decide the suit with expedition and in accordance with law, within a period of six months from the date a copy of this judgement is supplied to it by either of the parties. The contention raised with regard to non maintainability of the suit shall be considered by the trial Court in the final judgment to be passed.

In view of dismissal of appeal itself, I.A.No.2/2014 does not survive for consideration.

Sd/-  
**JUDGE**

Mrk/-